



## GOVERNMENT OF KERALA

### Abstract

Local Self Government Department - Thiruvananthapuram Development Authority (TRIDA) - Order dated 29/03/2022 in WP(C) No.4928/2020 filed by Sri. Hakkim A before the Hon'ble High Court of Kerala - Complied - Orders issued.

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### LOCAL SELF GOVERNMENT (IA)DEPARTMENT

G.O.(Rt)No.1731/2022/LSGD Dated,Thiruvananthapuram, 20-07-2022

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Read 1 G.O.(Rt)No.5190/94/LAD dated 15/11/1994

2 G.O.(Rt)No.580/96/LAD dated 01/02/1996.

3 G.O.(Ms) No.225/96/LAD dated 28/10/96

4 G.O.(Rt) No.2265/2006/LSGD dated 22/09/2006

5 G.O.(Rt) No.326/2015/LSGD dated 26/10/2015

6 Govt. Letter No.1A4/155/2017/LSGD dated 28/02/2019

7 Govt. Letter No.1A4/229/2019/LSGD dated 21/08/2019

8. Interim Order dated 29/03/2022 in the WP(C) No. 4928/2020 filed by Sri. Hakkim. A ,senior grade Assistant (retd.) ,Thiruvananthapuram Dev. Authority

9. Letter no. A1/402/2020/TRIDA dated 26-5-2020 and 21-6-2022.

### ORDER

Sri. Hakkim A, Senior Grade Assistant (Rtd), TRIDA is the petitioner in WP(C) No. 4928/2020, who was a permanently disabled person having 80% disability. He entered the service as Junior Assistant in Kerala State Coconut Development Corporation (KSCDC) on 18/12/1981, through Employment Exchange during "the year of disability,1981". Sri. Hakkim was deputed to Thiruvananthapuram

Development Authority (TRIDA) vide paper read as 1<sup>st</sup> above for a period of one year as when KSCDC was facing liquidation due to financial crisis. Accordingly he joined duty in TRIDA in the post of Assistant Grade II on deputation basis on 18/11/1994 and the Government further extended his deputation term in TRIDA for a further period of one year w.e.f 18/11/1995 as per paper read 2<sup>nd</sup> above.

2) During his tenure in TRIDA, on his request the TRIDA Executive Committee held on 27/10/1995 decided to absorb him as Assistant Grade II, considering his Qualification, Experience and disability subject to Government Approval. The Government vide paper read as 3<sup>rd</sup> above issued orders for the absorption of Sri.Hakkim into TRIDA Service since the Kerala Public Service Commission had agreed the same as special case considering the fact that he is a physically handicapped person with 16 years of service. Moreover the service in KSCDC was not a pensionable service, but the service in TRIDA is pensionable. So his pay was fixed in the then existing scale of pay of Assistant Grade II in TRIDA (i.e;Rs.1200/-). Sri Hakkim was later promoted to the post of Senior Grade Assistant in 2004 and retired from service on 31/05/2016 in the post of Senior Grade Assistant on superannuation.

3) Sri.Hakkim was absorbed to the post of Assistant Grade II in TRIDA vide paper read as 3<sup>rd</sup> above as a special case and there was no provision in the said order regarding consideration for service benefits in KSCDC. As per paper read 5<sup>th</sup> above his previous service in KSCDC from 18.12.1981 to 27.10.1996 was considered for pensionary benefits as a special case on humanitarian consideration. In the Government order read as 4<sup>th</sup> above sanctioned pay revision to TRIDA there is no provision to consider past service in public sector and autonomous Grant in Aid institutions for service weightage.

4) Sri Hakkim A. filed a petition before the Hon. Minister for Local Self Government Department on 09/06/2017 seeking consideration of his ex-government service for pay protection, pay revision weightage and pensionary benefits. The said petition was rejected vide Government letter read as 6<sup>th</sup> paper above, by the fact that the benefits



regarding pay protection, counting prior service for pay revision weightages were not mentioned in the G.O of absorption of Sri Hakkim and if the previous service was considered for Weightage it may lead to uneasiness among other employees and subsequent legal issues.

