



GOVERNMENT OF KERALA

Abstract

Local Self Government Department – Establishment – O.A No.1714/16 filed by Shri. Biju B, Health Supervisor, Thiruvananthapuram Corporation – Order dated. 28.07.2016 of the Hon. Kerala Administrative Tribunal- Complied with - Orders issued.

Local Self Government (E.U) Department

G.O.(Rt)No.3090/16/LSGD Dated,Thiruvananthapuram. 14.11. 2016.

Read:

1. Order No. E5- 11961 / 16 dated 22.07.2016 of the Director of the Urban Affairs, Thiruvananthapuram.
2. Appeal petition dated. 25.07.2016 submitted by Shri. Biju B, Health Supervisor, Kasaragod Municipality before the Government (Annexure A4).
3. Order dated. 28/07/2016 of the Hon. Kerala Administrative Tribunal in O.A No. 1714/16 filed by Shri. Biju B, Health Supervisor.
4. Letter. No. E5-11961/2016 dated 26.09.2016 from the Director of Urban Affairs, Thiruvananthapuram.

ORDER

As per Order read as 1st paper above, the Director of Urban Affairs issued transfer and postings in the cadre of Health Supervisors of Municipal Common Service. In that transfer order one Sri. Biju. B, Health Supervisor, Thiruvananthapuram Corporation has been transferred to Kasaragod Municipality on administrative convenience. Against this transfer order Sri. Biju. B filed appeal petition read as 2nd paper above before the Government. In the appeal he submitted that even though there were vacancies of Health Supervisors in Thiruvananthapuram and near by districts, he was transferred to the Kasaragod Municipality. He submitted

that he belong to the Scheduled Tribe community and has not given the protection for that caste proclaimed in the transfer norms 2007. He therefore requested to set aside his present transfer and post him to a convenient place.

2. In connection with the above transfer, Sri. Biju. B filed O.A No. 1714/2016 before the Kerala Administrative Tribunal. The Hon. Tribunal in the Order read as 3rd paper above directed the 1st Respondent, Secretary to Government, Local Self Government Department to consider and pass orders on Annexure A4 in accordance with law, after hearing the applicant within a period of two months from the date of receipt of a copy of the order.

3. In accordance with the direction of the Hon. Kerala Administrative Tribunal, the Under Secretary, Local Self Government (EU) Department heard the applicant on 27/9/2016. In the hearing the incumbent submitted that he belongs to ST category and in his earlier place in Thiruvananthapuram Corporation, no SC/ST candidate has been accommodated and as per norms an officer belong to SC/ST can be transferred out only to accommodate another SC/ST and the present transfer to Kasaragod Municipality is against rules. He therefore requested to accommodate him in Thiruvananthapuram Corporation.

4. Government have examined the case in detail with the report read as 4th paper above of the Director of Urban Affairs and the transfer norms of Local Self Government Department issued under G.O(Ms) No. 105/2007/LSGD dated. 4/4/2007. As per Para 13 of that transfer norms there is preference for the employees belonging to the SC/ST categories. In this case, Sri. B. Biju was working as Health Supervisor in Thiruvananthapuram Corporation from 19/5/2011 to 7/2016. i.e More than 5 years he was working in Thiruvananthapuram Corporation without any transfer. In the judgment dated. 6/12/2010 in WP(C) No. 31697/2010, the Hon. High Court of Kerala has held that after completion of five years service in a particular station, a person belonging to a preferential category can be transferred even to accommodate a person not belonging to a preferential category. In that judgment the Hon. High Court has held that a person belonging to a preferential category ceases to be a person belonging to that category after the expiry of five years of service in that station and his position becomes the same as that of a general candidate. In this case, the Director of Urban Affairs has reported that there is no vacancy of Health

Supervisor in Thiruvananthapuram Corporation or nearby Municipalities. Government have specifically noted that the incumbent was transferred to Kasaragod Municipality on administrative convenience.

5. In the above circumstances there is no merit in the Annexure A4 Appeal petition read as 2nd paper above of Sri. Biju. B, Health Supervisor and there is no need to interfere the transfer order read as 1st paper above of the Director of Urban Affairs. The request in the Annexure A4 appeal petition is therefore rejected and orders accordingly.

6. The direction contained in the Order read as 3rd paper above of the Hon. Kerala Administrative Tribunal is complied with as noted above.

(By Order of the Governor).

M. Abul Kalam.

Under Secretary.

To

1. The Director of Urban Affairs, Thiruvananthapuram.
2. The Director, Kerala State Audit Department, Thiruvananthapuram.
3. The Advocate General, Kerala, Thiruvananthapuram(With C/L).
4. Shri. Biju B, Health Supervisor, Kasaragod Municipality , Kasaragod, Pin- 671121
(By Regd. Post).
5. The Executive Director, Information Kerala Mission, Thiruvananthapuram. (For publishing this order in the Website).
6. The Principal Accountant General (Audit), Thiruvananthapuram.
7. Stock file/Office Copy.

Forwarded/By Order



Section Officer

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