



## GOVERNMENT OF KERALA

### Abstract

Local Self Government Department - Urban Affairs – Establishment - Order dated 06.09.2016 of the Hon'ble Kerala Administrative Tribunal in O.A.No. 1622/2016 filed by Shri.R.Rahesh Kumar, Secretary, Chengannur Municipality. Complied with - Orders issued.

### LOCAL SELF GOVERNMENT (E.U.) DEPARTMENT

**G.O.(Rt).No: 1303/2017/LSGD Dated, Thiruvananthapuram, 24/04/2017.**

- Read:-**
1. Representation dated 05.09.2014 submitted by Shri.R.Rahesh Kumar, Secretary, Cherthala Municipality.
  2. Order dated 06.09.2016 of the Hon'ble Kerala Administrative Tribunal in O.A.No. 1622/2016 filed by Shri.R.Rahesh Kumar, Secretary, Chengannur Municipality.
  3. Letter No.B2 OA 1622/2016/AGO dated 15.11.2016 from the Advocate General, Thiruvananthapuram.
  4. Letter No.E2-26357/2016 dated 20.01.2017 from the Director of Urban Affairs, Thiruvananthapuram

### ORDER

As per the representation read as 1<sup>st</sup> paper above, Shri.R.Rahesh Kumar, Municipal Secretary Grade III had submitted that he entered service as Municipal Secretary Grade III on 13/5/2009 and Shri. U.S Satheesan and Shri.S. Subhagan have been given promotions as Municipal Secretary Grade II who have joined service on 20/5/2010 and 21/6/2010 respectively. He submitted that he is eligible to be promoted provisionally to the cadre of Municipal Secretary Grade II at the time of their promotion in accordance with the KS&SSRs, 1958. Therefore, he has requested to declare his probation in the cadre of Municipal Secretary Grade III and to award him promotion to the cadre of Municipal Secretary Grade II with retrospective effect and to assign seniority in the Gradation List of Municipal Secretary Grade II.

2. In the connection with the above, Shri.R.Rahesh Kumar, Municipal Secretary Grade III, Chengannur Municipality filed O.A.No.1622/2016 before the Hon'ble Kerala Administrative Tribunal. The Hon'ble Tribunal as per the Order read as 2<sup>nd</sup> paper above, has directed the 1st respondent (Secretary, LSGD) to consider and pass orders on Annexure A.14 in

accordance with law after giving an opportunity of being heard to the applicant within a period of three months from the date of receipt of a certified copy of the order.

3. The applicant was heard by the Under Secretary on 21/1/2017. In the hearing, the applicant submitted that his probation has been declared with effect from 25/5/2011 as per GO(Rt) No. 42/2016/LSGD dated 6/1/2016 and he is entitled for temporary promotion to the post of Municipal Secretary Grade II, even if he had not qualified tests required for declaring the probation at the time of promotion in terms of Rule 13 A (1) (a), 13 (A) (2) of Part II KS&SSRs as he belong to the Scheduled Caste Community. He therefore requested to grant due promotion to him in the light of the Circular No. 8130/Adv. C3/2010/P&ARD dated 24/02/2012.

4. The Director of Urban Affairs, as per the letter read as 4<sup>th</sup> paper above, has furnished the following:-

(i) The incumbent entered service as Municipal Secretary Grade III on 25/5/2009, where as Sri. U.S. Satheesan, A.S. Subhagan were appointed in that cadre only on 20/5/2010 and 21/6/2010 respectively.

(ii) By the reason of non-declaration of probation, the incumbent has not included in the select list.

(iii) As per G.O.(Rt.) No. 42/2016/LSGD dated. 6/1/2016, the probation of the incumbent has been declared. There is no disciplinary action against the incumbent at the relevant period.

Therefore, the Director of Urban Affairs has requested Government to promote the incumbent to the post of Municipal Secretary Grade II as requested by him in the light of the Circular No. 8130/Adv. C3/2010/P&ARD dated 24/02/2012.

