



GOVERNMENT OF KERALA



Abstract

Local Self Government – Engineering Wing - Compassionate Employment Scheme – Final order dated 29.03.2019 in OA 674/2019 filed by Smt. Dhanasree T. K. - complied with - Orders issued.

LOCAL SELF GOVERNMENT(EWA) DEPARTMENT

G.O.(Ms)No.186/2020/LSGD Dated,Thiruvananthapuram, 02/12/2020

- Read :
1. G.O(P) 12/99/P&ARD dated 24.05.1999.
 2. G.O(P)14/2010/P&ARD dated 12.04.2010.
 3. G.O(P) 3/2013/P&ARD dated 05.02.2013.
 4. Application dated 12.06.2015 submitted by Smt. Dhanasree T. K., under the Compassionate Employment Scheme.
 5. G.O(P)23/2015/P&ARD dated 25.07.2015.
 6. Letter No. E2/2042/15/CE/LSGD dated 29-02-2016 of the Chief Engineer, LSGD.
 7. Representation submitted by Smt. Shyamala C.
 8. Letter No. SS1-25527/16 dated 09.03.2017 of the District Collector, Kottayam.
 9. Government letter Number LSGD-EW3/73/2016-LSGD dated 21.06.2017.
 10. Representation dated 30.08.2017 submitted by Smt. Dhanasree T. K.
 11. Letter No. SS1-25527/16 dated 04.06.2018 of the District Collector, Kottayam.
 12. Government letter Number LSGD-EW3/73/2016-LSGD dated 22.12.2018.
 13. Representation dated 20.01.2019 submitted by Smt. Dhanasree T. K.
 14. Final order dated 29.03.2019 in OA 674/2019.

ORDER

Smt.Dhanasree T. K., D/o Late K. Karunakaran, who died in harness on 26/09/2014 while working as Assistant Engineer, LSGD Section,Thondernad Grama

File No. L300-110/16

Panchayat, has applied for employment assistance under the Compassionate Employment Scheme as per the application read as 4th paper above.

2. After the application and the enclosures got verified by the District Collector, Kottayam, it was found that as per the income certificate issued by the Village Officer, T. V. Puram, the annual family income of the applicant, during the time of submission of application was Rs.6,30,288/-. The ceiling for annual family income for availing employment under the compassionate employment scheme prescribed at the time of submitting her application was Rs. 4.5 lakh vide Government Order read as 2nd paper above. Later it was enhanced to Rs 6 Lakh vide Government order read as 5th paper above. Therefore, the applicant was found ineligible for employment assistance. The District Collector, Kottayam had also reported the position, vide the letter read as 8th paper above.

3. The applicant's mother had later submitted that, only after submitting the application, it had come to be known that the income ceiling for claiming employment assistance under the said scheme was Rs.6,00,000/- and she has informed that the income of the family at the time of death of K. Karunakaran was Rs.5,54,067/-. Therefore, she had requested that the application of her daughter for employment assistance may be considered taking into account the income of her family at the time of death of her husband.

4. While considering the application under CES, the maximum income of the family of the deceased Government Servant should not exceed the income limit at the time of submitting application. Since the family income of Smt. Dhanasree T. K. exceeds the limit prescribed at the time of submitting application the same was rejected and the Chief Engineer was informed accordingly, vide the letter read as 9th paper above.

5. The applicant had later made a submission requesting to reconsider her application for employment assistance, vide representation read as 10th paper above, along with a new income certificate in which her annual family income is mentioned as Rs.5,54,067/-, which was issued by the village officer, T. V. Puram on 01.08.2016.

6. As there arose a discrepancy in the income of the family, the matter was referred to the District Collector, Kottayam as provided in para 13 of the G.O. read as 1st paper above. The District Collector, vide letter read as 11th paper above had informed that as per the report dated 16.01.2017 of the Tahasildar, Vaikom, the correct income of the family is Rs.6,30,288/- and the income reported as Rs.5,54,067/- is incorrect. It is further reported that the applicant's mother retired from Service on April 2017 and considering her monthly basic pension of Rs.31,875/- the present annual income of the family is Rs.3,82,500/-.

7. It is stipulated in the G.O. read as 3rd paper above that, since income of a family is liable to change, the income certificate issued within one year of date of death of the employee shall be considered for providing employment assistance. As such, in the case of Smt. Dhanasree T. K., the income of the family within one year from 26.09.2014, the date of death of Karunakaran K., is to be considered and as per the income certificate produced and the report of the District Collector, the income of the family w.e.f. 22.06.2015 during the time of submission of application was Rs.6,30,288 /-. considering these facts, the request of Smt. Dhanasree T. K. was again rejected, vide letter read as 12th paper above informing her that her request for employment assistance under the compassionate employment scheme cannot be considered.

