



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing – Order dated 14.07.2020 of the Hon'ble Kerala Administrative Tribunal in OA(EKM) 988/2020 filed by Sri. Chandran C., Executive Engineer - Complied with - Orders issued:-

LOCAL SELF GOVERNMENT (EWA) DEPARTMENT

G.O.(Rt)No.787/2021/LSGD

Dated, Thiruvananthapuram, 27/03/2021

Read 1 Order of the Hon'ble Kerala Administrative Tribunal dated 14.07.2020 in OA(EKM) 988/2020.

2 Representation dated 17.06.2020 from Sri. Chandran C.

ORDER

As per G. O. (Ms) no.54/2020/LSGD dated 20.03.2020, Sri. Ramesh K. P., Executive Engineer of the defunct Kozhikode Development Authority was absorbed in the LSGD Engineering Wing and he was assigned seniority as junior most in the cadre of Executive Engineer in the department as on 01.04.2017.

2. The seniority list of Executive Engineers including those who were promoted up to 07.12.2016 was published vide G. O. (Ms) no.145/2017/LSGD dated 19.07.2017. Pursuant to orders in the GO dated 20.03.2020, the Chief Engineer published the draft seniority list of Executive Engineers for the period from 31.12.2016 to 31.08.2018 on 08.06.2020, in continuation of the seniority list published vide G. O. (Ms) dated 19.07.2017, incorporating the name of Sri. Ramesh K. P. as rank no.1, after assigning his seniority as junior most in the cadre of Executive Engineer as on 01.04.2017.

3. The Chief Engineer forwarded the draft seniority list published along with details of objections and report thereon to Government for finalisation of the same. The contentions in the objections received and the facts thereon are summarised as follows;

i. Smt. Rany G. – The incumbent was promoted as Executive Engineer as per G. O. (Rt) no.1607/2019/LSGD dated 27.07.2019, pursuant to her inclusion in the modified select list 2018 for promotion to the post of Executive Engineers as '6a' just below Sri. Rajesh D. and above Sri. Harikumar M. G. Therefore, it was requested to include her name in the seniority list in between the said officials as there in the select list. Her name has been included as Rank no.34 in between Sri. Rajesh D. and above Sri. Harikumar M. G., in the seniority list and thus the objection has been finalised.

ii. Smt. Fathima V. M., Sri. Sandeep K. G., Smt. Seena Alex E., Sri. K. C.

Subramanian, Sri. Ajithkumar G. and Smt. Ganga R. S. raised objections against the inclusion of Sri. Ramesh K. P. as Rank no.1 in the draft seniority list after assigning his seniority as junior most in the cadre of Executive Engineer w.e.f 01.04.2017. Sri. Ramesh K. P., Executive Engineer, among other Engineering Staff of the defunct Kozhikode Development Authority, was absorbed into the LSGD Engineering Wing, as per the policy decision of Govt ordered vide G. O. (Ms) NO. 73/2017/ LSGD dated 30.03.2017 and thereafter reassigning his seniority as junior most in the cadre of Executive Engineer in the department as on his date of joining in the department vide G. O. (Ms) no. 54/2020/LSGD dated 20.03.2020, issued as per the decision of the Council of Ministers. Based on these facts, the objection deserved no merit and hence the same was declined.

iii. Sri. Manikandakumar T. raised objections against inclusion of his juniors in the cadre of Assistant Engineer above that of him in this draft seniority list of Executive Engineers. The anomaly can only be rectified while reviewing the select list for promotion to the post of Executive Engineers made after the review of the select list for promotion to Assistant Executive Engineer cadre, in compliance with the Hon'ble Supreme Court direction.

iv. Sri. Sandeep K. G. also raised objections against the inclusion of Sri. Johnson K. in the seniority list. The said objection is not at all maintainable as Sri. Johnson K. was found eligible for promotion to the cadre of Exe.Engineer in accordance with the extant special rules, by the DPC(H) 2017 held on 24.10.2017, being the competent authority to do so. Based on this, the incumbent found place in the seniority list in the exact position. Therefore, the argument was not maintainable according to the clear cut provisions in the Special Rule and the objection was declined.

v. Smt. Seena Alex E. also requested to correct her date of birth and the qualification mentioned in the draft seniority list. The corrections as requested by the incumbent have been made in the seniority list.