5. Government have examined the matter in detail. The Departmental Promotion Committee (Higher) met on 22/6/2013 assessed the merit and ability of officers to be included in the Select of Municipal Secretary Grade II for the year 2013. The DPC omitted the name of Shri.R.Rahesh Kumar, Municipal Secretary Grade III on the ground that his probation in that grade is not declared. By superseding him, the select list was published as per Notification No. G.O. (P). No. 254/13/LSGD dated 17/7/2013. Based on this



select list, Shri. A.S Subhagan and Shri.U.S. Satheesan, Municipal Secretary Grade III were promoted to the cadre of Municipal Secretary Grade II vide G.O. (Rt.) No. 2867/2013/LSGD dated. 1/11/2013. As per G.O.(P) No. 25/97/P&ARD dated 28/11/1997, the SC/ST employees who entered on or after 1/1/1986 are not entitled to get promotion without the successful completion of probation. In the 3rd para of Circular No. 8130/Adv. C3/2010/P&ARD dated 24/02/2012 Government have again clarified that declaration of probation is a pre-requisite for granting temporary exemption under Rule 13 A (1)(a) Part II KS&SSRs. As per Rule 28 (b) (i) (8)(a) of Part II K&SSRs, an officer who has been superseded and whose name has not been included in the select list can submit a written representation to the Convenor of the Departmental Promotion Committee within one month from the date of publication of the select list. In this case the incumbent has not submitted any written representation before the Convenor of the DPC within the time limit after the publication of the Select List vide.G.O. (P). No. 254/13/LSGD dated 17/7/2013. But it is an admitted fact that the DPC omitted him from the select list as his probation has not declared at that time. As per G.O. (Rt.) No. 42/2016/LSGD dated 6/1/2016; the probation of the incumbent has been declared with effect from 20/5/2011 F.N. As per the Note under Rule 28(b)(i) (8)(a) Part II KS&SSRs, promotion from the first list published by the DPC shall be provisional and the list will be subject to revision, if, after following the procedure, it is found that the list requires a revision. In this case, the 1<sup>st</sup> Select List published vide G.O. (P). No. 254/13/LSGD dated 17/7/2013 requires a revision and the DPC only has competence to review / revise a select list. At present Government are taking expeditious action to prepare Seniority List of officers (Joint Director to Municipal Secretary Grade III) and it is expected that it can be finalised soon and the DPC can be convened. In that DPC the case of the incumbent can be placed and it is the DPC to recommend whether the relevant select lists should be revised and whether the name of the incumbent should be included in that select list and whether he should be given seniority and notional promotion.

6. One of the requests in the Annexure A.14 is to declare his probation. Government have already declared the same as per G.O.(Rt) No.42/2016/LSGD dated. 6/1/2016. At present Government cannot allow or reject the other requests as the DPC is the competent authority to decide the same (request for inclusion in the select list with seniority and subsequent promotion to the cadre of Municipal Secretary Grade II with retrospective effect).

7. In the circumstances, Government are pleased to declare that the case of the incumbent will be placed in the next DPC (Higher) itself for

consideration. The order of the Hon'ble Kerala Administrative Tribunal read as 2<sup>nd</sup> paper above is thus complied with.

**(By Order of the Governor)**  
**S.MOHANDAS**  
**JOINT SECRETARY**

To

The Director of Urban Affairs, Thiruvananthapuram.  
The Advocate General, Hon'ble Kerala Administrative Tribunal,  
Vanchiyoor P.O., Thiruvananthapuram (with C/L).  
The Director, Kerala State Audit Department, Thiruvananthapuram.  
The Principal Accountant General [(A&E)/(Audit)] Thrissur.  
Shri.R.Rahesh Kumar, Secretary, Chengannur Municipality.  
The Secretary, Chengannur Municipality  
The Chairman/Chairperson, Chengannur Municipality.  
The Executive Director, Information Kerala Mission,  
Thiruvananthapuram (for publishing this order in the website)  
Stock File/Office Copy.

**Forwarded/By order**



**Section Officer.**