



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing - OA(EKM)No.2664/2017 filed by Sri. Umesh. N and others-
Order dated 23.01.2018 of the Hon'ble Kerala Administrative Tribunal- Complied with -
Orders issued

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

GO(Rt) No.1793/2018/LSGD.

Dated, Thiruvananthapuram, 30/06/2018

- Read:
- 1 Representation dated 13.11.2017 from Sri. Umesh. N and others.
 - 2 Order of the Hon'ble Kerala Administrative Tribunal dated 23.01.2018 in OA(EKM)No.2664/2017.
 - 3 Letter no.E22/630/2018/CE/LSGD dated 28.05.2018 from the Chief Engineer, LSGD.

ORDER

As per the Order read as 2nd paper above, the Hon'ble Kerala Administrative Tribunal have disposed of OA(EKM)No.2664/2017 directing the first respondent, ie the Govt to consider and pass appropriate orders on Annexure A1 representation, read as 1st paper above, after affording an opportunity of personal hearing to the applicants and respondents 4 to 12 and other affected persons, if any within a period of three months from the date of receipt of a copy of the order.

2. In pursuant to the Hon' KAT direction, the applicants were heard by the Under Secretary of the Department on 06.06.2018.

3. In the Annexure A1 representation, the petitioners have contended that the respondents from 4 to 12, who were provisionally promoted to the cadre of Asst.Exe.Engineer are ineligible to hold to post as their probation in the cadre have not been declared so far and therefore have requested to revert these officials and to promote the applicants who are the senior most eligible Asst. Engineers to the post of Asst.Exe.Engineer in the LSGD, Engineering wing.

4. Of the applicants, Sri. Umesh. N, Asst. Engineer attended the hearing and informed as follows:

(I) He entered into service as Asst.Engineer on degree quota during 2009 and was eligible for promotion during 2017 itself.

(ii) Provisional promotion in respect of Asst.Engineer to Asst.Exe.Engineer in LSGD Engineering wing, granted after 2010 were regularised only on 2017.

(iii) The respondents in the instant OA were ineligible to be given provisional promotion during 2017, which denied the promotional prospects of 9 qualified hands including the applicant.

(iv) The delayed promotion also paved the way for those ineligible candidates, who had been denied regular promotion for not qualifying the obligatory tests; who later on managed to acquire the same and were promoted above the applicants.

(v) Hence requested to revert the provisional promotees so as to accommodate the eligible candidates and to restore their seniority above the provisional promotees.

5. The contentions raised by the respondents in this case, as endorsed by the Chief Engineer, LSGD are as follows:

(i) *Sri. Roy Philip - Respondent No 4*: The incumbent officer was provisionally promoted in the year 2010. DPC (H) held on 24.10.2017 superseded him due to non- declaration of probation in the cadre of Assistant Engineer. His probation has been declared w.e.f. 14.05.2013 and has been included in the select list for 2015 and service regularised.

(ii) *Smt. G. Geena- respondent No. 5*: She was provisionally promoted in 2010, but superseded in the DPC due to the prevalence of disciplinary action for minor penalty; which has been finalised as per GO(Rt)3951/ 2017/LSGD dated 08.12.2017. Hence the Adhoc DPC held on 28.02.2018 selected her for the year 2017 and included in the modified select list of 2017(Direct quota)

(iii) *Sri. Jayasankar . J- respondent No. 6* : He was promoted provisionally in the year 2012, but was superseded by the DPC (H), held on 24.10. 2017, for pendency of disciplinary action for minor penalty and non – declaration of probation. His probation is yet to be declared. He is having only 11 more months for retirement and requested to avail himself of superannuation in the cadre of Asst. Executive Engineer. He has attained the age of 50 and applied for declaration of probation.

(iv) *Sri. Somarajan . R- Respondent No. 7*: He was provisionally promoted in 2012, but superseded by the DPC(H) held on 24.10.2017 due to non- declaration of probation . He was later included in the modified select list for 2012, as his probation declared satisfactorily.

(v) *Sri. Sam Mathew- respondent No. 8*: He was provisionally promoted in 2012, but superseded by the DPC(H) held on 24.10.2017 due to non- declaration of probation . His probation is yet to be declared.

(vi) *Sri. Suresh kumar. P. K. - Respondent No. 9*: He was provisionally promoted in 2012, but superseded by the DPC(H) held on 24.10.2017 due to non- declaration of probation . He was later included in the modified select list for 2012, as his probation declared satisfactorily.

(vii) *Sri. Vijayakumar. B- Respondent No. 10*: He was provisionally promoted in 2015 but

superseded by the DPC(H) held on 24.10.2017 due to non- declaration of probation and pendency of disciplinary action for minor penalty. He has attained the age of 50 and applied for declaration of probation.

