



**GOVERNMENT OF KERALA**

**Abstract**

Local Self Government Department - The Order dated 10.04.2019 of the Hon'ble Tribunal in O.A.(EKM)No.619/2017 filed by Shri.A.K.Gopinathan and others- complied with - Orders issued.

---

**DEPARTMENT**

**G.O.(Rt)No.58/2021/LSGD** Dated,Thiruvananthapuram, 08/01/2021

---

Read 1 Order dated 10.04.2019 of the Hon'ble Tribunal in O.A. (EKM)No.619/2017 filed by Shri.A.K.Gopinathan and others.

2 Submission dated 12.07.2019 of the petitioners.

3 Letter No.E1-43504/17 dated 06.01.2018 received from the Director of Panchayats.

**ORDER**

Shri.A.K.Gopinathan and others filed O.A.(EKM)No.619/17 before the Hon'ble Kerala Administrative Tribunal. A brief history of the case which led to the O.A is noted below;

2. The applicants, while holding the post of Lower Grade Secretary, were promoted as Junior Superintendents vide order No. E2-10101/03 dated 24.06.2004 of the Director of Panchayat . But they could join the promoted post only during the first week of July, 2004, on account of the time taken for handing over the charges and availing of joining time as the promotions were coupled with transfer. As per GO (P) 145/06/Fin. Dtd 25/03/2006 the pay revision of the Govt. employees were implemented w.e.f. 01/07/2004. Since they joined in the promoted post only after 01/07/2004, they could not exercise option w.e.f. 01/07/2004 though promoted on 24/06/2004. Their options were restricted to the date on which they took charge in the promoted post ie; after 01/07/2004. However some junior officers exercised option in the promoted post on 01/07/2004 itself and thereby got two annual increments in excess to that of the applicants who were seniors to them.

3. Aggrieved by this the Applicants approached the Hon'ble Kerala

Administrative Tribunal for stepping up their Pay on par with that of their Juniors with effect from 01/12/2005 and all consequential benefits arising out of it. The Hon'ble Tribunal in their Order dated 13/11/2015 in OA(EKM) No. 880/15, directed the Government to take appropriate decision in this matter after hearing the applicants.

4. On the basis of the above direction, Government examined the matter in detail and rejected the request of the applicants vide GO (Rt)No 570/2017/LSGD Dated 1.3.2017 on the following Grounds;

"In the promotion order No. E2-10101/03 dtd. 24/06/2004 of the Director of Panchayat, it has been clearly specified that the officers promoted should be relieved with immediate effect after handing over the additional charge of the Secretaries to the Head Clerks of the respective Panchayats. But the applicants assumed charge only after 1.7.2004 whereas their juniors assumed the charge as directed, prior to 01.07.2004. The 2004 Pay Revision was implemented with effect from 1.7.2004. If the seniors would have assumed charge in the promoted post immediately as directed in the promotion order, there would not be any anomaly. "

5. The applicants again approached the Hon'ble Tribunal, by filing OA No.619/2017, with a prayer to quash the above G.O (Rt) No 570/2017/LSGD dated 1.3.2017 and further requested issue necessary orders to step up their Pay on par with that of their Juniors.

6. It is noted that after the issuance of G.O.(P)No.145/06/Fin. dated 25.3.2006 further alterations have been brought out to the pay revision order and the mode of exercising options. As per Annexure A12 order G.O. (P)No.547/09/(158)/Fin. dated 7.12.2009, the benefit of stepping up of pay as ordered in paragraph 6 of G.O.(P)No.145/2006/Fin. dated 25.3.2006, i.e. VIII pay revision order, is extended to the senior officers who were restricted in exercising their options as per paragraph 7(2) of G.O.(P) No.145/2005. Though it is stated by the learned counsel for the applicants that all the applicants had exercised their options as per paragraph 7(2) of Annexure 2 to G.O(P) No.145/2006, no materials are produced to substantiate the above contention. However, the only recourse left to the applicants who had joined duty after 1.7.2004 was to exercise option under paragraph 7(2) of Annexure 2 to VIII Pay Revision Order, the respondents were bound to consider whether the applicants were entitled to the benefit of G.O.(P)No.547/09/(158)/Fin. dated 7.12.2009 which has not been considered.

