



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing - O.A.(EKM)No. 105/2014 filed by Sri. Jose Michael T.J., Executive Engineer(Rtd) - Order dated 01.09.2016 of the Hon'ble Kerala Administrative Tribunal- Complied with - Orders issued

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

GO (Rt) No.826/2017/LSGD. Dated, Thiruvananthapuram, 23.03.2017.

- 1 Letter no. G2/27119/10 dated 09.12.2014 from the Additional Secretary, Thrissur Municipal Corporation.
- 2 Order dated 01.09.2016 of the Hon'ble Kerala Administrative Tribunal in O.A.(EKM)No. 105/2014.
- 3 Letter Nos.E18/2952/2014/CE/LSGD dated 24.08.2015. 26.10.2016 & 17.01.2017 from the Chief Engineer, LSGD.

ORDER

Sri. Jose Michael T.J., Executive Engineer(Rtd) has filed O.A.(EKM)No. 105/2014 before the Hon'ble Kerala Administrative Tribunal to get his retirement benefits released. As per the order read as 2<sup>nd</sup> paper above, the Hon'ble KAT has disposed of the OA with a direction that the 9% interest will be payable for the total amount of the DCRG from 01/04/2012. The withheld amount of DCRG, i.e. Rs 4,93,773/- shall also be released with 9% interest from 01/04/2012 within a period of two months. The pensionary benefits have to be revised in tune with the order No. G1-530/2016 dated 08/03/2016 of the Regional Joint Director of Urban Affairs, Ernakulam sanctioning the 23 Years' Higher Grade to the applicant w.e.f. 12/01/2006 and the amount shall be disbursed to him within a period of three months from the date of receipt of the certified copy of the order. There is also direction to recover the amount paid as interest from the persons responsible for causing the delay in the matter of sanctioning of arrears and other benefits to the retired officer in the light of the direction issued by the Govt. in G.O.(Rt)No. 2385/2015/LSGD dated 03/08/2015.

2. As per the direction contained in G.O.(Rt)No. 2385/2015/LSGD dated 03/08/2015, the Chief Engineer, LSGD has to find out those who were responsible for the delay in sanctioning Pension to Sri. Jose Michael and to take disciplinary action against them. To this, the Chief Engineer as per letter read as 3<sup>rd</sup> paper, remarked that the onus was on the Thrissur Corporation authorities to sanction the pension to Sri. Jose Michael as he had been retired from service on 31/03/2010, whereas the salary and allowance to the

Engineering Wing Officials were disbursed from Govt. Head only from June 2011. Prior to this, the salary and allowance of the Engineering Wing officials were met from the own funds of the Corporations and Municipalities as the case may be. No proposal for sanctioning the pension to the incumbent was received in the O/o the Chief Engineer. The Secretary, Thrissur Municipal Corporation had forwarded the proposal to the O/o the Chief Engineer for declaring the probation and sanctioning grade along with Service Book of the applicant only after his retirement. Steps in this regard could have been initiated well before the date of retirement and if not possible so, provisional pension should be granted to the incumbent. It was further reported that the delay occurred in regularisation of promotion and declaration of probation was due to the pendency of the disciplinary cases against the incumbent. Therefore, the Chief Engineer is of the view that there is no wilful lapse from the officials in the O/o the Chief Engineer in sanctioning pension to Sri. Jose Michael.

3. In Urban Affairs department the majority of promotion were done for temporary posts which were not regularized. On receipt of the proposal from the Chief Engineer, LSGD, provisional promotion in the cadre of Asst. Exe. Engineer in respect of the incumbent was regularised as per GO (Rt) No.40/13/LSGD dated 05-01-2013. After that on receiving the proposal for declaration of probation in Government the probation of Sri. Jose Michael T.J in the cadre of Asst. Exe. Engineer was declared as per GO (Rt) No.210/13/LSGD dated 28-11-2013. The temporary promotion in the cadre of Executive Engineer granted to the incumbent vide GO (Rt) No.3307/2001/LSGD dated 30-10-2001 was also to be regularised before declaring the probation in that cadre and this could have been done only by placing the matter before the Departmental Promotion Committee . The DPC which held on 22-10-2013 considered the proposal for regularisation of promotion to the cadre of Executive Engineer and vide GO (Rt) No. 2780/13/LSGD dated 11-11-2013 the provisional promotion in the cadre of Executive Engineer was regularized. Thereafter, the probation in the cadre of Executive Engineer was declared vide GO(Rt) No.1160/14/ LSGD dated 15-05-2014. Since two disciplinary cases were pending against the incumbent, the proposal for Time Bound High Grade promotion was held by the Govt due to the fact that non-finalization of the disciplinary case may adversely affect the qualifying service of the incumbent. In view of the above facts, it is evident that no delay was occurred in Govt in the regularisation of provisional promotions and declaration of probation.

4. The steps for pension sanctioning could have been taken up by the Secretary, Thrissur Municipal Corporation before the declaration of probation and sanctioning the Time Bound Higher Grade, for which the proposals had to be forwarded to the Accountant General well before the date of retirement and if it was not possible provisional pension could have been granted to the retired officer . It is clear from the report of the Secretary, Thrissur Municipal

Corporation as per letter read as 1<sup>st</sup> paper above that the proposal for sanctioning 23 years Time Bound Higher Grade was forwarded to the O/o the Chief Engineer only on 30.12.2010, i.e 9 months after the date of retirement. From these, it is evident that for the delay occurred in the payment of pension and other retirement benefits to the retired officer, the Secretary, Thrissur Municipal Corporation cannot evade from responsibility.

5. Government have examined the matter in detail. The Secretary, Thrissur Municipal Corporation/Director of Urban Affairs will make arrangements for the payment of the penal interest for the DCRG, release of with held amount of DCRG with penal interest and revision of pensionary benefits in tune with the orders sanctioning 23 years of Time Bound Higher Grade, to Sri. Jose Michael T.J, Executive Engineer(Rtd) as directed by the Hon' KAT vide order read as 2<sup>nd</sup> paper above. Regarding the Hon' KAT direction to recover the amount paid as interest from the persons responsible for causing the delay in sanctioning of arrears and other benefits, the matter will be taken up later after examining the case in detail.

6. The orders of the Hon'ble KAT in O.A.(EKM)No. 105/2014 is complied with accordingly.

(By Order of the Governor)

A. SHAHJAHAN  
Secretary to Government

To

- 1 Shri. Jose Michael. T.J, Thykottathil House, Kannamaly. P.O, Kochi, Ernakulam.
- 2 The Advocate General, Thiruvananthapuram Branch (with Covering Letter).
- 3 The Chief Engineer, LSGD, Thiruvananthapuram.
- 4 The Director of Urban Affairs, Thiruvananthapuram.
- 5 The Secretary, Thrissur Municipal Corporation.
- 4 The Accountant General (A&E/Audit) of Kerala, Thrissur.
- 5 The Executive Director, Information Kerala Mission.
- 6 The Web & New Media, I & PRD.
- 7 Stock File/Office Copy.

Forwarded/By Order



Section Officer.

2