5) Disheartened by the above mentioned Government letter, Sri Hakkim submitted petition dated 28/06/2019(Exhibit P40) before the Hon.Chief Secretary, praying an increase in service pension, monetary benefits and sanctioned eligible promotions in service period with retrospective effect. The said petition was rejected based on the report from TRIDA and KSCDC vide Government letter read as 7<sup>th</sup> above (Exhibit P41).

6) Against this, Sri.Hakkim A. filed a Writ Petition WP(C) 4928/2020 before the Hon.High Court of Kerala, by praying to refix the seniority, providing notional promotion with all consequential benefits and to revise the pension taking into consideration the prior service in KSCDC. In the interim order dated 29/03/2022 of WP(C) 4928/2020 the Hon'ble High Court directed the 2<sup>nd</sup> respondent (Secretary, LSGD) to consider Ext. P40 afresh and pass a reasoned order thereon after referring to the decisions rendered by the Apex Court in Rajeev Kumar Gupta and Others v. Union of India and Others[(2016 (3) KLT 263)], Siddaraju v. State of Karnataka and Others[(2020 (1) KHC 609)]and State of Kerala and Others v. Leesamma Joseph[(2021 (4) KHC 318)], and the order should be passed within six weeks after affording an opportunity of hearing to the petitioner and other interested persons, if any.

7) As per the order of the Hon.High Court the petitioner was heard on 31.05.2022. The direction of the Hon. Supreme Court to provide 4% reservation in promotion posts to differently-abled persons is under examination at State Govt. level.

8) As per the terms of State employees Pay Revision Order, there is no provision to consider past Government Service in PSUs and autonomous Grant-in-aid institutions for service weightage. Hence the request of Sri.Hakkim A. to consider his past service in KSCDC for service Weightage in TRIDA is not accountable. Sri. Hakkim joined

TRIDA as a regular employee on 28/10/1996, but ahead of him one candidate joined TRIDA on 22/03/1996 through PSC. As per the report from TRIDA the feeder category for the next promotion post, i.e;Section officer was Senior Grade Assistant. On advent of the Building Rules 1994 the scope of duties of Development Authorities were highly reduced and their duties on building permits transferred to Corporations Municipalities and Panchayaths. Therefore pay revision orders of Development Authorities were issued according to the reduction in staff strength and also new posts were not to be created or approved. In pay revision orders of TRIDA issued in GO (Ms) no. 304/2011/LSGD dated 6-12-2011, there were changes in the posts also. Because of this, there was only one approved post of Section officer in TRIDA, which was filled based on the approved seniority list. Also the senior most post was not identified by Government for promotion to disabled persons.

9) In the view of the above reasons, the Government is not in a position to consider the request of Sri.Hakkim A. to refix the seniority and for providing notional promotion with all consequential benefits but the service in the KSCDC has been taken into reckoning for fixing his pensionary benefits. The directions of the Hon. High Court in its interim order dated 29/03/2022 in WP(C) No.4928/2020 are complied with accordingly.

(By order of the Governor)  
LEENA N P  
JOINT SECRETARY

To:

Secretary, TRIDA

Sri.Hakkim A. Varuvila Veedu, Mananakku, Perumkulam P.O.,  
Attingal via. Thiruvananthapuram - 695 102

Advocate General, Ernakulam (with Covering letter)

Law Department (Suit-II 1/30/2022/Law datd 24/05/2022)

Finance Department (Dev-4/162/2022/Fin dated 18/07/2022)

Principal Accountant General (A7E), Kerala, Thiruvananthapuram

Accountant General (GSSA/ERSA) Kerala, Thiruvananthapuram  
Executive Director, Information Kerala Mission, Thiruvananthapuram  
Stock File/Office Copy (IA4/54/2020/LSGD)

Forwarded /By order

  
Section Officer