



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing - TA No.203/2014 filed by Smt. Laila Sabjan, W/o late Sabjan. R, Overseer Gr I - Order dated 17.10.2017 of the Hon'ble Kerala Administrative Tribunal- Complied with - Orders issued.

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

GO(Rt) No.2681/2018/LSGD.

Dated, Thiruvananthapuram, 20/10/2018

- Read: 1 Order of the Hon'ble Kerala Administrative Tribunal dated 17.10.2017 in TA No.203/2014.
- 2 DO letter no. H1-25844/2012 dated 01.06.2018 from the Director of Panchayaths.

ORDER

Late Sabjan. R, the husband of Smt. Laila Sabjan was appointed as Overseer Gr II in Panchayath Department in LSGD on 1974 and promoted as Overseer Gr I w.e.f 20.08.1977. He availed LWA for seeking better employment abroad for 5 years vide GO(Rt)No.276/1980/LA&SWD dtd 23.01.1980 and proceeded on LWA w.e.f 18.06.1980. Later the period of the LWA was further extended for 5 years w.e.f 19.06.1985 as per GO(Rt)No.3906/1985/LAD dtd 16.12.1985. Though the applicant claim that her husband submitted the application for further extension of LWA for 3rd spell, the application was not received in Government or in LSGD. As such he was on unauthorised absence w.e.f 19.06.1990 and he expired while in abroad on 09.11.2001.

2. Thereafter the applicant's son had submitted the application seeking employment assistance under Compassionate Employment Scheme, but he same was rejected as per letter No. 7360/H2/03/LSGD dtd 18.06.2004 as the employee was not in service from 19.06.1990 due to his unauthorised absence and also due to the fact that he continued in LWA for 21 and half years though the permissible time limit for the leave is 20 years. Aggrieved by the non sanctioning of pensionary benefits and also praying to quash Govt decision contained in letter dated 18.06.2004, Smt. Laila Sabjan filed WP(c)No.3514/06 before the Hon' HC, which was transferred as TA 203/14 to the Hon'ble KAT, wherein the Government and the Director of Panchayath are arrayed as 1st and 2nd respondents respectively.

3. The Hon' KAT, as per its order read as 1st above, have observed that the contention of the respondents that the applicant's husband did not have minimum qualifying service for pension and therefore the applicant would not be entitled for family pension cannot be countenanced in the light of GO(P)No.390/80/Fin dtd 18.06.1980 and the judgment of the Hon' HC in M. Suhara Beevi Vs State of Kerala(ILR 1998(1) Kerala 186). Also, in so far as the applicant's husband was not proceeded against departmentally under the relevant statute, it has to be held that the service of the applicant's husband was not terminated by any process known to law and the applicant's husband continued

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30/10/18

in service. With these observations, the KAT has disposed of the TA 203/14 directing the Government to reconsider the matter in the light of the observations in the judgment of the Hon' HC of Kerala in M. Suhara Beevi's case. It has also been ordered that the Govt should consider the eligibility of the family of the deceased for other benefits to which the family of an employee dying in harness was eligible for considering that the applicant's husband died while in service.

4. Government have examined the matter in detail and found that (Late). K. Sabjan had availed LWA with Government sanction for 10 years and was on unauthorised leave for 11 years. But, disciplinary action was not initiated against him as per KCS(CC&A) Rules 1960 while the officer was on unauthorised leave, which is seen as a grave dereliction from the part of the Panchayath Department. Hence, he cannot be treated as terminated from service. Therefore, the employee is treated to be died in harness due to the non initiation of disciplinary action against him or non-termination of him from service for his unauthorised absence. Accordingly, applicant is entitled for eligible pensionary benefits and also the legal heir of the deceased employee is eligible for employment assistance under Compassionate Employment Scheme.

5. In the above circumstances, the 2nd respondent, ie the Director of Panchayaths, is hereby directed to grant eligible pensionary benefits to the applicant on receipt of application for the same. The Director of Panchayaths is also directed to obtain the application for employment assistance under Compassionate Employment Scheme from deceased employee's legal heir, if they desires so and to forward the same to Govt. forthwith.

6. The order of the Hon'ble KAT in TA No.203/2014 read above is complied with accordingly.

(By Order of the Governor)

SREEJITH.V.P

Under Secretary to Govt.

To

- 1 Smt. Laila Sabjan, Shahinalayam, Muslim street, Kottarakara, Kollam.
- 2 The Advocate General, Thiruvananthapuram (*with Covering Letter*).
- 3 The Director of Panchayaths, Thiruvananthapuram.
- 4 The Chief Engineer, LSGD, Thiruvananthapuram.
- 5 The Accountant General, (A&E/Audit) of Kerala, Thrissur
- 6 The Executive Director, Information Kerala Mission.
- 7 The Web & New Media, I & PRD.
- 8 Stock File/Office Copy.

Forwarded/By Order



Section Officer