



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing - OA(EKM) 2534/2017 filed by Sri. N.M. Nahas, Superintending Engineer - Order dated 10.11.2017 of the Hon'ble Kerala Administrative Tribunal- Complied with - Orders issued.

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

GO(Rt) No.582/2018/LSGD.

Dated, Thiruvananthapuram, 28.02.2018.

- Read: 1 Representation dated 07.11.2017 from Sri. N.M. Nahas, Superintending Engineer
2 Order dated 10.11.2017 of the Hon'ble Kerala Administrative Tribunal in OA(EKM) 2534/2017.
3 Submission dated 13.12.2017 from Sri. Jolly Varghese, Superintending Engineer.
4 Minutes of the Departmental Promotion Committee held on 14.12.2017.

ORDER

The Hon'ble Kerala Administrative Tribunal as per its order read as 2nd above has disposed of the OA(EKM) 2534/2017 directing the 2nd respondent, the Chairman, Departmental Promotion Committee(H) to cause disposal of Annexure A 15 representation read as 1st paper above, after convening a meeting of the adhoc DPC as expeditiously as possible, at any rate within a period of two months from the date of receipt of a certified copy of the order. It was also ordered therein that the remarks/objections of the fourth respondent, Sri. Jolly Varghese, Superintending Engineer on the said representation will also be placed for consideration by the DPC.

2. Annexure A15 is the statutory revision petition submitted by the applicant as per Rule 29 of Part II KS & SSR, against the minutes of the DPC(H) held on 24-10-2017, wherein it was decided to supersede the petitioner in the select for promotion to the post of Chief Engineer.

3. The DPC(H), which held on 14-12-2017 closely scrutinized all the documents laid before it in the matter. In Annexure A15 review petition the applicant has raised objection in superseding him mainly on account that the two orders relied up on for arriving the decision against him has not been

communicated. He has raised another point that the incumbent selected by superseding him Sri. Jolly Varghese is also facing Vigilance investigation in two cases and he was unaware of any cases registered against him. The Committee observed that G.O(Rt)No.3352/2017/LSGD dated 21-10-2017, wherein his Annexure A3 Review Petition was rejected and G.O(Rt) No. 1523/2017/LSGD dated 10-05-2017, barring one increment with cumulative effect has been issued well before the date on which the DPC in question was held ie., 24-10-2017. There is no ground on the argument that the decision taken on the basis of the above GOs cannot be maintained as the same was not served to him. This is truly a flimsy ground and the fact remains that Government had taken the decisions in advance of the due date of DPC and the matter was promptly placed before it. Once such decisions taken to award a major punishment has been placed before DPC, the committee is bound to take a decision on the basis of the facts and figures produced before it as per Rule 28 (a)(i), (ii) of KS&SSR 1958.

4. The contention of the applicant regarding the pendency of two Vigilance Investigation against the fourth respondent ie., Sri. Jolly Varghese, Chief Engineer is also not worth considering as those Vigilance cases are only in investigations stage and this is not an impediment for his selection as this point was quite clear in view of the Judgement of Hon'ble Supreme Court of India in the case of Janaki Raman Vs Union of India and Judgement of Hon'ble High Court of Kerala in the case of Sasidharan Vs Government of Kerala. It is also to be noted that against the applicant five Vigilance investigation is pending, apart from the two cases disposed of during 2017 by imposing major punishment. The main factor attributing to his supercession was that the above two cases in which Government had imposed major punishments and the allegation proved against him was grave. Before arriving at a decision to supersede him the DPC(H) met on 24-10-2017 had considered all aspects in detail and it is quite evident from the Annexure A13 minutes. It was under these circumstances, the committee come to the conclusion that the officer is unfit for selection to the post of Chief Engineer who is the Head of the Department. The objections raised by the fourth respondent ie., Sri. Jolly Varghese, Chief Engineer was also noted by the DPC.

5. Under the above circumstances, the DPC(H) has observed that the Annexure A15 review petition is devoid of any merit and has decided to uphold its original decision to supersede him as decided in the meeting held on 24-10-2017.

6. In view of the above decision of the DPC(H) detailed in the minutes read as 4th paper above, the demand of the applicant Sri. N.M. Nahas in Annexure A15 representation is hereby declined and the orders of Hon'ble KAT read as 2nd paper above is complied with accordingly.

(By Order of the Governor)

T.K. JOSE

Additional Chief Secretary to Government

To

- 1 Sri. N.M. Nahas, Superintending Engineer, South Circle, LSGD Engineering Wing, Thiruvananthapuram.
- 2 The Advocate General, Ernakulam (*with Covering Letter*).
- 3 The Chief Engineer, LSGD, Thiruvananthapuram.
- 4 Sri. Jolly Varghese, Superintending Engineer, KSRRDA, Thiruvananthapuram.
- 5 The Executive Director, Information Kerala Mission.
- ✓ 6 The Web & New Media, I & PRD.
- 7 Stock File/Office Copy.

Forwarded/By Order



Section Officer