



GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Establishment - OA No.2731/2013 filed by Shri. Shajith. E.P., Legal Assistant, Municipal Corporation of Cochin, Ernakulam -Order dated 16.03.2016 of the Hon'ble Kerala Administrative Tribunal - Complied with - Orders Issued.

LOCAL SELF GOVERNMENT (EU) DEPARTMENT

GO(Rt)No: 1074/2017/LSGD. Dated, Thiruvananthapuram, 04.04.2017.

- Read :**
- 1) G.O(P) No.85/2011/Fin. dated 26.02.2011.
 - 2) Representation from Shri. E.P. Shajith, Legal Assistant, Cochin Corporation dated 28.02.2013.
 - 3) G.O(Rt) No. 1808/2013/LSGD dated 19.07.2013.
 - 4) Order dated 16.03.2016 of the Hon'ble Kerala Administrative Tribunal in OA 2731/2013 filed by Shri. Shajith E.P. , Legal Assistant, Cochin Corporation.
 - 5) Letter No. E6-9397/2016 dated 07.10.2016 of from the Director of Urban Affairs, Thiruvananthapuram.
 - 6) G.O.(MS) No.133/2017/(457)/Fin dated 06.03.2017.

ORDER

Shri. E.P. Shajith, Legal Assistant, Municipal Corporation, Cochin in his representation read as 2nd paper above has requested to declare the scale of pay of Legal Assistant in Municipal Common Service to be that of Legal Assistants in the State Service and grant the scale of Pay of Rs. 13,210-22,360. Government rejected the request as per order read as 3rd paper above, taking the stand that there exist no anomaly in the scale of pay of Legal Assistant in Municipal Common Service.

2. Shri. E.P. Shajith then filed OA No.2731/2013 before the Hon'ble Kerala Administrative Tribunal against this order. The Hon'ble Kerala Administrative Tribunal as per Order read as 4th paper above, set aside the Order read as 3rd paper above with direction to Government to pass appropriate orders, after hearing the applicant within a period of 3 months from the date of receipt of a certified copy of the order.

3. While disposing the OA as per Order read as 4th paper above, the Hon'ble Kerala Administrative Tribunal directed Government to consider the following aspects:

(i) Whether the applicant is entitled to grant the scale of pay equal to that of the Legal Assistant in other departments:

(ii) Whether he should be granted the scale of pay equal to that of UDC; and

(iii) By reckoning the basic degree and after considering the scale of pay in various posts where the Degree holders are given the scale of pay starting from 13900 onwards, whether he should be then eligible for such a scale of pay.

(iv) In view of the omission of the post of Legal Assistant from consideration in Pay Revision Order dated 30.03.2011, proper scale of pay will have to be fixed as revised.

4. The Hon'ble Tribunal reiterated that Government should have to fix an appropriate scale of pay for the post of Legal Assistant as it is omitted in GO(P) No. 143/2011/Fin. dated 30.03.2011 and the omission amounts to an error/anomaly in fixing the scale of pay.

5. In accordance with the direction of Hon'ble Tribunal the Under Secretary, Local Self Government Department was authorized to hear the petitioner and he heard the petitioner on 24.11.2016.

6. The case was examined in detail and found that the nature of duty of Legal Assistant in Law Department in Government is both complex and comprehensive since they will come under the direct hierarchical line of the Government Law Department. Moreover Legal Assistants in Law Department are selected through elaborate selection process by the Public Service Commission. The LLB degree holders who pass the prescribed competitive examinations alone are recruited to the Law Department as Legal Assistants. But in the petitioner's case he was recruited as Lower Division Clerk in Municipal Common Service and later on acquiring LLB degree and by directly put in as Legal Assistant by By Transfer method by virtue of this qualification and the scope of his duty is confined within the Corporation of Kochi. Therefore the post of Legal Assistant in Law Department in Government cannot be compared with the post of Legal Assistant existing in Cochin Corporation.

7. As the post of Legal Assistant in Municipal Common Service is made by transfer from qualified LD clerk comes under Municipal Common Service, the request for scale of pay on par with UD Clerk is justifiable and accordingly Government have issued orders as per Order read as 6th paper above by accepting the request

8. Qualification is one of the many factors deciding the scale of pay of a post. Nature of duty is an important fact or for fixing pay to a particular post. All the posts under the State Government having graduation as basic qualification are not given scale of pay of Rs. 13900-24040. There are instances of placing such posts in scale of pay of Rs. 11620-20240 in certain other departments.

9. The post of Legal Assistant in Municipal Common Service is omitted from inclusion in the 9th Pay Revision Order read as 1st paper above, since the term of the Ninth Pay Revision expired on 30.06.2014, and the Tenth Pay Revision Order come into effect from 01.07.2014, the post of Legal Assistant need not be included in the Ninth Pay Revision Order at this point of time. Even if the post was not included in the Ninth Pay Revision Order the petitioner was given revised scale of pay of Rs.11620-20240 after revision. Now the post has been included in the 10th Pay Revision Order

read as 6th paper and allowing a revised scale of pay of Rs.25200-54000 to the applicant.

The direction contained in the Order of the Hon'ble Kerala Administrative Tribunal read as 4th paper above is complied with accordingly.

(By Order of the Governor)

**S. MOHANDAS,
JOINT SECRETARY TO GOVERNMENT**

To

The Director of Urban Affairs, Thiruvananthapuram.
The Advocate General, Kerala, Thiruvananthapuram (with C/L)
The Director, Kerala State Audit Department, Thiruvananthapuram.
Shri. Shajith. E.P., Legal Assistant, Cochi Corporation.
~~The~~ Executive Director, Information Kerala Mission,
Thiruvananthapuram.
Stock File/Office Copy.

Forwarded by Order


Section Officer