



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing – Cancellation of orders repatriating Sri. Shanavas. V.A, Overseer Gr I and Sri. C. Sulaiman, Overseer Gr II to Public Works Department - Interim order of the Hon' KAT in OA(EKM)668/2018 - complied with - Orders issued

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

GO(Rt) No.1327/2018/LSGD.

Dated, Thiruvananthapuram, 11/05/2018

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- Read :
- 1 GO(Rt)No. 820/2015/LSGD dtd 20.03.2015
 - 2 GO(Rt)No.478/2018/LSGD dtd 16.02.2018
 - 3 Interim Order of the Hon' KAT dated 14.03.2018 in OA(EKM)668/2018.
 - 4 Report dated 11.04.2018 from the Chief Engineer, LSGD
 - 5 Report dated 11.04.2018 from the Chief Engineer, PWD

ORDER

As per the Government Order read as 1st paper above, Sri. Shanavas. V.A, Overseer Gr I and Sri. C. Sulaiman, Overseer Gr II, who had been permanently deployed to LSGD from PWD were repatriated to their former department.

2. Permanent deployment of excess staff from other departments like PWD, Irrigation etc. to the LSGD, Engineering wing has been necessitated due to the transfer of powers and responsibilities of these departments to the LSG institutions as part of decentralization of powers. It was a policy decision of the Government and the excess number of posts identified by the departments concerned had been abolished and the staff were deployed on the basis of option as well as compulsorily on seniority basis. Hence it is clear that repatriation of Sri. V.A. Shanavas and Sri.C. Sulaiman, Overseers, who had been permanently deployed to LSGD from PWD , to their former department as per the Government Order read as 1st paper above was an unfair one issued without considering the above facts and not having any proper examination. The above decision also lead to various Court litigations claiming similar repatriation. Hence, Government viewed that the repatriation of the above officials to the PWD, without considering the facts and figures and seniority criteria is truly detrimental to the very organisational step up and functioning of the LSGD Engg Wing. Accordingly orders have been issued, cancelling the GO dated 20.03.2015 and the Chief Engineer, PWD had been directed to relieve them of their duties from the PWD, as per Government Order read as 2nd paper above.

3. Challenging Government Order dated 16.02.2018, Sri. V.A. Shanavas has filed OA(EKM)No.668/2018, wherein the Hon' KAT as per its interim order dated 14.03.2018 have stayed the implementation of the said order for a period of one

month and later extended to further 3 months and have also directed the respondents to furnish instructions as to whether the Government Order dated 16.02.2018 (*Annexure A4*) can be treated as a notice and after hearing the applicant a fresh could be taken. Accordingly, the applicant was heard on 12.04.2018.

4. During the hearing Sri. Shanavas has contented that he was repatriated based on an in-principle decision of the Government to repatriate those who had been compulsorily redeployed to the LSGD, without getting option from the incumbents and the reasons for cancellation as explained in the Government Order dated 16.02.2018, in this regard are not relevant. As a non-optee in this case, his redeployment cannot be considered as permanent. As fresh recruits are being appointed in both LSGD and PWD, the argument that the lack of staff would adversely affect the activities of the LSGD has no stance. Also he had worked in the LSGD for five years and hence has requested to cancel Government Order dated 16.02.2018.

5. The Chief Engineer, PWD has reported that in OA No 1044/2017 filed by Smt. Vijula & Others against the promotion granted to Sri. V. A. Shanavas and Sri. Sulaiman, the repatriated employees, as first grade overseers in the Public Works Department, the petitioners also prayed for a direction to consider their repatriation also to the PWD and claimed seniority over Sri. V. A. Shanavas and Sri. C Sulaiman. Hence the Government Order dated 20.03.2015 issued without considering the facts and figures and seniority criteria in repatriating the above officials to the PWD was cancelled and as such the incumbent officers were relieved from PWD on 9.3.2018. But the applicant managed to obtain stay order against GO dtd 16.02.2018 , but well after his relief from the present station. The stay order was extended later and he is continuing as such in buildings division, PWD, Kozhikkode, whereas Sri. C. Sulaiman retired from service on 28.2.2018.

6. The Chief Engineer, LSGD has also reported that the issuance of Government Order dated 20.03.2015, repatriating Sri. V. A. Shanavas and Sri. Sulaiman, was an unfair one issued without considering the facts and figures and seniority criteria and with out having any proper examination. Also, the posts in PWD after deployment to the LSGD has been abolished and the same number of posts have been created in LSGD, and hence the Chief Engineer, LSGD was not in favour of the repatriation citing that this would affect the working and structure of the Department. In fact, this order has created a bad precedence leading to similar requests from other employees and even court litigation claiming similar repatriation. Therefore, the continuance of this order will detrimentally affect the permanently deployed staff to LSGD and have adverse effects on the cases pertaining to deployment, pending in Hon'ble Supreme Court. Hence the Chief Engineer, LSGD was of the view that the repatriation of Sri. V.A. Shanavas and Sri.C. Sulaiman, Overseers to the PWD, without considering the facts and figures and seniority criteria is truly detrimental to the very organisational set up and functioning of the LSGD Engg Wing and has requested not to cancel Government Order dated 16.02.2018 .

7. Government have examined the matter in detail and it is viewed that the cancellation of Government Order dated 16.02.2018 was necessitated to safeguard the seniority, promotion and service benefits of the permanently deployed staff to LSGD, Engineering wing and to avoid adverse remarks from various Courts/ KAT in this regard. The contention of the applicant that Government had decided in principle to repatriate those who had been compulsorily redeployed to the LSGD is not true to the facts and there is no such Government Order enabling the reparation of compulsorily redeployed employees. In fact the reparation of the excess staff from Department like PWD, Irrigation etc, was a policy decision of the Government owing to the transfer of powers and responsibilities of these departments to the LSG institutions. Hence Government stick on to the earlier stand in the issuance of GO(Rt)No.478/2018/LSGD dtd 16.02.2018. Thus in compliance with the interim order of the Hon'ble KAT read as 3rd paper above, Government hereby upheld the decisions in the above GO and fresh orders are issued accordingly.

(By Order of the Governor)

SREEJITH.V.P

Under Secretary to Govt.

To

- 1 Sri. Shanavas. V.A, Overseer Gr I (*through the Chief Engineer, PWD*)
- 2 The Chief Engineer, PWD, Thiruvananthapuram.
- 3 The Chief Engineer, LSGD, Thiruvananthapuram.
- 4 The Advocate General, Ernakulam (*with Covering Letter*).
- 5 The Accountant General,(A&E/Audit) of Kerala, Thrissur
- 6 Public Works (B) Department
- 7 The Executive Director, Information Kerala Mission.
- 8 The Web & New Media, I & PRD.
- 9 Stock File/Office Copy.

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Section Officer.

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