



GOVERNMENT OF KERALA

Abstract

Local Self Government – Panchayat Department – Order dated 05.07.2017 in OA(EKM) 131/2016 filed by Sri. Balakrishnan. K.P before the Hon'ble Kerala Administrative Tribunal - Complied with - Orders issued.

LOCAL SELF GOVERNMENT (EPA) DEPARTMENT

G.O.(Rt)No.3306/2017/LSGD

Dated, Thiruvananthapuram,13/10/2017

- Read :
1. G.O(P) No. 25/97/P&ARD , dated 28.11.1997.
 2. G.O(P) No. 02/17/P&ARD , dated 20.02.2017.
 3. G.O(P) No. 224/14/LSGD , dated 12.12.2014.
 4. G.O(Rt) No. 3845/15/LSGD , dated 22.12.2015.
 5. Order dated 05.07.2017 in OA(EKM) 131/2016 filed by Sri. Balakrishnan. K.P before the Hon'ble Kerala Administrative Tribunal.
 6. E2/34364/2014 dated 21.02.2015 of the proceedings of Director of Panchayats,Thiruvananthapuram.
 7. Letter No. OA(EKM) 131/2016 dated 04.03.2017, 09.06.2017 & 31.07.2017 of the Advocate General, Kerala, Thiruvananthapuram.
 8. Letter No. E2-9499/16(2) dated 01.06.2016 of the Director of Panchayats, Thiruvananthapuram.

ORDER

Sri. Balakrishnan. K.P have filed OA(EKM) 131/2016 before the Hon'ble Kerala Administrative Tribunal with a prayer to cancel the order of reversion of the applicant from the cadre of Assistant Secretary to LDC and extending the benefit of exemption as provided under Rule 13AA of KS&SSRs and relaxation as stipulated in the Government Order read as 1st paper above, without considering his right for exemption from acquiring test qualification.

2. By disposing the OA(EKM) 131/2016 filed by Sri. Balakrishnan. K.P the Hon'ble Kerala Administrative Tribunal in their order read as 5th paper above have directed the 1st Respondent, ie the Government to consider the admissibility of the request of the applicant for extending the benefit of exemption provided under Rule 13AA of the KS&SSRs and pass orders on Annexure MA1 representation within a period of two months from the date of receipt of a copy of this order.

3. The applicant, Sri. K.P. Balakrishnan belongs to Scheduled Caste Category was appointed as Bill Collector on 07.01.1986. The applicant got promotion availing the benefit of exemption as provided under Rule 13A(1)(a) of KS&SSRs Part II. Subsequently he got promotion to the higher posts such as UDC, Accountant, Head Clerk and Junior Superintendent/Assistant Secretary and he is continuing in the post of Junior Superintendent which was re-designated as Assistant Secretary to the Gramapanchayat. But vide order read as 6th paper above he was reverted to the post of clerk, and hence he filed OA(EKM) 131/16 before the Hon'ble Kerala Administrative Tribunal seeking a directive to set aside the order of reversion of the applicant from the cadre of Assistant Secretary to LDC and extending the benefit of exemption as provided under Rule 13AA of KS&SSRs and relaxation as stipulated in the GO read as 1st paper above, without considering his right for exemption from acquiring test qualification.

4. As per Rule 13AA of KS&SSRs, the persons who were entered in service on or before 31.12.1985 alone are eligible for permanent exemption from obligatory department/qualification tests. Since the Applicant entered in Panchayat Department as Junior Bill Collector only on 07.01.1986, he is not eligible for permanent test exemption as per the provisions contained in the said Rules.

5. As per Rule 13A (1) (a) of Part II KS&SSRs, a member of service belonging to any of the Scheduled Castes or Scheduled Tribes who has not passed a special or departmental test prescribed by the Special Rules but is otherwise qualified and suitable for appointment to such post shall be given appointment thereto temporarily. The Rule 13A(2) of Part II KS&SSRs stipulates that, if such appointee does not pass the prescribed test within three years from the date of such appointment, he shall be reverted to his previous post and shall not again be eligible for appointment under this clause. Since the applicant failed to acquire the test qualification within the three years period under Rule 13A(2) of Part II KS&SSRs, they were liable to be reverted and as such the stand of the Director of Panchayaths in this case is in order.

6. Government have examined the matter in detail. The employees belonging to Scheduled Caste/Scheduled Tribe category who entered into service on or after 01.01.1986 are not entitled to test exemption under Rule 13 AA but that are eligible for temporary test exemption under Rule 13 A(1)(a) and as per the conditions specified in Rule 13 A(2) in KS&SSRs. It is clear that the applicant was not eligible for further promotion above the post of Lower Division Clerk. Hence the action taken by the Director Of Panchayats to revert the applicant to the post of LDC is legal and fully in accordance with the Rules.

7. In the light of the facts and circumstances as detailed above, the request of the applicant to cancel the order of reversion of the applicant from the cadre of Assistant Secretary to LDC and extending the benefit of exemption as provided under Rule 13AA of KS&SSRs and relaxation as stipulated in the GO read as 1st paper above without considering his right for exemption from acquiring test qualification is declined and the order of Hon'ble Administrative Tribunal read as 5th paper above is hereby complied with accordingly.

(By Order of the Governor)

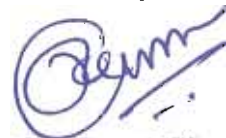
S. MOHAN DAS
ADDITIONAL SECRETARY TO GOVT.

To

1. The Advocate General, Kerala, Thiruvananthapuram Branch (with covering letter)
2. Sri. Balakrishnan. K.P, Mannali House, Mudavangodu, Nedumpoil. P.O, Kannur, Kerala – 670650.
3. The Director of Panchayats, Thiruvananthapuram
4. The Deputy Director of Panchayats, Kannur, (Through the Director of Panchayats)
5. The Secretary, Kanichar Gramapanchayat, Kannur. (Through the Director of Panchayats)
6. Personnel & Administrative Reforms Department (vide file no. 175/B2/17, dated 26.09.2017)
7. Web & New media, I&PRD.
8. The Director, Information Kerala Mission (for publishing on official Website)
9. Stock File/Office Copy(File No. 73/EPA1/16/LSGD)



Forwarded/By Order



Section Officer