



**GOVERNMENT OF KERALA**

**Abstract**

Local Self Government Department - Establishment - Order of the Honourable Kerala Administrative Tribunal dated 16.07.2021 in O.A No.983/2021 filed by Shri.Manojkumar.C, Superintendent, Karunagappally Municipality- Complied with- Orders issued.

**LOCAL SELF GOVERNMENT(EU)DEPARTMENT**

G.O.(Rt)No.552/2022/LSGD Dated,Thiruvananthapuram, 08-03-2022

Read 1 Order No. V1-6820/2021 of the Director of Urban Affairs dated 28.05.2021(Annexure A7)

2 Appeal petition dated 28.06.2021 from Sri. Manojkumar C, Superintendent,KarunagappallyMunicipality(AnnexureMA1)

3 Order of the Hon.Kerala Administrative Tribunal dated 16.07.2021 in O.A No. 983/2021 filed by Sri. Manojkumar C

4 Letter No. V1-6820/2021 of the Director of Urban Affairs dated. 25.11.2021.

**ORDER**

As per the order of Director of Urban Affairs read as 1st paper above, Sri.Manojkumar C, Superintendent of Karunagappally Municipality was suspended from service in the light of the report no.D2/16902/2021/QC of the District Police Chief, Kollam dated 03.04.2021 recommending appropriate departmental action against him pursuant to the registration of Criminal Case against him under section 354 of the IPC as per the complaint filed by a lady employee of the same office (UD Typist of Karunagappally municipality)alleging sexual harassment by Shri. Manoj Kumar against her during lunch time on 29.01.2021 at the office of the Municipality.

2.Shri.Manojkumar, Superintendent of Karunagappally Municipality filed O.A No. 983/2021 before the Hon. Kerala Administrative Tribunal and Appeal Petition dated 28.06.2021 (Annexure MA1)before Government against the above Suspension Order, denying the above allegations and stating that the above false allegation was raised by the lady employee when her indiscipline in the office on

02.02.2021 and 03.02.2021 was pointed out by the Applicant to the Municipal Chairman and the Municipal Chairman warned the employees generally in the meeting held on 09.02.2021. The Hon. Kerala Administrative Tribunal as per Order dated 16.7.2021, read as 3rd paper above directed Government to consider and pass appropriate orders on Annexure MA1 Appeal filed by the applicant in accordance with law after affording an opportunity of hearing to the applicant and the additional 4th respondent (the complainant lady employee) within a period of 2 months from the date of receipt of a certified copy of the Order.

3. Since Government restrictions are prevailing in the State due to Covid-19 pandemic, as per the directions of the Hon. Kerala Administrative Tribunal in the order dated 16.7.2021, the Under Secretary, Local Self Government Department heard the applicant and his advocate, additional 4th respondent (the complainant lady employee) and the Administrative Assistant o/o Director of Urban Affairs, via online Platform (Google Meet) at 11.30 am on 16.11.2021.

4. During the hearing, Adv.C.Unnikrishnan on behalf of Sri. Manojkumar stated as follows:-

(i) The suspension order -Annexure A7 is highly illegal that the Annexure-A4 Enquiry report, based on CCTV visuals, submitted by the Internal Committee of Karunagappally municipality consisting of 5 lady employees, constituted under Sexual Harassment of Women at Work place (Prevention Prohibition and Redressal) Act 2013, which states that the allegation of sexual harassment by Shri. Manojkumar against the lady employee is wrong, was completely ignored by the Disciplinary Authority while issuing the Suspension Order. Had it been considered no suspension could have been ordered. The above allegation was raised by the lady employee when her indiscipline in the office was pointed out by the Applicant and this was rightly found in the Annexure-A4 Enquiry report.

(ii) The recommendation of District Police Chief was blindly accepted by the Disciplinary Authority without any independent assessment and ordered his suspension.

(iii) Rule 15(2) of the KCS & CCA Rules states that Government should satisfy itself that there is a prima facie case for taking action against a Government servant whenever a complaint is received or on consideration of the report of investigation. Government should satisfy itself that there is a ground for suspension. The above mandatory

satisfaction is absent in the order of suspension. The available material Annexure-A4 to satisfy that suspension is wholly unwarranted was not considered. In many judgments Hon'ble High Court have ordered that Suspension order should not be issued in a casual manner.

(iv)Therefore the applicant requested Government to set aside the highly illegal suspension order and render justice to the appellant.

5. Additional 4th respondent (the complainant lady employee) has informed that whatever stated in her petition submitted before the Secretary, Karunagappally Municipality dated 15.02.2021, regarding sexual harassment by Sri. Manoj Kumar against her during lunch time on 29.01.2021 at the office of the Municipality is true. She had behaved cordially with him even after such incidents as he is her superior officer. The findings of the Internal Committee in this regard is false and hence further enquiry is necessary.

