



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing – Order of the Hon'ble Kerala Administrative Tribunal in OA no. 366/2017 filed by Sri. A.K. Abdul Vahab, Rtd. Asst. Executive Engineer - Complied with - Orders issued

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

GO (Rt) No.1815/2017/LSGD. Dated, Thiruvananthapuram,01/06/2017.

- 1 Representation dated 28.04.2016 submitted by Sri. A.K. Abdul Vahab, Rtd. Asst. Executive Engineer .
- 2 Order dated 27.03.2017 of the Hon'ble Kerala Administrative Tribunal in OA no. 366/2017

ORDER

As per the order read as 2nd paper above, the Hon'ble Kerala Administrative Tribunal has directed Government to take a decision on Annexure A13 representation read as Ist paper above, after hearing the applicant as expeditiously as possible at any rate within a period of three months from the date of receipt of a certified copy of the order. The prayer in Annexure A13 representation is to issue orders regularising his provisional promotion as Assistant Executive Engineer, declare his satisfactorily completion of this promotion and to sanction ratio promotion.

2. In compliance with the Tribunal direction, the applicant was heard in person on 16.05.2017.

3. The applicant is a retired Assistant Executive Engineer under the Local Self Government Department. He retired from service on superannuation 31.05.2015. So far the terminal benefits have been sanctioned to him considering the service rendered in the cadre of Assistant Engineer only.

4. Special Rules prescribing the method of appointment, promotion etc. in the Engineering Service in the Local self Government Department were issued by the Government vide GO (P) No. 271/2007/ LSGD Dated 27.11.2007 and later an amendment was introduced as per GO (P) No 133/2009/ LSGD dated 16.7. 2009. By the said amendment which incorporated Note to sub-rule (1) of Rule 3, it was specified that promotion to the category of Assistant Executive Engineer would be made from among direct recruitees and diploma holders in the field/ category in the ratio 3:1. The above amendment was challenged in WP © No. 24284of 2009 and an interim order was passed by the Hon'ble High Court staying the operation of the above amendment. A direction was also granted to give provisional promotion to those who were holding the post of Assistant Engineer without applying the above ratio.

5. In the Government Order issued vide GO (Rt) 1178/ 2010/ LSGD Dated 30.03.2010, 66 persons were given promotions and the applicant is the 14th incumbent therein who got provisional promotion. It was ordered that the above provisional promotion was subject to the result of the Writ Petition pending before the Hon'ble High Court. The writ Petition was later transferred to KAT as TA No. 228 of 2014 and it was finally disposed of by declaring that

the amendment brought about in the Kerala Local Self Government Engineering Service (Amendment) Special Rules 2009 is unconstitutional and unenforceable. But the applicant was sanctioned terminal benefits, considering the service rendered in the cadre of Assistant Engineer only under the pretext of pendency of Writ petition © No. 24248/09 before the Hon'ble High Court. Hence the petitioner contents that there is no legal impediment in allowing the representations seeking the regularisation of the provisional promotion given to him and the declaration of his probation .

6. The Chief Engineer, LSGD has reported that there was a case regarding ratio promotion from Assistant Engineer to Assistant Executive Engineer between direct recruits and diploma holders, in the Hon'ble Supreme Court, in which the Court ordered 'status quo' . Hence the seniority list of Assistant Engineers were not finalised and DPC was not convened; which caused the non- regularisation of provisional promotion and declaration of probation.

7. In this regard an interim order of the Hon'ble Supreme Court dated 1.05.2017 in SLP © No. 16984/2015 has been received in the Government, wherein the operation of the judgement of the Hon'ble High Court of Kerala dated 31.03.2015 in OP NO 111/2015 has been stayed. The Apex Court have also made it clear that promotion, if any, may be made as per rules existing prior to the impugned judgment of the Hon'ble HC of Kerala, but the same will be subject to further orders of that court.

8. In the above circumstances, the Chief Engineer, LSGD has been directed to initiate steps for preparing/publishing seniority list for the post of Assistant Engineer as per the existing Special Rules, ie, GO (P) No. 271/2007/ LSGD Dated 27.11.2007 as amended vide GO(P) No. 133/2009/ LSGD Dated 16.7.2009,subject to the further orders from the Apex Court. As such the Chief Engineer will pursue further action in the instant case urgently; so as to redress the grievances contained in the Annexure A13 representation.

9. The Order of the Hon'ble Tribunal read above is complied with accordingly.

(By Order of the Governor)

A. SHAJAHAN

Secretary to Govt.

To

- 1 Sri. A.K. Abdul Vahab, Edayila Veedu, Chavara. P.O, Kollam - 691583.
- 2 The Advocate General, Thiruvananthapuram Branch (with Covering Letter).
- 3 The Chief Engineer, LSGD, Thiruvananthapuram.
- 4 The Accountant General (A&E/Audit) of Kerala, Thrissur.
- 5 The Director, Information Kerala Mission, Thiruvananthapuram.
- 6 The Web & New Media, I & PRD.
- 6 Stock File/Office Copy.

Forwarded/By Order



Section Officer.

