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MANJIT AND ORS.

v.

UNION OF INDIA AND ANR.

(Writ Petition (Civil) No 78 of 2021)

B

JANUARY 29, 2021

**[DR DHANANJAYA Y CHANDRACHUD,
INDIRA BANERJEE AND SANJIV KHANNA, JJ.]**

Service Law:

C

Largess Scheme – Providing for entry into service for certain wards of serving employees of railways, without undergoing a competitive selection – Writ Petition u/Art. 32 – Seeking direction to the State to appoint the petitioners under the Scheme – Held: The Union Government after revisiting the Scheme, upon direction of the Courts, has terminated the Scheme – The Scheme has rightly been terminated as the same provided for an avenue of back door entry into the service, which was at odds with Art. 16 of the Constitution – The petitioners can claim neither a vested right nor a legitimate expectation under the Scheme – All claims based on the Scheme must be closed.

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Dismissing the petition, the Court

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HELD : A conscious decision has been taken by the Union of India to terminate the Largess Scheme. While taking this decision on 5 March 2019, the Union of India had stated that where wards had completed all formalities prior to 27 October 2017 (the date of termination of the Scheme) and were found fit, since the matter was pending consideration before this Court, further instructions would be issued in accordance with the directions of this Court. Noticing the above decision, this Court, in its order dated 6 March 2019, specifically observed that since the Scheme stands terminated and is no longer in existence, nothing further need be done in the matter. The Scheme provided for an avenue of a back door entry into the service of the railways. This would be fundamentally at odds with Article 16 of the Constitution. The Union Government has with justification

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discontinued the scheme. The petitioners can claim neither a vested right nor a legitimate expectation under such a Scheme. All claims based on the Scheme must now be closed. Therefore, the petition under Article 32 cannot be entertained. [Paras 6 and 7][477-B-D, E] A

CIVIL ORIGINAL JURISDICTION : Writ Petition (Civil) No. 78 of 2021. B

Under Article 32 of The Constitution of India.

Raj Kishor Choudhary, Shakeel Ahmed, Anupam Bhati, Ms. Malvika Raghavan, Nakul Chaudhary, H.S. Mann, Advs. for the appearing parties. C

The Judgment of the Court was delivered by

DR. DHANANJAYA Y CHANDRACHUD, J.

1. Invoking the jurisdiction under Article 32 of the Constitution, the petitioners seek the following reliefs: D

- “(a) Issue a writ in the nature of mandamus directing the respondent to appoint the petitioners in their respective cadres; and
- (b) Issue any other appropriate writ, order or direction in the facts and circumstances of the case.” E

2. The dispute in the present case relates to a scheme, popularly termed as the Larsess Scheme, which had been adopted by the Railway Administration previously. The Punjab and Haryana High Court passed orders on 27 April 2016 and 14 July 2017 requiring the Union of India to reconsider the Scheme. The orders of the High Court were evidently based on the fact that the Scheme provided for an entry into service for certain wards of serving employees without undergoing a competitive selection consistent with the requirement of Articles 14 and 16 of the Constitution. On 8 January 2018, in SLP (C) No 508 of 2018, arising from the judgment and order of the High Court of Punjab and Haryana dated 14 July 2017 in RP No 330 of 2017, this Court directed the Union of India to take a conscious decision within a period of six weeks . The order dated 8 January 2018 was in the following terms: F

“Heard learned counsel for the parties. G

Delay condoned. H

A Since the direction in the impugned order is only to re-visit the Scheme in question, no interference is called for at this stage. The petitioner(s) may take a conscious decision in the matter within a period of six weeks from today. If any party is affected by the decision taken, such party may take remedy against the same in accordance with law.

B The special leave petition is, accordingly, disposed of.
Pending application(s), including application for intervention, shall also stand disposed of.”

C 3. On 5 March 2019, the Union of India took a decision to terminate the Scheme. The decision of the Union of India was noticed in an order dated 6 March 2019, in the following terms:

D “In compliance of the directions of the Hon’ble Punjab & Haryana High Court dated 27.04.2016 in CWP No.7714 of 2016, dated 14.07.2017 in RA-CW-330-2017 and Orders of Hon’ble Supreme Court dated 08.01.2018 in SLP (C) No.508/2018, Ministry of Railways have revisited the LARSGESS Scheme duly obtaining legal opinion and consulted Ministry of Law & Justice. Accordingly, it has been decided to terminate the LARSGESS Scheme w.e.f. 27.10.2017 i.e. the date from which it was put on hold. Therefore,
E no further appointments should be made under the Scheme subject to position mentioned in para 2 below.

F 2. As regards the cases where the wards had completed all formalities including Medical Examination under LARSGESS Scheme prior to 27.10.2017 and were found fit, but the employees are yet to retire, the matter is pending consideration before the Hon’ble supreme Court and further instructions would be issued as per directions of the Hon’ble Court.”

G 4. Following the above decision, on 6 March 2019, this Court disposed of IA 18573 of 2019 in Miscellaneous Application No 346 of 2019 in Miscellaneous Application No 1202 of 2018 in SLP (C) No 508 of 2018 by observing that “since the Scheme stands terminated and is no longer in existence, nothing further need be done in the matter”.

H 5. In a subsequent order dated 26 March 2019, which was rendered in Writ Petition (C) No 219 of 2019 (**Narinder Siraswal v Union of India**), a Bench of two-Judges permitted the petitioners to approach the

authorities with an appropriate representation with a direction to consider it. A

6. The reliefs which have been sought in the present case, as already noted earlier, are for a writ of mandamus to the Union of India to appoint the petitioners in their respective cadres. A conscious decision has been taken by the Union of India to terminate the Scheme. This has been noticed in the order of this Court dated 6 March 2019, which has been extracted above. While taking this decision on 5 March 2019, the Union of India had stated that where wards had completed all formalities prior to 27 October 2017 (the date of termination of the Scheme) and were found fit, since the matter was pending consideration before this Court, further instructions would be issued in accordance with the directions of this Court. Noticing the above decision, this Court, in its order dated 6 March 2019, specifically observed that since the Scheme stands terminated and is no longer in existence, nothing further need be done in the matter. The Scheme provided for an avenue of a back door entry into the service of the railways. This would be fundamentally at odds with Article 16 of the Constitution. The Union government has with justification discontinued the scheme. The petitioners can claim neither a vested right nor a legitimate expectation under such a Scheme. All claims based on the Scheme must now be closed. B C D

7. In view of the above factual background, we are not inclined to entertain the petition under Article 32. The grant of reliefs to the petitioners would only enable them to seek a back door entry contrary to the orders of this Court. The Union of India has correctly terminated the Scheme and that decision continues to stand. E

8. Having regard to the above facts and circumstances, the petition is dismissed. A certified copy of this order shall be forwarded by the Registrar (Judicial) to the Chairman of the Railway Board for intimation and compliance. F

9. Pending application, if any, stands disposed of.