



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing - Establishment - Regularisation of provisional promotions in the cadre of Assistant Executive Engineers - Orders issued.

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

GO(Rt) No.382/2019/LSGD.

Dated, Thiruvananthapuram, 22/02/2019

- Read:
1. GO(P)No.271/07/LSGD dated 27.11.2007
 2. GO(Rt)No.1178/2010/LSGD dated 30.03.2010
 3. GO(Rt) No. 1694/10/LSGD dated 21.05.2010
 4. GO(Rt) No. 2628/2010/LSGD dated 07.08.2010
 5. GO(Rt) No. 358/12/LSGD dated 04.02.2012
 6. GO(Rt) No. 2989/12/LSGD dated 31.10.2012
 7. GO(Rt)No.1808/2015/LSGD dated 17.06.2015.
 8. Interim order dated 01-05-2017 of Hon'ble Supreme Court of India in Special Leave Petition(c) no.16984/2015.
 9. Proceedings No. E3/1290/2010/CE/LSGD, dated 22.06.2017 of the Chief Engineer, LSGD
 10. GO(Rt)no. 3380/2017/LSGD dated 24.10.2017.
 11. GO(Rt)no.4023/2017/LSGD dated 13.12.2017.
 12. GO(P) no.26/2018/LSGD dated 16.04.2018
 13. GO(P) no.28/2018/LSGD dated 16.04.2018
 14. GO(P) no.58/2018/LSGD dated 24.07.2018

ORDER

Special Rules prescribing the qualification, method of appointment etc, for appointment to the post of Assistant Executive Engineer in the LSGD Engineering Wing was issued as per G.O read as 1st paper above. In the said Special Rules, separate ratio for the promotion to the category of Assistant Executive Engineer from among direct recruitees and diploma holders in the feeder category (Assistant Engineer) was not specified. Due to this omission, the seniority list of Assistant Engineers could not be prepared for effecting the promotion. Hence, an amendment was made namely Kerala Local Self Government Engineering Service (amendment) Special Rules 2009 and was notified as per GO read as 1st paper above, incorporating the note in Sub rule (1) of rule 3 after category 4 that “promotion to the category of Assistant Executive Engineer shall be made from

among direct recruitees and diploma holders in the feeder category in the ratio 3:1".

2. Challenging to the above amendment WP(C) No. 24284/09 was filed by some diploma holding, Assistant Engineer and others in the Hon'ble High Court. The Hon'ble High Court vide Interim Order dated 25.08.2009 stayed the operation of the amendment made in the Special Rules for Kerala Local Self Government Engineering Service and also ordered not to finalise the provisional seniority lists of Assistant Engineer's until further orders. However, the Hon'ble High Court of Kerala in IA No. 2276/10, dated 24.02.2010 ordered that the orders dated 25.08.2009 contain no rider or prohibition to consider the question of effecting provisional promotion without considering the note introduced in Sub rule 1 of rule 3 after category 4 of the special rules in accordance with law.

3. In compliance with the order of the Hon'ble High Court dated 24.02.2010 and in relaxation, of the existing ban of provisional promotion, Government considering the acute shortage of Assistant Executive Engineers, accorded provisional promotion for 66 Assistant Engineers as Assistant Executive Engineers as per GOs read as 2nd and 3rd above in the vacancies available at that time, by considering a common seniority among direct and diploma holders in the feeder category, ie Assistant Engineer. Later, 40 more Assistant Engineers were provisionally promoted as Assistant Executive Engineers vide read as 4th above. In this stage the provisional promotion of the Assistant Engineers as Assistant Executive Engineers made as per 2nd and 3rd above was reviewed in compliance with the order of the Hon'ble High Court in IA No. 3351/2010 dated 07.04.2010. The review was done in such a way that, stage I promotees ie, 66 and stage II promotees ie, 40, altogether (106 nos) are arrayed in the ratio 6: 3 ratio from among the degree holders and diploma holders as per the above orders of Hon'ble High Court.

4. In the year 2012, 88 nos of Assistant Engineers were provisionally promoted as Assistant Executive Engineers in two phases based on the ratio of 6:3

among the direct quota and diploma quota vide GOs read as 5th and 6th above. During 2015, 52 provisional promotions to the cadre of Assistant Executive Engineers has made on the common seniority in the post of Assistant Engineer, without maintaining any ratio between Degree holders and Diploma holders, vide GO read as 7th above.

5. In the mean time, the WP(C) No. 24284/09 existed at the Hon'ble Kerala High Court in this regard was transferred to the Hon'ble Kerala Administrative Tribunal, Thiruvananthapuram. The Hon'ble Kerala Administrative Tribunal, vide orders dated 28.10.2014 quashed the amendment made to the special rule vide GO read as 1st above and also the provisional seniority list of Assistant Engineer published by the Chief Engineer, LSGD. The above order was up held by Hon'ble High Court of Kerala in OP No. 111/15 dated 31.03.2015.

6. However, the Hon'ble Supreme Court of India, vide Interim order read as 8th above has ordered that "operation of the impugned orders shall remain stayed. Promotion if any may be made as per the rules existing prior to the impugned judgement, but the same will be subject to further order from this Court".

