



**GOVERNMENT OF KERALA**

**Abstract**

LSGD - Engineering Wing – Order of the Hon'ble Kerala Administrative Tribunal in OA no.635/2019 filed by Smt. Nisha M. B., Assistant Engineer - Complied with - Orders issued.

**LOCAL SELF GOVERNMENT (EW) DEPARTMENT**

**G.O.(Rt)No.2148/2019/LSGD** Dated,Thiruvananthapuram, 01/10/2019.

- Read 1 Representation dated 18.01.2019 submitted by Smt. Nisha M. B., Assistant Engineer before the Chief Engineer, LSGD.
- 2 Order of the Hon'ble Kerala Administrative Tribunal dated 22.03.2019 in OA No.635/2019.
- 3 GO(Rt)No.1953/2019/LSGD dated 06.09.2019.

**ORDER**

Smt. Nisha M. B., Asst.Exe.Engineer has filed OA No.635/2019 aggrieved by her supercession in the DPC(H) 2019 held on 06.12.2018, in the select list for promotion to the post of Asst.Exe.Engineer.

2. The Hon'ble Kerala Administrative Tribunal, vide order read as 2<sup>nd</sup> paper above, have disposed of the OA No.635/2019 directing the 2<sup>nd</sup> respondent, ie the Chief Engineer, LSGD to consider Annexure A3 representation, read as 1<sup>st</sup> paper above and to verify as to whether a final report had been submitted in the Vigilance case pending against the applicant as on the date of convening of the DPC and if final report had not been filed, the 2<sup>nd</sup> respondent shall place the matter before the 3<sup>rd</sup> respondent, ie the Convenor, DPC(H) for appropriate orders, in accordance with the dictum laid down by the Hon' High Court in its judgment in Sasidharan K. K. v. State of Kerala and others, and Annexure A6 order rendered by the KAT, and the 3<sup>rd</sup> respondent shall issue appropriate orders within a period of 2 months from the date of receipt of a copy of the order.

3. The applicant was superseded by the DPC(H) 2019 held on 06.12.2018 due to the issuance of prosecution sanction against her related to Vigilance case in VC 16/15/ALP registered against her based on the charge that she conspired with the contractor in the road work under MPLAD Scheme in Perumpadam Panchayath and recorded inflated measurement in the M-Book regarding the base and sub base metalling and tarring work and also considering the gravity of the case. The request of the applicant in the Annexure A3 is to include her in the select list 2019 for promotion to the post of Assistant Executive Engineer.

4. In compliance with the KAT direction in OA 635/2019, the Review DPC(H) 2019 held on 10.07.2019 considered Annexure 3 representation and found that no final report has been filed before the Court of justice regarding Vigilance case in VC 16/15/ALP against the incumbent so far. Hence, the Committee have reconsidered the matter in detail after taking note of the Judgement of the Hon'ble High Court in Sasidharan K. K.'s case, wherein it was pronounced that pendency of a

vigilance proceedings should be inferred only if charges are framed by the Vigilance Court. Accordingly, the Committee observed that she is eligible for inclusion in the select list and decided to include her as Sl. No. 3(a) and Rank No. 231 just below Smt. Suna U. M., whose Sl. No. is 3 & Rank No. 174 and just above Sri. T. P. Sanukuttan, whose Sl. No. is 4 & Rank no. 232 in the modified select list 2019 (Diploma quota) for promotion to the post of Assistant Executive Engineer. Govt accepted the DPC decision as such and the modified select list 2019 for promotion to the post of Asst.Exe.Engineer was notified vide GO(P) 44/2019/LSGD dtd 16.07.2019. Later, she was promoted to the post of Asst.Exe.Engineer, vide GO(Rt)No.1953/2019/LSGD dtd 06.09.2019 and hence the grievances of the applicant in the Annexure A3 representation has been redressed.

5. Accordingly, the orders of the Hon' KAT in OA 635/2019 read as 2<sup>nd</sup> paper above is complied with.

(By order of the Governor)  
**GOPAKUMAR U**  
**UNDER SECRETARY**

To:

- 1 Smt. Nisha M. B., Assistant Executive Engineer, Melady Block Panchayath, Kozhikode.
- 2 The Advocate General, Thiruvananthapuram (*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