



GOVERNMENT OF KERALA

Abstract

Local Self Government – Panchayat Department – Order dated 10.06.2022 in OA(EKM)271, 304, 465, 466 & 502/2022 filed by Sri.Eldose Sunny and others before the Hon'ble Kerala Administrative Tribunal - Complied with - Orders issued.

LOCAL SELF GOVERNMENT (EPA) DEPARTMENT

സ.ഉ.(സംഗം) നം.3206/2022/LSGD Dated, Thiruvananthapuram, 26-12-2022

Read 1 G.O (P) No. 12/99/P&ARD, dated 24.05.1999

2 G.O (P) No. 05/2013/P&ARD, dated 06.02.2013

3 G.O (P) No. 22/2014/P&ARD, dated 21.07.2014

4 G.O.(Ms) No. 2/2015/P&ARD, dated 04.09.2015

5 G.O (Ms) No. 26/2015/P&ARD, dated 04.09.2015

6 GO(MS)59/2022/GAD, dtd 12.04.2022

Order dated 10.06.2022 in OA(EKM)271, 304, 465, 466 & 7 502/2022 filed by Sri.Eldose Sunny and others before the Hon'ble Keral Administrative Tribunal.

8 Letter No. E14-505/2020, dated 14.07.2022 of Director, LSGD(Rural), TVM

ORDER

Sri.Eldose Sunny and others, L.D.Clerks who are appointed under the compassionate employment scheme against supernumerary posts in Home Department and subsequently deployed to Local Self Government Department have filed OA(EKM)271, 304, 465, 466 & 502/2022 before the Hon'ble Kerala Administrative Tribunal with a prayer to regularize them in service with effect from their date of appointment and also to provide them inter district transfers to those districts opted by them and in which they had submitted their applications and for consequential benefits from the date of

regularization.

2. As per the order read as 1st above, the Hon'ble Kerala Administrative Tribunal has given direction that the applicants have produced order issued by the Director of Panchayats i.e. the fifth respondent and as per the order, of the 253 Clerks who were deployed to the Local Self Government Department, 246 who are continuing in the department are regularized in service in accordance with their valid application seniority and the date of occurrence of vacancies. The applicants are all granted the benefit of regularization in accordance with the order dated 9.6.2022. Since the Applicants submitted that further grievance, i.e. as to the posting in their districts of their choice and for consequential benefits have not been redressed by the above order, the Hon'ble KAT disposed of the O.A permitting the applicants to move the fourth and fifth respondents for redressal of their subsisting grievance and directed the applicants to file their representation seeking all consequential benefits from the date of regularization before the fourth respondent, within a period of three weeks from today and the fourth respondent shall pass appropriate orders thereon within a period of one month from the above date. The applicants are also permitted to move the fifth respondent pointing out the vacancies, if any, available in their opted districts forthwith and on receipt of such representations, the fifth respondent will ensure that appropriate orders are issued without further delay and at any rate, within a period of three weeks.

3. The Applicants have filed representations and seeks to treat their service as regular from the date of initial appointment in the Police Department, and to grant all the service benefits such as declaration of probation, eligible leave, promotion, Time Bound Higher Grade, seniority, pension etc., including arrears of pay and allowances with interest. Further they urge that seniority of persons appointed under the compassionate employment scheme would be reckoned with reference to the date of application, as stated in the referred 4th above since the supernumerary posts came to be created to fill up the backlog of 5% vacancies which were diverted to direct recruitment instead of being filled by eligible dependents . Further the applicants submitted that they are not seeking an inter- district transfer," as addressed in the Government order reference 2nd above, but rather a "transfer to the district of option," as addressed exclusively in the Government Order referred 1st above. They contend that the Government Order referred 2nd above, is not applicable in their case and "inter-district transfer"

and "transfer to the district of option" are distinct and different and dealt with by two separate Government Orders. Moreover, if such an attempt is made to restrict transfer to the district they opted for, only to 10% of the vacancies, that would be in complete violation of not only the provisions contained in para 28 of the Government Order referred 1st above but also the order of the Hon'ble Tribunal in OA (EKM) No. 304 of 2022.

4. The Director, LSGD(Rural) has submitted their report vide referred 8th above. It has been reported that the service of 246 Clerks who are appointed under the compassionate employment scheme against supernumerary posts in Home Department and subsequently deployed to Local Self Government Department and still continuing in Panchayat Department has been regularised in the present stations as per their valid application seniority and the date of occurrence of vacancies in the Panchayat Department and further clarified that the employees has been regularized w.e.f the date of vacancies arised in the Panchayat Department since no vacancies existed in Home Department where they are initially appointed on supernumerary basis and hence it is not possible to regularize them from the date of their initial appointment and to grant subsequent service benefits. Further such regularization will lead to further litigation since there exist directly recruited candidates during that period.

