

  
**GOVERNMENT OF KERALA**

**Abstract**

Local Self Government Department - Establishment - OA No. 1023/2016 filed by Shri. Jayan. P and others, Contingent workers (on daily wages), Punalur Municipality - Order dated 04.07.2016 of the Hon'ble Kerala Administrative Tribunal - Complied with - Orders Issued.

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LOCAL SELF GOVERNMENT (EU) DEPARTMENT

GO(Rt)No: 61/2017/LSGD.

Dated, Thiruvananthapuram, 09.01.2017.

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- Read :**
- 1) Decision No. 4(1) of the Council Meeting dated 18.05.2015 of Punalur Municipality.
  - 2) Letter No.H2-23016/14 dated 17.06.2015 from the Secretary, Punalur Municipality (Annexure A3).
  - 3) Representation dated 18.09.2015 submitted by Shri.Jayan.P and others. (Annexure A4).
  - 4) Order dated 04.07.2016 of the Hon'ble Kerala Administrative Tribunal in OA No. 1023/2016 filed by Shri.Jayan. P and others.
  - 5) Letters No.E2-18374/2015 dated 14.10.2016 and 05.12.2016 from the Director of Urban Affairs, Thiruvananthapuram.

**ORDER**

The Secretary, Punalur Municipality in his letter read as 2<sup>nd</sup> paper above forwarded the 4<sup>th</sup> Council Decision read as 1<sup>st</sup> paper above of the Punalur Municipality in which it was decided to enlist the 11 employees now working there in the seniority list of substitute contingent workers.

2. For enlisting as substitute workers in Punalur Municipality, Shri. Jayan. P and 9 other daily waged contingent workers filed representation read as 3<sup>rd</sup> paper above before the Government of Kerala. In that representation they submitted that they are daily waged sanitary workers in the Punalur Municipality working there from the year 2003 onwards and engaged for waste

disposal and cleaning. They requested to enlist them in the seniority list of substitute contingent workers and post them in the vacant posts in accordance with the Council decision. They pointed out the precedence adopted in Kochi Corporation and Aluva Municipality for the similarly situated persons.

3. In connection with the above request, Shri. Jayan. P and others also filed O.A. No. 1023/2016 before the Kerala Administrative Tribunal. The Hon. Tribunal in the Order read as 4th paper above directed the Government to take a decision on Annexure A3 as well as Annexure A4 representations, after hearing the representative of the applicants, within a period of two months from the date of receipt of a certified copy of the order.

4. In accordance with the direction contained in the Order of the Hon. Kerala Administrative Tribunal, the Under Secretary to Government, Local Self Government (EU) Department heard the authorized representative of the applicants on 10.11.2016. During the hearing the authorized representatives of the applicants submitted the following :

- a) There are 10 Applicants in OA No.1023/16. Among them 6 persons are working for more than 14 years. The remaining persons are working from 2012 onwards.
- b) The above persons were appointed based on the decision of the Municipal Council of Punalur Municipality. They are continuing there on the basis of the Council decision. The Council in its decision dated 18.05.2015 has recommended Government to enlist the applicants in the list of substitute contingent workers.
- c) At present the substitute workers are appointed in the Municipalities after obtaining list from the employment exchanges in accordance with the procedure prescribed in GO(MS) No. 14/82/LBR dated 22.04.1982. During the year 1982, the prevailing Act was Municipality Act, 1960 and there was no provision as to how to make appointment in the cadre of contingent workers of the Municipalities. But there is provision in the Section 224 of Kerala Municipalities Act, 1994 on how to make that appointment. As per Section 224, the Municipal Council is authorised to make appointment in the posts of Contingent Workers and at present GO(MS) No. 14/82/LBR dated 22.04.1982 is obsolete. As such, the Council decision to enlist the applicants as substitute workers is absolute.



d) The Punalur Municipality requested the list of Contingent Employees from Employment Exchange twice and nobody is willing to be engaged as cleaning labour. Considering this position it cannot be possible to make appointment through Employment Exchange.

In the above circumstances, the representative of the applicants requested Government to permit the Municipality to enlist the applicants in the list of substitute workers.