6. The Director of Urban Affairs as per letter read as 4th paper above reported that Shri. Manojkumar , Superintendent of the Karunagappally municipality was suspended from service in the light of the report of the District Police Chief, Kollam dated 3.4.2021 recommending appropriate departmental action against him pursuant to the registration of Criminal Case against him under section 354 of the IPC as per the complaint filed by the lady employee of the Municipality alleging sexual harassment by Sri. Manoj Kumar against the complainant at the office of the Municipality. It is also informed that since Government have already heard the applicant as per the directions of the Hon'ble Tribunal, further action will be taken by the Director of Urban Affairs on the basis of the directions from Government.

7. Government have examined the matter in detail and found that Sri. Manojkumar , Superintendent of Karunagappally municipality was suspended from service as per Order No.V1-6820/2021 of the Director of Urban Affairs dated 28.05.2021 in the light of the report of the District Police Chief, Kollam dated 3.4.2021 recommending appropriate departmental action against him pursuant to the registration of Criminal Case against him under section 354 of the IPC as per the complaint filed by the lady employee of the municipality alleging sexual harassment by Sri. Manojkumar against the complainant at the office of the Municipality. But, prior to the report of the Police, the same complaint was filed by the lady employee before the Municipal Secretary ,Karunagappally on 15.02.2021 and the Karunagappally Municipal Secretary vide order no.G1-2646/21 dated 16.2.2021 referred her complaint to the Internal Complaint Committee(ICC) constituted in

the office under section 4 of the Sexual Harassment of Women at Work Place(Prevention, Prohibition and Redressal)Act,2013 (Act 140/2013) for enquiry and report.The Internal Complaint Committee after conducting detailed enquiry submitted the report before the Municipal Secretary ,Karunagappally on 5.3.2021 with the finding that the allegation was found to be wrong based on circumstantial evidences. The said report of the Internal Complaint Committee was forwarded to the Director of Urban Affairs, the Disciplinary Authority vide letter no.G1-2646/2021 dated 6.3.2021 of the Municipal Secretary ,Karunagappally. As per the findings in the inquiry report of Internal Complaint Committee reported under section 13(1) of the Sexual Harassment of Women at Work Place(Prevention, Prohibition and Redressal)Act ,2013 the allegation was found to be wrong and not seen proved.

8. As per section 13(2) of the above Act,where the Internal Complaint Committee arrives at the conclusion that the allegation against the respondent has not been proved, no departmental action as per service rules is maintainable. The findings of the report of Internal Complaint Committee may be communicated to the complainant by the Disciplinary Authority with direction that if she is aggrieved from the recommendation of Internal Complaint Committee under section 13 (2) she is at liberty to prefer appeal to the Court or Tribunal as per section 18 of the Act.

9. In the instant case the Criminal Case registered by the Police against Sri. Manoj Kumar is in connection with same complaint filed before the Department. The District Police Chief vide letter dated 3.4.2021 forwarded the report of the police together with the copy of the FIR for taking appropriate departmental action against the accused. But the department has already taken action based on the complaint of the employee as per the prevailing law by referring the matter to Internal Complaint Committee constituted as per the Sexual Harassment of Women at Work Place(Prevention, Prohibition and Redressal), Act 2013 for enquiry and report. As per the report of the Internal Complaint Committee dated 5.3.2021 the allegation was found to be wrong. In the above circumstances the contention raised by Sri.Manojkumar in the hearing dated 16.11.2021 to the effect that "his suspension based on the report of the Police in connection with said allegations was unwarranted" is legally sustainable, since as far as the case is concerned all actions as prescribed in the law for taking departmental action has been taken by the Department and the allegation was found to be wrong

by the appropriate authority.

10. As per section 10 (b) of the KCS & CCA Rules 1960 suspension of an employee is warranted when a criminal offence is pending investigation or trial if the appropriate authority considering that in the then prevailing circumstance it is necessary in public interest that the Government servant should be suspended from service. Besides it was held by the Honourable High Court in WA No. 2014/94 1998(1)KLT SN 76 that it is not as if in each and every case an employee has to be suspended if criminal case is pending against him. Each case must be considered depending on the nature of allegation; gravity of the situation and the indelible impact that creates on the Service for the continuance of the delinquent employee in service pending enquiry or investigations. Suspension must be a step in aid to the ultimate result of the investigation or inquiry.

11. In the above circumstances, the Appeal petition dated 28.06.2021(Annexure MA1) filed by Shri.Manojkumar C, Superintendent of the Karunagappally municipality is disposed off with a direction to the Director of Urban Affairs, to take immediate further action based on the above facts.

12. The direction contained in the order of the Hon. Kerala Administrative Tribunal dated 16.07.2021 read as 3rd paper above is complied with accordingly.

(By order of the Governor)  
JAISY PAUL  
UNDER SECRETARY

To: The Director of Urban Affairs, Thiruvananthapuram  
The Advocate General, Kerala , TVPM (With C/L).

Sri.Manojkumar, Superintendent, Karunagappally Municipality  
(Through the Director of Urban Affairs).

Smt.Jaseela J, U D Typist, Kollam Municipal Corporation (Through the  
Director of Urban Affairs).

✓ The Executive Director, Information Kerala Mission (For publishing in  
the web-site)

Stock File/Office Copy.

Forwarded By order



Section Officer

4

