



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing – Order of Hon'ble KAT in TA 334/2014 filed by Sri. Pratheesh P. B., Asst.Engineer - Restoration of seniority in Asst.Engineer cadre - Orders issued.

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

G.O.(Rt)No.2469/2019/LSGD Dated, Thiruvananthapuram, 06/11/2019

Read 1 Order of the Hon'ble Kerala Administrative Tribunal dated 16.07.2018 in TA 334/2014.

2 Appeal petition dated 14.08.2018 from Sri. Pratheesh P.B.

3 Letter no.E22-11338/2018/CE/LSGD dated 10.10.2018 from the Chief Engineer, LSGD.

ORDER

Sri. Pratheesh. P.B, Asst.Engineer while working as Overseer Gr I applied for LWA for 2 years for study purpose under Rule 91 of Part I KSRs for attending M.Tech course. The LWA was sanctioned under Rule 91 of Part I KSRs as per GO(Rt)No.4390/2008/LSGD dated 20.12.2008. While he was on leave, the leave sanctioning order was cancelled and the applicant was granted LWA under appendix XII B of Part I KSRs vide GO(Rt)No.1981/2010/LSGD dated 15.06.2010, consequent to the report of the Chief Engineer, LSGD that the applicant had taken leave for higher studies for his own benefits and he was not eligible for leave under Rule 91 of Part I KSRs.

2. Challenging GO(Rt)No.1981/2010/LSGD dated 15.06.2010, the incumbent filed TA 334/2014 before the Hon'ble KAT. As per the order dated 16.07.2018 in the TA, the KAT held that the sanctioning authority cannot alter the nature of the leave applied for vide provisions in Note to Rule 65 of Part I KSRs. For these reason, the GO dated 15.06.2010 cannot be sustained and the same is therefore set aside and GO sanctioning LWA under Rule 91 of Part I KSRs stands revived.

3. In pursuant to the above order of the KAT in TA 334/2014, the applicant has preferred appeal petition read as 2nd paper above, against the seniority list of Asst.Engineer published vide proceedings dated 22.06.2017 of the Chief Engineer. It is stated that his rank in the seniority list of Overseer Gr I is 164 and that in Asst.Engineer is 299, whereas his junior, Sri. Jayakumar (rank no.165 in Overseer Gr I) is having rank no. 277 in Asst.Engineer seniority list. Therefore it is requested to sanction him service benefits during his LWA period under Rule 91 Part I KSRs, pursuant to the KAT order and subsequently to reassign his seniority in the Asst.Engineer cadre.

4. The Chief Engineer, vide letter read as 3rd paper above, has reported that Sri. Pratheesh P. B. was placed as rank no. 164 in the final seniority list in the cadre of Overseer Gr I, published vide E9/201/2009/CE/LSGD dated 06.05.2010 and accordingly he was promoted as Asst.Engineer as per order no.E3/9000/09/CE/LSGD dated 31.03.2011. Later the incumbent was granted LWA for 2 years under Rule 91 Part I KSRs for study purpose vide GO(Rt)No.4390/2008/LSGD dtd 20.12.2008. But the same was cancelled and the LWA was converted to LWA under Appendix XII B.Part I KSRs, vide GO(Rt)No.1981/2010/LSGD dtd 15.06.2010. Since the LWA sanctioned under Appendix XII B Part I KSRs could not be considered for seniority, he was not considered in DPC(L) convened for preparing select list for promotion to the post of Asst.Engineer. The Chief Engineer has reported that in pursuant to KAT order in TA 334/2014, the incumbent is eligible for seniority and other service benefits as requested by the applicant and has recommended for the restoration of his seniority in Asst.Engineer cadre by convening the DPC(L).

5. Government have examined the matter in detail and found that the setting aside of GO dated 15.06.2010 by the Hon'ble KAT is justified in reliance to Note to Rule 65 of Part I KSRs, whereby the sanctioning authority cannot alter the nature of leave applied for. Hence, the LWA period is to be counted for seniority/promotion and accordingly Sri. Pratheesh P. B. is eligible for restoration of his seniority in the cadre of Asst.Engineer as claimed by him. Therefore, the Chief Engineer is directed to restore the seniority of the incumbent in the cadre of Asst.Engineer after convening DPC(L) and orders issued accordingly.

(By order of the Governor)
GOPAKUMAR U
UNDER SECRETARY

To:

- 1 Sri. Pratheesh P. B., Assistant Engineer (through the Chief Engineer, LSGD)
- 2 The Chief Engineer, LSGD, Thiruvananthapuram.
- 3 The Accountant General,(A&E/Audit) of Kerala, Thrissur
- 4 The Executive Director, Information Kerala Mission.
- 5 The Web & New Media, I & PRD.
- 6 Stock File/Office Copy.

Forwarded /By order
Signature valid

Digitally signed by REEKANTH
G
Date: 2019.11.13 13:13:46 IST
Reason: Approved

Section Officer