4. All the objections raised against the draft seniority list of Executive Engineers was disposed of as above. Hence, Government approved the finalised seniority list of Executive Engineers of LSGD Engineering Wing for the period from 31.12.2016 to 31.08.2018 vide G. O. (Rt) NO. 1518/2020/LSGD dated 14.08.2020.

5. Aggrieved by the fixation of the revised seniority in the cadre of Exe.Engineer by including Sri. Ramesh K. P., Executive Engineer as senior most in the cadre for the period from 31.12.2016 to 31.08.2018, Sri. Chandran C., Executive Engineer filed OA(E) 988/2020 before the Hon'ble Kerala Administrative Tribunal, which was disposed off, directing the 1st respondent, Principal Secretary, LSGD, to consider and pass appropriate orders on Annexure A6 representation read as 2nd paper above, put forth by the applicant in accordance with law, after affording an opportunity of hearing to him and other affected persons, including the 3rd respondent Sri. K. P. Ramesh. It has also been directed to issue appropriate orders before finalisation of the draft revised seniority list of Executive Engineers in the LSGD Engineering Service.

6. Government finalised the draft seniority list vide G. O. (Rt)no. 1518/2020/ LSGD dated 14.08.2020 and a copy of the order from the KAT was received in Government only on 18.08.2020. The Annexure A4 draft seniority list of Executive Engineers has been finalised after examining all the objections put forth against the seniority list in detail and disposing of the same, but the applicant, Sri. Chandran C., Executive Engineer has not raised any objection at the time of finalising the revised seniority list.

7. In the Annexure A6 representation, the applicant is aggrieved by the inclusion of Sri. Ramesh K. P., Executive Engineer of the defunct Calicut Development Authority, who was later absorbed into LSGD Engineering Wing vide G. O. (Ms) no.73/2017/LSGD dated 30.03.2017, as rank no.1 in the draft seniority list of Executive Engineers, published by the Chief Engineer for the period from 31.12.2016 to 31.08.2018.

8. The Chief Engineer has reported that the seniority position of the applicant is '9' as per the seniority list of Executive Engineers for the period from 31.12.2016 to 31.08.2018 published vide G. O. (Ms) no. 180/2018/LSGD dated 04.12.2018. But his seniority position in the Executive Engineer cadre for the above period becomes '10', following the inclusion of Sri. Ramesh K. P., as rank no.1 in the seniority list, published vide G. O. (Rt) no.1518/2020/LSGD dated 14.08.2020. Sri. Ramesh K. P. has been assigned seniority in the seniority list of Executive Engineers w.e.f the date of his absorption in the LSGD, i. e., 01.04.2017, as per direction in G. O. (Ms) no.54/2020/LSGD dated 20.03.2020. Accordingly, the applicant's position has been changed to rank no.10 in the revised seniority list of Executive Engineers, following the inclusion of Sri. Ramesh K. P.

9. As per the court direction, the applicant along with the affected parties and Sri. K. P. Ramesh was heard on 21.11.2020. The applicant reiterated his claim in the A6 representation and argued that the seniority list of 2018 cannot be revised or modified and the inclusion of Sri. Ramesh K. P., in the draft seniority list is not at all sustainable. The other affected parties supported the arguments of the applicant.

10. Sri. Ramesh K. P. has been assigned seniority in the seniority list of Executive Engineers w.e.f date of his absorption in the LSGD, i. e., 01.04.2017, as per direction in G. O. (Ms) no.54/2020/LSGD dated 20.03.2020, as per the decision of the Cabinet. It was a policy decision to absorb the employees of the defunct Calicut Development Authority w.e.f. 01.04.2017.

11. In the circumstances, the demand of the petitioners not to include Sri. K. P. Ramesh, Executive Engineer, as senior most in the cadre, for the period from 31.12.2016 to 31.08.2018, deserves no consideration and hence is hereby rejected.

12. The order of the Hon'ble KAT in OA(EKM) 988/2020 read as 1st paper above, is thus complied with.

(By order of the Governor)
BIJUKUTTAN.M.S
ADDITIONAL SECRETARY

To:

1. Sri. Chandran C., Executive Engineer (*through the Chief Engineer, LSGD*)
2. Sri. Ramesh K. P., Executive Engineer (*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
Signature valid

Digitally signed by S. EEKANTH G
Date: 2021.08.27 12:37:58 IST
Reason: Approved

Section Officer