



GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Rural Development Department
-Establishment - OA No. 2203/2015 filed by Sri.C.K.Sukumaran, Senior
Superintendent (Rtd)-final order dated, 03/11/2016-complied with - Orders Issued.

LOCAL SELF GOVERNMENT (ERB) DEPARTMENT

G.O. (Rt).No.1090/2017/LSGD.

Thiruvananthapuram, Dated: 05/04/2017.

Read: 1. Order dated 13/06/2012 in CC 19/2004 of the Vigilance
Court,Wayanad.

2. Final Order dated 03/11/2016 in OA No.2203/15 filed by
Sri.C.K.Sukumaran, Senior Superintendent (Rtd).

3. Representation dated 22/11/2016 submitted by Sri.C.K.Sukumaran.

4. Letter No. 11990/AC &Ad2/2011/CRD Vol.II dated, 14/12/2016
of the Commissioner, Rural Development.

ORDER

Shri.C.K. Sukumaran retired from service on 31/03/2011 as Junior
Superintendent in the Rural Development Department. While he was working as
Head Clerk, Block Office, Kalpetta, he was placed under suspension for alleged
irregularities and negligence of duties by the District Collector, Wayanad, Vide
proceedings No. RD1/1138/2001 (1) dated 29/06/2001. Subsequently, he had
been re-instated into service as per the proceedings No. RD1/1138/2001 (1) dated
17/12/2001, by the District Collector, Wayanad, pending Vigilance case registered
against him. Later, the Vigilance case was dismissed as per Order
No.CC/19/2004, dated 13/06/2012 by the Vigilance Court, Wayanad,. Thereafter,
he had been granted notional promotion to the cadre of Senior Superintendent in
the scale of pay of 10,790-18,000/- (pre- revised) under Rule 28 (b) (i) 14 of Part

II KS&SSR with effect from 16/08/2007 ie the date on which his Junior Sri.V.V.Kannan was promoted as Senior Superintendent as per order No.16411/Estt.D2/2012/CRD, dated, 02/03/2013. In the order, it was clearly stated that the incumbent would not be entitled for arrears of pay but only for pensionary benefits.

The applicant filed OA No. 2203/2016 before the Hon'ble Kerala Administrative Tribunal seeking directions to the respondents to sanction and release the monetary benefits consequent on his promotion as Senior Superintendent with interest.

The Hon'ble Kerala Administrative Tribunal in its order dated 03/11/2016 ordered as follows:-

- (i) The petitioner, if so advised, may make a representation before the 1st respondent with regard to his claim for arrears of pay and allowances on his retrospective/notional promotion as Senior Superintendent within a period of two weeks from the date of receipt of a certified copy of this order and if such a representation is received as above, the 1st respondent shall consider the same after affording an opportunity of hearing to the applicant and pass orders thereon with a period of two months from the date of receipt of such representation;
- (ii) The applicant is entitled to get interest at the rate of 9% per annum on the amount of his DCRG for the period from 01/06/2011 up to the date of payment of the DCRG and this shall be paid within a period of two months from the date of receipt of a certified copy of this order;
- (iii) The applicant shall be paid the balance amount towards the leave surrender benefits based on his pay in the post of Senior Superintendent within a period of two months from the date of receipt a certified copy of this order.

As per the order of the Hon'ble Kerala Administrative Tribunal, Deputy Secretary, Local Self Government Department heard the applicant on 15/12/2016.

In his representation dated 22/11/2016, the applicant has requested to take steps to release the arrears of leave salary and allowances towards terminal surrender of Earned Leave on account of the retrospective promotion allowed to him to the post of Senior Superintendent and on account of the due promotion to the post of Senior Superintendent (Higher Grade).

Government have examined the matter in detail. As per Rule 23(a) Part I Kerala Service Rules an officer shall begin to draw the pay and allowances attached to his tenure of a post with effect from the date he assumes the duties of that post. So normally the claim for the monetary benefit is from the date of assumption of charge in the promotion post. Hence a vacant post is a prerequisite for ordering provisional or regular promotion. But notional are ordered under exigencies of service owing to retrospective revision of seniority and also based on court directions, without ascertaining whether there is sufficient number of vacancies to order promotion. In such cases back arrears are not permissible. In view of the above, Sri.C.K.Sukumaran is not eligible for back arrears of pay and allowances for his notional promotion to the post of Senior Superintendent with effect from 16/08/2007.

Earned leave salary for surrender of earned leave, either periodic or terminal, is calculated based on full (duty) pay i.e., pay admissible, had he been on duty during the period of leave vide Rule 92 Part I KSRs. In this case, the officer was on duty in the post of Junior Superintendent/Deputy Tahsildar at the time of availing terminal surrender and so his entitlement for surrender has to be

calculated based on the pay drawn in the post of Junior Superintendent. As he was granted notional promotion to the post of Senior Superintendent after retirement, he could not assume and perform the duties of that post and draw officiating salary thereof. As he has never been on duty in the post of Senior Superintendent, his terminal surrender leave salary could not be drawn based on the notional pay fixed in the post of Senior Superintendent.

In the circumstances, the request made by the applicant in his representation dated 22/11/2016 does not deserve consideration, and is here by rejected.

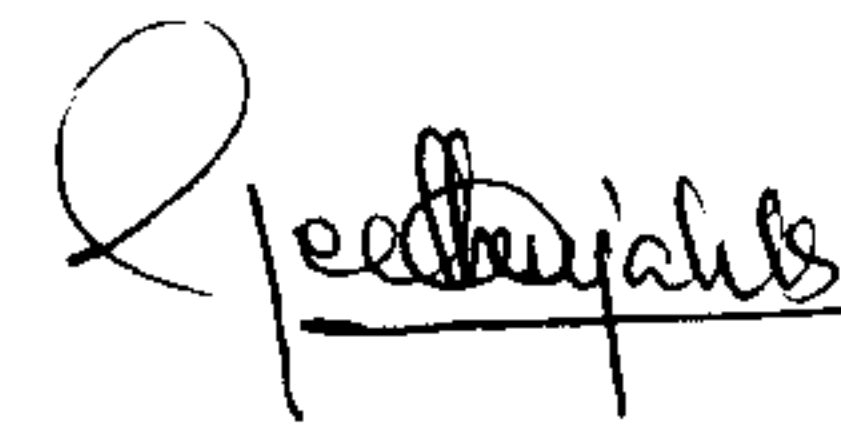
The Order of the Hon'ble Kerala Administrative Tribunal dated 03/11/2016 is thus complied with.

(By Order of the Governor)
SANTHOSH KUMAR.S.R
DEPUTY SECRETARY

To

- 1) The Commissioner for Rural Development, Thiruvananthapuram.
- 2) The Advocate General, Kerala, Thiruvananthapuram (with covering letter)
- 3) Sri.C.K.Sukumaran, Karipparath House, Kottayampoil.P.O, Thalassery, Kannur- 670 691
- 4) The Account General, (A&E/Audit), Kerala, Thiruvananthapuram.
- ✓ 5) Information Kerala Mission, Thiruvananthapuram.
- 6) The I&PR (Web& New Media) Department (For Publicity)
- 7) Stock file/ Office copy.

Forwarded/By Order



Section Officer