(viii) *Sri. Sathyanath . B- Respondent No.11*: He was provisionally promoted in 2015, but superseded in the DPC(H) held on 24.10.2017 due to the prevalence of disciplinary action for minor penalty; which has been finalised as per GO(Rt)414/2018/LSGD dated 09.02.2018. Hence the Adhoc DPC held on 28.02.2108 selected him for the year 2018 and included in the modified select list of 2018.

(ix) *Sri. Muralikrishnan. C.R.- Respondent No. 12*: He was provisionally promoted in 2012, but superseded by the DPC(H) held on 24.10.2017 due to non- declaration of probation. His probation has not been declared since he has not produced any certificate of passing the departmental tests. He submits that he may not be reverted till a case pending in the KAT, regarding a dispute on his test qualification is disposed of.

6. The DPC(H) convened on 12.10.2017 & 24.10.2017 has decided that the incumbents against whom the disciplinary action for major/minor penalty pending as per the recommendation of Vigilance & Anti-Corruption Bureau can be considered only after the conclusion of such disciplinary cases. Accordingly, the DPC superseded the officials arrayed as respondents 5 & 11 for the pendency of disciplinary action for minor/major penalty based on Vigilance recommendation. The respondents 4, 6 to 10 & 12 were superseded due to their non declaration of probation in the cadre of Asst.Engineer. Accordingly, the select list for regularisation of the provisionally promoted Asst.Exe.Engineers for the years 2010, 2012 & 2015 was approved and published as per GO(P)no. 86/2017/LSGD dtd 01.11.2017, excluding these superseded officials. However, these officials are still continuing in the cadre of Asst.Exe.Engineer as Govt have not taken a decision yet in this regard in view of the review petitions received, which has to be submitted before the review DPC(H) expected to convene soon. The respondents 5 & 11 namely Smt. G. Geena and Sri. Sathyanath. B, against whom disciplinary action pending has now been finalised. Also, the probation of the respondents 4, 7 & 9 namely Sri. Roy Philip, Sri. Somarajan. R and Sri. Sureshkumar. P.K in the cadre of Asst.Engineer have now been satisfactorily declared. Therefore, the above officials have become eligible for the regularisation of their provisional promotion in the cadre of Asst.Exe.Engineer and the proposal in this regard has been submitted before the review DPC(H). In the case of respondents 6, 8 10 & 12, the regularisation of their provisional promotion can be considered only after the finalisation of pending disciplinary actions or the declaration of their probation.

7. In the case of Respondent No. 6, Sri. Jayasankar. J, he is having only 11 more months for retirement and requested to avail himself of superannuation in the cadre of Asst. Executive Engineer. He has attained the age of 50 , but disciplinary action is not seen finalised. Sri. Sam Mathew (*respondent No. 8*) has represented that he has passed the eligibility test required for declaration of probation and has submitted papers for declaration of probation. Sri. Vijayakumar. B (*respondent No. 10*) was superseded by the DPC(H) held on 24.10.2017 due to non- declaration of probation and pendency of disciplinary action for minor penalty. He has attained the age of 50 , but disciplinary

action is not seen finalised. In the case of Sri. Muraleekrishnan C.R , a case is pending in the KAT regarding his eligibility in test qualification.

8. In the above circumstances, out of 9 respondents in this case, 5 incumbents have already qualified for regularization of provisional promotion and hence their reversion as demanded by the petitioners is not possible. In the case of the rest of the respondents delay is mainly due to procedural formalities. Hence the Annexure A1 representation preferred by the applicants seeking reversion of respondents 4 to 12 deserves no merit and is hereby declined. Also the Chief Engineer, LSGD is hereby directed to furnish proposals to Government for the regularization of the provisionally promoted officers after completing all formalities, within two months.

7. The order of the Hon'ble KAT in OA(EKM)No.2664/2017 read as 2nd paper above, is complied with accordingly.

(By Order of the Governor)

SREEJITH.V.P

Under Secretary to Govt.

To

- 1 Sri. N. Umesh & Sri. Prasanth. N.S, Asst.Engineers (*through the Chief Engineer, LSGD*)
- 2 Sri. Roy Philip, Smt. G. Geena, Sri. Jayasankar, Sri. Somarajan.R, Sri. Sam Mathew, Sri. Sureshkumar. P.K, Sri. Vijayakumar. B, Sri. Sathyanath. B, Sri. Muralikrishnan. C.R, Asst.Exe.Engineers (*through the Chief Engineer, LSGD*)
- 3 The Advocate General, Ernakulam (*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