7. Based on the interim order of the Hon'ble Supreme Court, the Chief Engineer, LSGD has prepared and published the seniority list of Assistant Engineers, including that of the provisional promotees as per order read as 9th above. The above seniority list was published subject to the condition that the final seniority list is liable to be modified in accordance with the final verdict of the Hon'ble Supreme Court of India.

8. Accordingly, the Departmental Promotion Committee held on 12-10-2017 approved the select list of eligible officers, for the year 2010 and these provisional promotions were regularised as per GO read as 10th above. Later, the DPC held on 24.10.2017 approved the select list of eligible officers, for the year 2012 & 2015 and these provisional promotions were regularised as per GO read as

11th above. Subsequently, the Review DPC(H) 2017 & 2018 held on 27.02.2018 & 10.07.2018 respectively decided to include the 15 incumbents who were superseded by the earlier DPC(H), in the select lists for the years 2010, 2012, 2015, 2017 & 2018 and the modified select lists were notified vide GOs read from 12 to 14 above.

9. In the above circumstance, Government are pleased to regularise the provisional promotion of 15 provisional promotees who were included in the select lists for the years 2010, 2012, 2015, 2017 & 2018 as detailed in the Annexure to this order subject to the condition that the regularisation of the above provisional promotions will be liable to be modified in accordance with the final verdict of the Hon'ble Supreme Court of India, if found necessary.

(By Order of the Governor)
MINIMOL ABRAHAM
Additional Secretary to Government

1. The Chief Engineer, LSGD, Thiruvananthapuram.
2. All Officers concerned (Through the CE, LSGD).
3. The Accountant General (A&E/Audit), Kerala, Thrissur.
4. The Executive Director, Information Kerala Mission, Thiruvananthapuram.
5. The Web and New Media I&PRD.
6. Stock File/Office Copy.

Forwarded/By Order



Section Officer.



ANNEXURE

Sl no.	Name	Position in the select list	Date of declaration of probation in AE cadre w.e.f	Date of provisional promotion	Date of regularisation in the cadre of AEE	Remarks
1	Sri. Sankarankutty. T	Sl.No.17a & Rank No.24 in the modified select list 2010 (Diploma Quota)	01.06.2006	30.03.2010	30.03.2010	
2	Sri. Ratheesh. K.S	Sl.No.17b & Rank No.25 in the modified select list 2010 (Diploma Quota)	05.01.2001	30.03.2010	30.03.2010	
3	Sri. R. Mohanan Pillai	Sl.No.24a & Rank No.37 in the modified select list 2010 (Diploma Quota)	18.11.2001	21.05.2010	21.05.2010	
4.	Sri. T. Jose Mathew	Sl.No.27a & Rank No.43 in the modified select list 2010 (Diploma Quota)	24.11.2010	07.08.2010	24.11.2010	
5.	Sri. Muhammed Abdul Rahiman	Sl.No.8a & Rank No.73 in the modified select list 2012 (Direct Quota)	25.10.2005	31.10.2012	31.10.2012	
6.	Sri. Somarajan. R	Sl.No.37a & Rank No.108 in the modified select list 2012 (Direct Quota)	03.10.2008	31.10.2012	31.10.2012	
7	Sri. Sureshkumar. P.K	Sl.No.41a & Rank No.114 in the modified select list 2012 (Direct Quota)	21.07.2010	31.10.2012	31.10.2012	
8	Sri. Unnikrishnan. C.K	Sl.No.10a & Rank No.65 in the modified select list 2012 (Diploma Quota)	23.05.2012	31.10.2012	31.10.2012	

9	Sri. Thulaseedharan. S	Sl.No.15a & Rank No.80 in the modified select list 2012 (Diploma Quota)	26.01.2005	31.10.2012	31.10.2012	
10	Sri. Sureshkumar. S.K	Sl.No.16a & Rank No.84 in the modified select list 2012 (Diploma Quota)	21.01.2006	31.10.2012	31.10.2012	
11	Sri. Roy Philip	Sl.No.1a & Rank No.2 in the modified select list 2015 (Direct Quota)	14.05.2013	30.03.2010	14.05.2013	
12	Sri. Muralee Mohanan. E.K	Sl.No.15a & Rank No.134 in the modified select list 2015 (Diploma Quota)	27.05.2012	17.06.2015	17.06.2015	
13	Sri. Manoj Kumar. C.B	Sl.No.1a & Rank No.106 in the modified select list 2017 (Diploma Quota)	05.01.2017	17.06.2015	05.01.2017	
14	Smt. Geena. G	Sl.No.1a & Rank No.57 in the modified select list 2017 (Direct Quota)	26.10.2004	07.08.2010	07.11.2017	w.e.f date of promotion of immediate junior, Smt. Anila Anna Verghis (Sl. No.1 & Rank No.81)
15	Sri. Sathyanath. B	Sl.No.1a & Rank No.138 in the modified select list 2018 (Direct Quota)	20.07.2010	17.06.2015	04.04.2018	w.e.f date of promotion of immediate junior, Smt. Beena Narayanan (Sl.No. 1 & Rank No.171)



Section Officer