



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing - OA(EKM) 1490/2018 filed by Sri. K.C. Subramanian, Exe.Engineer - Order dated 26.07.2018 of the Hon'ble Kerala Administrative Tribunal- Complied with - Orders issued.

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**LOCAL SELF GOVERNMENT (EW) DEPARTMENT**

GO(Rt) No.2835/2018/LSGD.

Dated, Thiruvananthapuram, 03/11/2018

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Read: 1 GO(P)No.25/2018/LSGD dated 16.04.2018.  
2 GO(Rt)No.1564/2018/LSGD dated 07.06.2018  
3 Representation dated 18.06.2018 from Sri. K.C. Subramanian.  
4 Order of the Hon'ble Kerala Administrative Tribunal dated 26.07.2018 in OA(EKM) 1490/2018.  
5 Letter no.E22-12483/2017/CE/LSGD dated 25.10.2018 from the Chief Engineer, LSGD.

ORDER

The DPC(H) which convened on 24.10.2017 superseded Sri. K.C. Subramanian, Asst.Exe.Engineer for promotion to the post of Exe.Engineer due to the prevalence of disciplinary action for minor penalty as per Vigilance recommendation against him in two cases. The disciplinary actions for minor penalty pending against him were finalised subsequently by barring one annual increment without cumulative effect for a period of one year in one case and one annual increment without cumulative effect for a period of six months in another case as per GO(Rt)No.465/2018/LSGD dated 16.02.2018 and GO(Rt)No. 424/2018/LSGD dated 13.02.2018 respectively. Accordingly the incumbent submitted representation before the DPC(H) requesting to reconsider his case and include him in the modified select list 2017 for the Executive Engineer.

2. The review DPC(H) which convened on 27.02.2018 in pursuant to the orders of the Hon' KAT dated 07.11.2017 in OA(EKM) No.2527/2017, considered the quantum of punishment awarded to the applicant and observed that the applicant is eligible for promotion to Exe. Engineer only in the year of finalising the disciplinary action, ie 2018. Accordingly, the DPC decided to include him as Sl no. '1a' just above Sri. Bijoy. K.N whose Sl no. 2 and Rank no. 33 in the select list 2018 for promotion to the post of Executive Engineer. Subsequently, the modified select list 2018 was approved and published as per GO read as 1<sup>st</sup> paper above and as such he was promoted as Exe.Engineer as per GO read as 2<sup>nd</sup> paper above.

3. Later the applicant filed OA(EKM)No.1490/2018 praying to promote him to the post of Exe.Engineer with retrospective effect, ie date of promotion of his junior in Asst.Exe.Engineer cadre. The Hon' KAT, as per its order read as 4<sup>th</sup> paper above, have disposed of the OA directing the first respondent, ie the Government to consider and

pass appropriate orders on Annexure A16 representation, read as 3rd paper above, within a period of two months from the date of receipt of a copy of the order.

4. In the Annexure A16, the applicant has contended that there was inordinate delay on the part of the Government in finalizing the disciplinary actions for minor penalty in two cases. Had the said disciplinary proceedings were finalised before the issuance of the select list he would have been promoted to the post of Exe.Engineer, along with other candidates in the select list notified as per GO(P)No.85/2017/LSGD dated 01.11.2017, including Mr. Chandran C, junior to him in the cadre of Asst.Exe.Engineer. The reason behind the delay in effecting his promotion to the post of Exe.Engineer was the delay in finalizing the disciplinary proceeding and after submitting the statement of defence to the memo of charges, he has no role in finalizing the disciplinary proceedings. Hence it is argued that he was entitled for promotion to the post of Exe.Engineer, with all consequential service benefits including pay, allowances and seniority over his immediate junior in the cadre of AEE and he has requested to issue necessary orders in this regard.

5. The Chief Engineer, as per letter read as 5<sup>th</sup> paper above, has reported that in the disciplinary action prevailed against the applicant in Government file no.EW2/207/2015/LSGD, the reply of the applicant to the Memo of Charges and Statement of Allegation issued as per letter dated 26.10.2016, along with the remarks of the Exe.Engineer was received in the O/o the Chief Engineer on 28.01.2017. Also, the reply of another accused officer in the said case was received on 10.04.2017, which together with that of the applicant was forwarded to Government as per letter dtd 30.05.2017. Later the report of the Enquiry Officer in this regard was furnished to Government on 17.11.2017 and as such the disciplinary action was finalised as per Government Order dated 13.02.2018. In another disciplinary action case pending against him in Government file No.206/EW2/2015/LSGD, the reply to the MOC and SOA issued as per dtd 26.10.2016, was received in the O/o the Chief Engineer on 14.06.2017, which along with the remarks of the Chief Engineer was forwarded to Government as per letter dated 01.08.2017.

6. Though the reply to the MOA and SOA in two cases was received in Govt just before the date of convening the DPC(H) 2017 held on 24.10.2017, the matter was to be examined in detail in Government as the cases were of serious nature and also to obtain the concurrence of the Vigilance Department in finalising the same, as the cases were based on Vigilance recommendation. In the disciplinary action initiated against the applicants in Government file no.EW2/207/2015/LSGD, the main contention of the accused officer including the applicant was that the measurement taken by the Vigilance team was not as per norms. Accordingly, Government had directed the Chief Engineer, LSGD to authorise a competent officer after conducting site inspection to ascertain the veracity of the claims of the accused. The report of the Enquiry Officer in this regard was furnished to Government on 17.11.2017 and the disciplinary action against the applicant was finalised as per Government Order dtd 13.02.2018 after obtaining the remarks of the Vigilance department in the matter.

7. Therefore, the argument that inordinate delay in finalising the disciplinary cases as argued by the applicant is not at all maintainable. The applicant was superseded by the DPC(H) 2017 due to the prevalence of disciplinary case in two cases which was



considered as unfit for him to officiate the supervisory post such as Exe.Engineer. Moreover, the contentions of the applicant for inclusion in the select list 2017 for promotion to the post of Exe.Engineer have already been considered in detail by the Review DPC(H) held on 27.02.2018 and has observed that he is eligible for inclusion in the select list 2018 only, after considering the gravity of the cases which has been finalised by barring one annual increment without cumulative effect for a period of one year in one case and one annual increment without cumulative effect for a period of six months in another case.

8. In the above circumstances, the contentions of the applicant in Annexure A1e for giving retrospective effect to his promotion as Exe.Engineer w.e.f date of promotion of his immediate junior in the Asst.Exe.Engineer cadre, deserves no merit and hence the same is hereby declined. The order of the Hon' KAT in OA(EKM) 1490/2018 read as 4<sup>th</sup> paper above is complied with accordingly.

(By Order of the Governor)

**SREEJITH.V.P**

Under Secretary to Govt.

To

- 1 Sri. K.C. Subramanian, Exe.Engineer (through the Chief Engineer, LSGD)
- 2 The Advocate General, Ernakulam (*with Covering Letter*).
- 3 The Chief Engineer, LSGD, Thiruvananthapuram.
- 4 The Accountant General,(A&E/Audit) of Kerala, Thrissur
- ✓ 5 The Executive Director, Information Kerala Mission.
- 6 The Web & New Media, I & PRD.
- 7 Stock File/Office Copy.

Forwarded/By Order



Section Officer