



GOVERNMENT OF KERALA

Abstract

Local Self Government Department – Establishment – O.A(EKM)-1524/16 filed by Shri. Biju D R, Junior Health Inspector Grade-I, Cochin Corporation (under suspension)– Order dated 27.02.2017 of the Hon. Kerala Administrative Tribunal- Complied with - Orders issued.

LOCAL SELF GOVERNMENT (EU) DEPARTMENT

GO(Rt)No. 1446/2017/LSGD. Dated, Thiruvananthapuram, 06.05.2017

Read:-

1. Proceedings No. P D 8/35821/13 dated 06.01.2014 of the Additional Secretary, Cochin Corporation.
2. GO(Rt) No. 2243/2015/LSGD dated 23.07.2015
3. GO(Rt) No. 2556/2016/LSGD dated 30.08.2016
4. Letter No. V1-5655/14/DUA dated 12.01.2017 of the Director Urban Affairs, Thiruvananthapuram.
5. Order dated 27.02.2017 of the Hon. Kerala Administrative Tribunal in O.A(EKM)-1524/16 filed by Shri. Biju D R, Junior Health Inspector Grade-I, Cochin Corporation(under suspension)
6. Letter.No.D1(a)-19091/2017/EC dated 26.04.2017 from the District Police Chief, Cochi City.

ORDER

Shri. Biju D.R, Junior Health Inspector Grade I, Cochin Corporation was suspended from service by the Additional Secretary, Cochin Corporation as per the Proceedings read as 1st paper above based on the allegation of manipulation in the birth certificates. He was served with Memo of Charges by the Additional Secretary, Cochin Corporation and the accused submitted his written statement of defence. The disciplinary action is still pending and he is still under suspension. A Crime Case was also registered against Shri. Biju D.R in Central Police Station, Ernakulam as Crime No. 1539/2014. The investigation of the case has been completed and the charge sheet has been laid before Chief Judicial Magistrate Court Ernakulam on 14/01/2015 and the same is now under trail before the Court as Calendar Case No 30/2015 (C.C 30/15). The incumbent filed O.A No. 2430/2014 before the Kerala Administrative Tribunal for his reinstatement in service. Based on the Order dated. 05/01/2015 of the Kerala Administrative Tribunal, the Director Urban Affairs Department reviewed the suspension and rejected his plea as per Proceedings No. V1- 5655/2014 dated.

20/3/2015. Against this he filed Appeal Petition before Government and filed O.A No. 575/2015 before the Kerala Administrative Tribunal. Based on the Order dated. 13/05/2015 of the Kerala Administrative Tribunal , Government considered the appeal and rejected the same as per order read as 2nd paper above. Again he filed OP (KAT) No. 45/2016 before the High Court against the direction of Kerala Administrative Tribunal , complaining that the Kerala Administrative Tribunal in its Order dated. 09/02/2016 has not given proper relief to him. In the Judgment dated. 20/05/2016, the Hon. High Court directed Government to reconsider the Annexure A7 in the light of the facts contained in the Annexure A11 and pass appropriate orders in accordance with law within the time frame fixed by the Kerala Administrative Tribunal(Within three months). Accordingly Government considered the case and rejected the request as per order read as 3rd paper above considering the gravity of offence he had committed.

2. Against the above order, Shri. Biju D.R filed O.A (EKM) No. 1524/2016 before the Kerala Administrative Tribunal. The Hon. Tribunal in the Order read as 5th paper above directed Government to take a decision on whether the continuation of the applicant under suspension is essential for a fair prosecution and trial in C.C 30/2015 before the Chief Judicial Magistrate Court, Ernakulam. The Hon. Kerala Administrative Tribunal directed the first respondent, Government to afford an opportunity of personal hearing to the applicant and pass appropriate orders on merits within a period of three months from the date of receipt of a copy of the order.

3. Shri. Biju D.R also filed a review petition against the order read as 3rd paper above before the Government. He was heard by the Under Secretary, Local Self Government Department on 13/01/2017. In the hearing and in the review petition, the applicant has submitted that the investigation in the Criminal Case against him has been completed and the case has been charge sheeted before the Court of Judicial First Class Magistrate, Ernakulam and the Court has assigned C.C No and trial is going on. In the circumstances, there is no chance for interfering investigation or tampering of records. He submitted that he is under suspension for more than 3 years and had requested to reinstate him in to service considering his pathetic family background.

4. Government have examined the matter in detail. The District Police Chief, Ernakulam in his report read as 6th paper above has reported that the investigation is completed and the case is charge sheeted before the Chief Judicial Magistrate Court on 14/01/2015 and the Court has taken the case as C.C No. 30/2015 and it is under trial and the next posting is on 8/7/2017. He is on the stand that the decision on whether the suspension need be continued has to be taken at level of department. However he submitted that the presence of

the accused should be ensured on trial days and a decision on revoke of suspension can be taken with the concurrence of the Court. On analysing the report of the District Police Chief, Ernakulam there is no hindrance in reinstating the officer, but he should be in the Court on trial days. As the investigation is completed and the trial is started, continuance of the officer under suspension is not essential. The Director of Urban Affairs as per letter read as 4th paper above is on the stand that direction can be given to the Secretary, Cochin Corporation to reconsider the suspension considering his long period of suspension. The statutory Kerala Civil Services (Classification, Control & Appeal) Rules, 1960 do not insist that the suspension of an employee against whom criminal case is registered/under trial should be revoked only after the finalization of the case.

5. Considering the fact and circumstances of the case there is no need to continue the suspension of Shri. Biju D.R, Junior Health Inspector Grade I, Cochin Corporation for a fair prosecution and trial in C.C 30/2015.

6. In the above circumstances the Director of Urban Affairs is directed to reinstate Shri. Biju D.R, Junior Health Inspector Grade I, Cochin Corporation into service, subject to the out come of the Calendar Case No 30/2015 pending before the Chief Judicial Magistrate Court, Ernakulam. And also direct the Director of Urban Affairs to post him in Ernakulam District itself (except in Cochin Corporation where the alleged offence is committed) in order to ensure his presence in the Chief Judicial Magistrate Court, Ernakulam on trial days.

7. The direction contained in the order of the Hon. Kerala Administrative Tribunal in OA(EKM)-1524/2016 read as 5th paper above is thus complied with.

(By Order of the Governor)

S MOHANDAS

Joint Secretary

To

1. The Advocate General, Kerala, Thiruvananthapuram(With C/L)
2. The Director of Urban Affairs, Thiruvananthapuram
3. The Director, Kerala State Audit Department, Thiruvananthapuram
4. Shri. Biju D.R, Junior Health Inspector Grade I, Cochin Corporation(under suspension)
5. The Executive Director, Information Kerala Mission, Thiruvananthapuram (For publishing this order in the web-site).
6. Stock file/Office Copy.

Forwarded /By Order


Section Officer