7. The Hon'ble Tribunal disposed the aforesaid O.A. as per the Order read as 1<sup>st</sup> paper above directing the first respondent i.e. the Secretary to Government, LSGD to consider the matter afresh. In order to enable the first respondent to reconsider the matter, Annexure A9 order was ordered to set aside. The Hon'ble Tribunal directed as below;

".....The first respondent shall consider the matter in the light of Annexure A12 Government order G.O (P) No.547/09/(158)/Fin dated 7.12.2009 and verify whether the applicants had exercised their options in accordance with paragraph 7(2) of Annexure 2 to G.O.(P) No.145/06/Fin dated 25.3.2006. On a finding to this effect the applicants it is held would be entitled for stepping up of pay as per Annexure A12 Government order G.O.(P) No.547/09. The first respondent shall pass appropriate orders within a period of four months from the date of receipt of a copy of this order after affording an opportunity of hearing to the applicants."

8. Accordingly the petitioners were heard on 12.07.2019. They have submitted their argument as per submission read as 2<sup>nd</sup> paper above.

9. As per the report furnished by the Director of Panchayats vide his letter read as 3<sup>rd</sup> paper above, it is evident that though the petitioners were promoted as per order dated 24.06.2004, they were relieved of their official charges on or after 01.07.2004 and joined the promoted post after availing the eligible joining time.

10. The petitioners received the order, by post, in their respective Panchayats and they were relieved after completing the procedure of handing over the charge. Hence they were not in a position to join the promoted post before 01.07.2004. Whereas a junior Secretary, Sri. K.P. Antony who was on leave while the order of promotion was issued joined on 30.06.2004. Hence the said junior officer was able to opt the date 01.12.2005, since he joined in the promoted post before 1.7.2004. Hence Sri. Antony got 2 additional increments on 01.12.2005, as consequential benefit of the pay revision.

11. The petitioners pointed out the case of one Sri. V.K. Valsan, who was Senior to Sri. K.P. Antony, was granted the benefit of stepping up of pay and thereby his salary was equalized to that of Sri. K.P. Antony w.e.f. 01.12.2005.

12. In the light of the order of the Hon'ble Kerala Administrative Tribunal

read as 1<sup>st</sup> paper above Government examined the matter in detail. It is found that the petitioner, Sri.A.K.Gopinathan had opted 1.8.2005 as the date of option for Pay Revision, 2004 and as per the said option the Basic Pay was fixed at Rs. 11630. But the said Pay fixation was objected in the local fund audit and it was directed to fix the salary on the actual date on which the petitioner took charge in promoted post of Junior Superintendent, i.e 7.7.2004. In accordance with the said direction the Pay was fixed at Rs. 10790 on 7.7.2004. At the same time Sri.K.P. Antony who was junior to the petitioner, joined in the promoted post on 28.6.2004 and opted the date 1.12.2005 for the pay fixation 2004 and thereby his Basic Pay was enhanced to Rs. 11630 by allowing the benefit of two additional increments. Here the anomaly arose due to the delay in joining to the promoted post. Further the date of joining duty cannot be altered. Hence extending the benefit of option as laid down in G.O (P) No. 547/09/(158)/ Fin dated 7.12.2009 could not be extended to the petitioner.

13. In view of the above, the request of Shri.A.K.Gopinathan to step up his Pay on par with that of their Juniors could not be considered.

14. The Order dated 10.04.2019 of the Hon'ble Tribunal in O.A.(EKM) No.619/2017 is thus complied with.

(By order of the Governor)  
**REMANI MATHEW**  
**ADDITIONAL SECRETARY**

1. Shri.A.K.Gopinathan, Appat House, Vallivattom P.O., Thrissur - 680127
2. Shri.M.K.Ramakrishnan. Maruthur Kalathil House, Ayyanthole P.O., Thissur - 680003
3. Shri.P.I.Poulose, Pattammady House, Pariyaaram P.O., Thrissur - 680721
4. Shri.P.K.Sivaraman, Parassery House, Vellangallur P.O., Thrissure - 680662
5. Shri.P.S.Abdul Rub, Pathiassery House, Edavilangu P.O., Thrissur - 680671
6. The Advocate General, Kerala, Ernakulam (with C/L)
7. The Accountant General (A&E/Audit) Kerala, Thiruvananthapuram/Thrissur
8. The Director of Panchayats, Thiruvananthapuram
9. The Director, IKM, Thiruvananthapuram
10. The Finance Department (Vide U.O.Remarks No.DEV-1/89/2020/FIN dated 31.12.2020
11. Information & Public Relations (Web & New Media) Department

12. Stock File/Office Copy

Forwarded /By order

 88-

Section Officer

File No. LSGD-EPB1/102/2017-LSGD