5. Government have examined the case in detail with the reports read as 5<sup>th</sup> paper above of the Director of Urban Affairs along with GO(MS) No.14/82/LBR dated 22.04.1982. As per Section 224(1) of the Kerala Municipalities Act, 1994, the Council shall be the appointing authority in respect of the contingent posts in the Municipal Service and appointment orders in respect of them shall be issued by the Secretary, with the approval of the Council. As per GO(MS) No.14/82/LBR dated 22.04.1982 Government have already prescribed the procedure for preparing reserve list in respect of substitute contingent workers. From that order it is clear that Municipalities should report the vacancies to the Employment Exchanges and the Employment Exchange will prepare list of substitute contingent workers to be appointed in regular vacancies. Government have not withdrawn the said Order till date. It cannot be interpreted that by the introduction of Section 224(1) of the Kerala Municipalities Act, 1994 there is no need to adhere the procedure for preparing substitute contingent workers and Municipal Council can make appointment without adopting procedure. As per GO(MS) No. 14/82/LBR dated 22.04.1982, substitute workers to be appointed in regular vacancies of contingent workers should be selected through Employment Exchange. In this case Shri. Jayan. P, Rajan. P, Biju.S, Sarasamma, Sindhu Lal and Shri. Shajan are working in the Punalur Municipality from June 2011 on daily/CLR basis and Shri. Abhi. C.M., Bindhulal, Sunil Kumar and Sriju are working as daily wages from 08/2013 onwards by giving a break after each 14 days. They are not selected through Employment Exchange. In this case the Employment Exchange has already furnished their list to the Punalur Municipality and there is no merit in the contention in the hearing that nobody is willing to be appointed in cleaning labour and the Employment Exchange is not in a position to supply such list. As the applicants are not selected through the Employment Exchange, they cannot be enlisted in the list of substitute contingent worker and they cannot be regularised in the regular vacancies of contingent workers. The Hon. Supreme

Court in State of Karnataka Vs Umadevi (AIR 2006 SC. 1806) held that a regular process of recruitment or appointment has to be resorted to, as and when regular vacancies in the posts arise. The Apex Court emphatically held that the filling up of those vacancies cannot be done in a slapdash manner based on patronage or other considerations. In this case there is an established procedure prescribed in GO(MS) No. 14/82/LBR dated 22.04.1982 for preparing substitute contingent workers in Municipalities. Even if the Council of Punalur Municipality has recommended enlisting them in the list of substitute contingent workers, Government cannot accept the same as it is against the procedure prescribed in GO(MS) No. 14/82/LBR dated 22.04.1982.

6. In the above circumstances, the request in the Annexure A4 joint representation read as 3<sup>rd</sup> paper above and the request in the letter read as 2nd paper above of the Secretary, Punalur Municipality (Annexure A3) are rejected.

7. The Order read as 4<sup>th</sup> paper above of the Hon'ble Kerala Administrative Tribunal is complied with accordingly.

(By Order of the Governor)  
**ABUL KALAM. M.,**  
**UNDER SECRETARY.**

**To**

- The Director of Urban Affairs, Thiruvananthapuram.
- The Advocate General, Kerala, Thiruvananthapuram. (With C/L)  
Principal Accountant General (Audit), Thiruvananthapuram.  
Shri. Jayan. P, Ajaya Bhavanam, Vettithitta P.O., Punalur,  
Kollam - 689 696.
- Shri.Rajan. P., Kochu Veedu, Arampunna, Elampal P.O., Punalur,  
Kollam District- 691332.
- Shri. Biju.S, Edathannil Kavuvila Veedu, Arampunna,  
Elampal P.O., Punalur, Kollam District - 691 332.
- Smt. Sarasamma, Manju Bhavan, Kelan Kavu, Vellimannur, Punalur,  
Kollam District - 691 335.
- Shri. Sindhulal, Maruthamon, Near Market, Punalur,  
Kollam District - 691 330.
- Shri. Shajan, Mannuvila Kochu Veedu, Kuthirachira,  
Punalur, Kollam District - 691 331.

Shri. Abi. C.M., Manvila Koch Veedu, Kuthirachira, Punalur,  
Kollam District - 691 331.

Shri. Bindulal, Maruthamon, Near Market, Punalur,  
Kollam District - 691 330.

Shri. Sunil Kumar, Karthika, Chettukuzhi, Maniyar P.O.,  
Punalur, Kollam District - 691 330.

Shri. Sreeju, Deepu Bhavanam, Elampal PO., Punalur,  
Kollam District - 691 332.

✓ The Executive Director, Information Kerala Mission,  
Thiruvananthapuram.

Stock File/Office Copy.

**Forwarded by Order**



**Section Officer**