8. The applicant has then submitted a review petition read as 13th paper above, under Rule 39 of KS & SSR, for reconsideration of her claim. Her main contentions are that since she belongs to SC community the income limit specified does not bind upon her and, that if DA and HRA were excluded from her mother's income during the time of death of her father, their family income would have been lowered to Rs.3,37,920/-. Therefore she demands again for appointment under Compassionate employment scheme w.e.f. 01.01.2016, with all consequential service benefits.

9. The contention of the petitioner that she is exempted from the income limit, as she belonged to SC community is absolutely baseless. No category of applicant is exempted from the annual family income limit for applying for employment under the said scheme. Regarding the other contention of the applicant that DA and HRA should be excluded from the income of her mother, while calculating the family income, there is no such condition stipulated in any of the Govt orders in this regard. To substantiate her argument, she has referred to the Judgment of Hon. HC of Kerala in Accountant General v. James, (2009 (3) KLT 164). But the said judgment is in a totally different context, questioning whether DA can be reckoned for purpose of emoluments for computing maximum amount which could be deposited in PF account. This judgment has no any bearing on the current issue. In fact it is specifically mentioned in the G.O. read as 1st paper above that 'when salary based income is calculated, the pay including all allowances except travelling allowance shall be reckoned with for the purpose'.

10. These being the facts, the petitioner filed OA No. 674/2019 before the Hon'ble KAT and the KAT vide the order read as 14th paper above directed the 1st respondent, the Govt. In LSGD, to consider and pass appropriate orders on Annexure A14 petition dated 20.01.2019, submitted to Govt. Under Rule 39 of KS&SR, in accordance with law, and after affording an opportunity of personal hearing to the applicant or her authorised representative, within a period of three months from the date of receipt of a certified copy of its order.

11. Hearing was conducted by the Under Secretary on 29.07.2019. Adv. Babu

Joseph Kuruvathazha attended the hearing representing the applicant. The only argument raised by the advocate during hearing was that the income limit is not applicable to the applicant as she belongs to SC community. When this was objected with recordal evidences, he pleaded that her request may be considered on humanitarian grounds taking into account that she belongs to SC community and Government should take a lenient stand on her application, as a special case.

12. The intention of the compassionate employment scheme is to provide expeditious relief to the immediate family of the deceased Government servant, who will otherwise suffer in the absence of such a relief and therefore the annual family income has been made one of the criteria for providing employment under the said scheme. The annual family income of Smt. Dhanasree T. K. during the time of submission of application exceeded the income limit at that time, which was fixed as per the G.O. read as 1st paper above. That was why the application of Smt. Dhanasree was rejected earlier.

13. As per rules and guidelines issued by Government from time to time, in respect of conditions and procedural formalities to be complied with while considering application for employment under compassionate ground, the request of Smt. Dhanasree T. K. cannot be considered. The request of Smt. Dhanasree T. K. for exemption from the income limit also cannot be considered unless a common order is issued for exempting applicants from scheduled caste community from satisfying the criteria for income limit. The compassionate employment scheme intends to provide an amelioration relief to the bereaved family, who may have to suffer the financial constraints happened due to the immediate death of the Government Servant. Therefore financial status of the family is one of the major criteria to be considered while providing employment and caste/community of the applicant cannot be taken into account while income limit is being considered. Exempting a particular community from the above criteria may adversely affect the purpose of the scheme. Moreover, such exemption may lead to far reaching consequences, as many more applicants may raise claim for exemption. Therefore, it does not necessitate to provide relaxation for scheduled caste community from the income limit for compassionate employment scheme.

14. Government have examined the matter in detail and find that there is no merit in the review petition submitted by Smt. Dhanasree T. K., as she is not eligible to be considered for an appointment under die in harness scheme since her family income at the time of submission of application was beyond the eligible limit as prescribed by Government. Any other lenient considerations have also become impossible as the same is against the basic purpose of the prevailing guidelines of the scheme. Therefore there is no necessity to review the Government decision, rejecting the claim of Smt. Dhanasree T. K. Annexure A14 representation dated 20.01.2019 submitted by Smt. Dhanasree T. K. is hereby disposed of accordingly and the

directions of the final order of the Hon. KAT, dated 29.03.2019 in OA 674/2019 is complied with.

(By order of the Governor)
GOPAKUMAR U
UNDER SECRETARY

1. Smt. Dhanasree T. K., D/o Late K. Karunakaran, Thalamudithura House, Chemmanattukara P.O., Vaikom, Kottayam – 686 606 (By Registered Post).
2. The Chief Engineer, LSGD, Thiruvananthapuram.
3. The Advocate General, Thiruvananthapuram (With Covering letter)
4. The Accountant General (A&E/Audit), Kerala, Thrissur.
5. The District Collector, Kottayam.
6. The Executive Director, Information Kerala Mission, Thiruvananthapuram.
7. The General Administration (CE Cell) Department.
8. The Law Department (Vide 23746/Advice C3/2019/LAW).
9. The Personnel & Administrative Reforms Department (Vide Rules-3/397/2017/P&ARD).
10. The Web and New Media, I & PRD.
11. Stock File/Office Copy.

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SREEKANTH G
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Section Officer