



GOVERNMENT OF KERALA
Abstract

LSGD - Engineering Wing - OA(EKM) No.2334/2017 filed by Smt. Reshmi. R.S, Asst. Engineer & others - Order dated 08.12.2017 of the Hon'ble Kerala Administrative Tribunal - Complied with - Orders issued

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

GO(Rt) No.1659/2018/LSGD.

Dated, Thiruvananthapuram, 19/06/2018

- Read:
- 1 Order of the Hon'ble Kerala Administrative Tribunal dated 08.12.2017 in OA(EKM) No.2334/2017.
 - 2 Representation dated 10.11.2017 from Smt. Reshmi. R.S & others
 - 3 Letter no.E3-1756/2018/CE/LSGD dated 20.02.2018 from the Chief Engineer, LSGD.

ORDER

The Hon' KAT as per its order read as 1st paper above has disposed of OA(EKM) 2334/2017 directing the 1st respondent, the Govt to consider Annexure A7 representation read as 2nd paper above expeditiously and pass appropriate orders thereon, within three months from the date of receipt of a copy of the order.

2. The Annexure A7 representation has been filed by the applicants, who are the Asst.Engineers appointed under the direct quota, aggrieved by the supersession by the Asst.Engineers under Diploma quota for promotion to the post of Asst.Exe.Engineer. The applicants has contented that the junior Asst.Engineer in diploma quota has now been promoted to the cadre of Asst.Exe.Engineers ordered vide GO(Rt) No. 3604/2017/LSGD dtd 07.11.2017 . In the PWD and Irrigation Dept, sufficient safeguard has been made to protect the rights of senior Graduate Assistant Engineers against being superseded by a Junior Diploma Assistant Engineer. But as per the existing Special Rules of LSGD Engg Wing there is no such provision to protect the seniority of the Assistant Engineer(Civil Graduates) being superseded by Assistant Engineer(Diploma). Also, in the select list of Asst. Engineer under diploma quota for the year 2017 for promotion to the post of Asst.Exe.Engineer, the applicants were superseded and the officials who are far juniors in the feeder category of Asst.Engineers are included as Sl.No.6 onwards. Therefore, the applicants has requested to include them also in the select list of Asst.Engineer 2017 for

promotion to the post of Asst.Exe.Engineer, considering their seniority in the feeder category, ie Asst.Engineer, after convening Ad-hoc DPC for the year 2017.

3. The Chief Engineer, LSGD, vide letter read as 3rd paper above, has reported that while fixing the cadre strength of Asst.Exe.Engineer in the ratio of 3:1 among direct recruitees and Diploma Holders as per the existing special rules and the subsequent amendment there after, there will be 175 nos of Asst.Exe.Engineers in direct quota and 58 nos in the diploma quota. While maintaining the said ratio the Diploma Holders are happened to supersede the direct recruitees as among the 3:1 ratio, the 1 relates to Diploma Holders, in which the Diploma Holders who got promotion at the fag end of their carrier is liable to be retired from service and another eligible incumbent has to be promoted in the Diploma Quota in order to sustain the quota. In this process the juniors who were promoted in the Diploma Quota happened to supersede the seniors who is in the Direct Quota.

4. If the promotion is happened to be made as per the representation of the petitioners the existing cadre strength of direct quota (175) should be exceeded and that of Diploma Quota (58) should be decreased that is against the order of Hon'ble Supreme Court. As per the existing Special Rules of Local Self Government Department there is no clause to supersede the diploma holders and Direct Recruitees. The superseding clause of Assistant Executive Engineers as prevailed in the GO (MS) No.36/94/PW&T datd. 03.10.1994 , is exclusively meant for PWD only. Since there is a special rule in Local Self Government Department it is to be followed for the time being.

5. The preparation of Select List 2017 and subsequent promotion made in the category of Assistant Executive Engineer were strictly as per the provisions of the Special Rule for Kerala local self Government engineering service 2007 and the subsequent amendments made in the Special Rule as per G.O.(P)No.133/2009/LSGD dated 16.04.2009. The cadre strength of Asst.Exe.Engineer in the ratio of 3:1 among direct recruitees and Diploma Holders has been fixed as per the provisions of the above Special Rule and interim order of the Hon'ble Supreme Court of India dated 01.05.2017 in SLP(C) No.6984/15. While maintaining the said ratio some Diploma Holders are happened to supersede the Direct recruitees as there is no safeguard to the Direct recruitees against being superseded by the junior diploma holders in the Special Rule of the department. If the demand of the applicant in the OA is accepted the quota

prescribed will invariably be disrupted, which will amount to contempt of Hon'ble Supreme Court of India. Accordingly, the demand of the applicants to include them in the select list of Asst.Engineer 2017 for promotion to the post of Asst.Exe.Engineer, considering their seniority in the feeder category, ie Asst.Engineer after convening Ad-hoc DPC for the year 2017, cannot be accepted as per the provisions of the existing Special Rule.

6. In the above circumstances the demand of the applicants in the Annexure A7 representation deserve no merit and is hereby rejected. The order of the Hon' KAT in OA(EKM) No.2334/2017 read as 2nd paper above is complied with accordingly.

(By Order of the Governor)
SREEJITH.V.P
Under Secretary to Govt.

To

- 1 Smt. Reshmi. R.S, Asst.Engineer, Jyothirgamaya, Ambadi Nagar Lane 3, Sreekariyam. P.O, Thiruvananthapuram - 695017
- 2 Smt. Rajavally. N.S, Asst. Engineer, Nellikunathu House, Kurichimattam. P.O, Pathanamthitta - 689532
- 3 The Advocate General, Thiruvananthapuram(*with Covering Letter*).
- 4 The Chief Engineer, LSGD, Thiruvananthapuram.
- 5 The Accountant General,(A&E/Audit) of Kerala, Thrissur
- 6 The Executive Director, Information Kerala Mission.
- 7 The Web & New Media, I & PRD.
- 8 Stock File/Office Copy.

Forwarded/By Order



Section Officer