5. As per reference read as 6th above, Government have issued guidelines for the regularization of employees appointed on supernumerary basis under Compassionate Employment Scheme , as per which it has been directed to regularize the employees on the date of occurrence of reported vacancies in the Panchayat Department in the existing district and to prepare seniority list as per the valid application date and regularize their service as per the said seniority. Further it has been directed to grant them inter district transfer to their district of option retaining their seniority and the vacancies thus arise due to their Inter District Transfer may be reported to the Public Service Commission. . Though the Applicants requested to treat their service as regular from the date of initial appointment in the Police Department, and to grant all the service benefits attached to the post of Lower Division Clerk and to give transfer to the district of option,without losing seniority as per Government Order referred 1st above, and not seeking an inter- district transfer," as addressed in Government Order

referred 2nd above, the Director LSGD (Rural) has regularized their service from the date of occurrence of vacancies in the Panchayat Department alone and has initiated steps to give inter- district transfer to their district of choice.

6. Government have examined the matter in detail. It is seen that Government Order referred 3rd and 5th above explain the regularization of employees who appointed under Compassionate Employment Scheme and Para 2(ii) of Government Order referred 3rd above, states that only 5% of the vacancies arising from year to year shall be set aside for the regularization of that employees. Hence the regularization of service can done only w.e.f the date of the occurrence of vacancies. In view of the above provisions and the judgement of the Hon'ble KAT dtd 10.04.2019 in OP(KAT)No.25/2019 and similar cases, the regularization of 253 supernumerary employees can be done accordingly. Para (ii) of Government Order referred 1st above, stipulates that , if there is no vacancies for appointment under Compassionate Employment Scheme in their district of choice, the appointment can be given to that employees according to the vacancies arised in any of the districts and should be given inter district transfer while vacancies arising in the district of Choice without losing seniority.

7. In the light of the facts and circumstances as detailed above, the request of the Applicants to treat their service as regular from the date of initial appointment in the Police Department, and to grant all the service benefits such as declaration of probation, eligible leave, promotion, Time Bound Higher Grade, seniority, pension etc., including arrears of pay and allowances with interest is rejected since G.O(Ms) No.22/2014/P&ARD and G.O (Ms) No.26/2015/P&ARD cclearly states that the regularisation of supernumerary appointment shall be done based on the occurrence of vacancies to which they are entitled as per the 5% quota earmarked for compassionate employment and till such regularisation of appointments, they will continue to be in the supernumerary posts. Direction is also given to the Director, LSGD (Rural) to grant Inter District Transfer to the Applicants to their district of Choice without losing their seniority in Panchayat Department as per the provisions laid down in G.O (P) No. 12/99/P&ARD, dated 24.05.1999.

8. The order of Hon'ble Kerala Administrative Tribunal read above is thus complied with.

(By order of the Governor)

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#ApprovedByDesignation#

To:

1. The Advocate General, Kerala, Thiruvananthapuram (with covering letter).
2. The Director, LSGD(Rural), Thiruvananthapuram
3. All Deputy Director Of Panchayats(Through The Director, LSGD(Rural))
4. Sri. Eldose Sunny, Clerk, Meenangadi Grama Panchayath, Wayanad
5. Sri. Eldho George, Clerk, Maranchery Grama Panchayath, Malappuram
6. Sri. Athul. K.P, Clerk, Kuttippuram Grama Panchayath, Malappuram
7. Sri. Vyshnav. S, Clerk, Maranchery Grama Panchayath, Malappuram
8. Sri. Harikrishnan. T.V, Clerk, Poothadi Grama Panchayath, Wayanad
9. Sri. Ajith Mohan, Clerk, Perumpadappu Grama Panchayth, Malappuram
10. Sri. Navajyoth Satheesh. R, Clerk, Kottathara Grama Panchayath, Wayanad
11. Personnel And Administration Reforms Department, (File No. Adv-C2/265/2022 P&ARD, Dated 30.11.2022)
12. Information & Public Relations (Web & New media)Department
- ✓13. The Executive Director, Information Kerala Mission.
14. Stock File/Office Copy(File No. 52/EPA1/2022/LSGD)

Forwarded /By order

Signed by Danuja M S

Date: 12-01-2023 10:33:50

Section Officer