



## GOVERNMENT OF KERALA

### Abstract

Local Self Government – Panchayat Department – Order dated 31.05.2017 in OA No. 901/2017 & OA No. 903/2017 filed by Smt: Dhanya Mol. K & Smt. Raji Balan before the Hon'ble Kerala Administrative Tribunal - Complied with - Orders issued.

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### LOCAL SELF GOVERNMENT (EPA) DEPARTMENT

G.O.(Rt)No. 141/2018/LSGD

Dated, Thiruvananthapuram, 16.01.2018

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- Read :
1. G.O(P) No. 02/2017/P&ARD, dated 20.02.2017.
  2. Order dated 31.05.2017 in OA No. 901/2017 & OA No. 903/2017 filed by Smt. Dhanya Mol. K & Smt. Raji Balan before the Hon'ble Kerala Administrative Tribunal
  3. E2-30/2010(1) dated 30.07.2013 of the proceedings of Deputy Director of Panchayats, Idukki.
  4. Proceedings No. E4-05/2017(1) dated 06.05.2017 of the Director of Panchayats, Thiruvananthapuram.
  5. Letter No. B3/OA 903/2017/AGO dated 23.05.2017 of the Advocate General, Kerala, Thiruvananthapuram.
  6. Letter No. E4-18075/2017 dated 13.11.2017 of the Director of Panchayats, Thiruvananthapuram.

### ORDER

Smt. Dhanya Mol. K & Smt. Raji Balan have filed OA No. 901/2017 & OA No. 903/2017 respectively before the Hon'ble Kerala Administrative Tribunal with a prayer to set aside the order of reversion of the applicants from the cadre of Senior Clerk to Clerk without considering their right for exemption from acquiring test qualification.

2. As per order dated 31.05.2017 in OA Nos. 901/2017 & OA No. 903/2017 filed by the applicants read as 2<sup>nd</sup> paper above, the Hon'ble Kerala Administrative Tribunal have directed the 1st Respondent, ie the Government to consider and pass orders on Annexure A4 representations in accordance with law after hearing both the applicants within three months from the date of receipt of a certified copy of the order.

3. The applicant in OA No. 901/2017 Smt. Dhanyamol belongs to Scheduled Caste community and the applicant in OA No. 903/2017 Smt. Raji Balan belongs to

Scheduled Tribe community and both of them are now working as Senior Clerks in District Panchayat Office, Idukki. They had joined Government Service on 09.12.2010 and 13.07.2009 respectively as clerk in the Panchayat Department. They were promoted to the post of Senior Clerk temporarily under Rule 31(a) after availing test exemption under Rule 13A(1), KS&SSRs. Accordingly they were to pass the required tests within three years. But the incumbents failed to qualify all the required tests within the stipulated period and hence reverted as clerk by the Director of Panchayats, vide order read as 4<sup>th</sup> paper above.

4. In pursuance to the direction of the Hon'ble KAT read as 2<sup>nd</sup> paper above, hearing was conducted by the Under Secretary to Government on 30.11.2017. Smt. Dhanyamol has passed six out of eight tests and Smt. Raji Balan two out of eight tests. Both of them have appeared for the departmental test held on July 2017 and awaiting results and fully confident in qualifying the remaining papers; and hence requested to extend the temporary test exemption under Rule 13A(1)(a) of KS&SSRs till the publication of results of departmental tests, July 2017, conducted by KPSC.

5. Where a pass in a special or departmental test is prescribed by the Special Rules of a service for any category, grade or post therein or in any class thereof, a member of a service belonging to any of the scheduled castes or scheduled tribes who has not passed the said test but is otherwise qualified and suitable for appointment to such class, category, grade or post may be appointed thereto temporarily.

6. The word 'temporarily' used in Rule 13A(1)(a) is only to convey that those promoted by virtue of the exemption are likely to lose the right to hold the post in the event of their not passing the prescribed tests within the prescribed time limit. The departmental tests are being conducted by the KPSC in such a way that to enable the members to get at least two chances to appear for the test for each year of exemption. Thus it is clear that the applicants had got six chances to appear for the test during the period of exemption, during which they could not manage to qualify and hence faced reversion. The applicants were given temporary promotion on 26.07.2013 as Senior Clerks and hence should have qualified the prescribed department tests before 25.07.2016. KPSC will be conducting the departmental tests twice a year that is during January and July. Thus as of now three more chances have elapsed after the exempted period. Also the Director of Panchayats has reported that during 2016-17, more than 50 reversions were made in the department to those incumbents who had failed to qualify the tests within the exempted period.

7. In the light of the facts and circumstances as detailed above, the contention of the applicants to set aside the order of reversion of the applicants from the cadre of Senior Clerk to Clerk without considering their right for exemption from acquiring test qualification is declined. Allowing such requests will make bad precedents and also open a flood gate of similar demands / litigations.

7. The order of Hon'ble KAT read as 2<sup>nd</sup> paper above is thus complied with accordingly.

(By Order of the Governor)  
**SREEJITH. V.P**  
UNDER SECRETARY TO GOVT.

To

1. The Advocate General, Kerala, Thiruvananthapuram Branch (with covering letter).
2. The Director of Panchayats, Thiruvananthapuram.
3. The Deputy Director of Panchayats, Idukki.  
(Through the Director of Panchayats).
4. Smt. Raji Balan, Senior Clerk, District Panchayat, Idukki  
(Through the Director of Panchayats).
5. Smt. Dhanyamol, Senior Clerk, District Panchayat, Idukki  
(Through the Director of Panchayats).
6. Web & New media, I&PRD.
7. The Director, Information Kerala Mission (for publishing on official Website)
8. Stock File/Office Copy(File No. 155/EPA1/17/LSGD)



Forwarded/By Order

  
Section Officer