



GOVERNMENT OF KERALA

Abstract

Local Self Government Department -LID&EW - Order of the Hon'ble KAT in OA No. 357/2022 filed by Suresh Kumar.V, Assistant Engineer(Rtd) - Complied With - Orders Issued.

LOCAL SELF GOVERNMENT(EWB) DEPARTMENT

G.O.(Rt)No.1486/2023/LSGD Dated,Thiruvananthapuram, 21-07-2023

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- Read 1 Order No.E 18-6133/20/CE/LSGD (LID&EW) dated 02.04.2022 of the Chief Engineer, LSGD
2. Letter no. E 18-6133/20/CE/LSGD dated 28.11.2022 from the Chief Engineer, LSGD
 3. Order of the Hon'ble Kerala Administrative Tribunal dated 31.01.2023 in OA 357/2022.
 4. Representations submitted by Sri.Suresh Kumar .V, AE(Rtd) dated 10.01.2023 (Annexure A11) and 10.04.2023.

ORDER

Sri.Suresh Kumar.V, Assistant Engineer(Rtd) has filed an OA No.357/2022 before the Hon'ble Kerala Administrative Tribunal, praying for a direction to declare that the applicant is entitled the entire pensionary benefits including DCRG with 18 % interest for the delayed payments and also entitled to get the two and half years' initial service in the Revenue Department as Qualifying Service for computation of pensionary benefits.

2.The Hon'ble Kerala Administrative Tribunal, in its order dated 31.01.2023, disposed of the OA directing the 1st respondent ie;Government to consider Annexure A11 representation and pass orders thereon,after affording an opportunity of hearing to the applicant, within a period of three months from the date of receipt of a copy of the order.

3.The prayer in Annexure A11 representation is that, the applicant

has joined the Revenue Department on 01.01.1990 as Village Assistant on appointment through Public Service Commission. While working as Village Assistant, he got appointment as Overseer in the Panchayat Department and joined the post on 24.03.1992. Then he has availed LWA for the period from 01.10.1992 for employment abroad. Even though the leave was sanctioned for 5 years he has joined the duty on 12.12.1994 after cancelling the unavailed portion of leave. On retirement, the Accountant General issued the Verification Report dated 21.10.2020, in which the qualifying service was shown as 25 years, 4 months and 20 days, which was rounded off as 25 years. The service rendered by the applicant in the Revenue Department was omitted from pension calculation. Hence the applicant has requested for reckoning the 2 1/2 years' of prior service rendered by him in the Revenue Department towards qualifying service for pension and has also claimed interest for the delayed payment of pensionary benefits.

4. The report of the Account General in this regard is as follows. On account of availing of Leave Without Allowance under Appendix XII A of Part I KSR, the applicant had to commence his probation afresh. Though the Leave Without Allowance was availed while the applicant was working in the Panchayat Department, the service rendered up to that period cannot be reckoned, in view of the provisions contained in Rule 5 of Appendix XII A of Part I KSR. Even though the applicant completed more than 2 1/2 years' of service in the Revenue Department, his service is not seen regularised and there are no details regarding the declaration of his probation in the said dept. The terminal benefits due to the applicant has been disbursed on executing a bond due to a vigilance case pending for disposal.

5. Based on the Order read as 3rd paper above, the applicant was heard by Govt on 09.06.2023 in the presence of the officers from the Principal Directorate. At the time of hearing he argued the same thing as stated at the Annexure A11 representation and he also admitted that his prior service in the Revenue Department is not regularised and the probation is also not declared.

6. Regarding the reckoning of prior service in the Revenue Department for pension it is seen that as per Rule 5, Appendix XII-A, Part I, the KSR, Non Permanent officers in the regular service who have not completed probation in the entry cadre shall be granted Leave Without Allowances subject to the condition that such officers will have to start

their probation afresh and complete their probation on return from Leave Without Allowances. Such officers will forfeit the service benefits that have accrued to them prior to their proceeding on Leave Without Allowances and they will be deemed as new entrants to Government service on return from Leave Without Allowances. Their right to rejoin Government service in the same entry cadre is protected, as if they were new entrants. Here Sri. Suresh Kumar had completed probation neither in Revenue Department nor in Panchayath Department before proceeding on LWA under Appendix XII-A, Part I, the KSRS w.e.f. 01/10/1992 to 11/12/1994. So his past service prior to the period of LWA will be forfeited and he will be considered as new entrant w.e.f. 12/12/1994 as stipulated in Rule 5, Appendix XII-A, Part I, the KSRS.

7. As per the order read as 1st paper above the Chief Engineer, LSGD had sanctioned all pensionary benefits to the petitioner. The delay occurred in releasing his retirement benefits is on account of the fact that there is a vigilance case pending against the incumbent, hence it is not due to administrative lapses. Under this circumstances, the claim of the applicant to receive 18% interest for the delayed payment of his retiral dues is not justifiable.

8. In such a scenario, Government have examined all aspects of the matter in detail. In light of the said facts, it is established that the petitioner's prayer on Annexure A11 representation to consider his 2 1/2 years of prior service rendered by him in the Revenue Department towards qualifying service for pension and grant of interest for delayed payment of DCRG deserves no consideration and hence rejected.

9. The order of the Hon'ble Kerala Administrative Tribunal vide read as 3rd paper above is thus complied with accordingly.

(By order of the Governor)
T MAYO BHASKAR
UNDER SECRETARY

To:

1. The Officer concerned (through the Principal Director, LSGD).
2. The Principal Director, LSGD, Thiruvananthapuram
3. The Chief Engineer, LSGD, Thiruvananthapuram
4. The Advocate General, Thiruvananthapuram

(with Covering Letter).

5. The Accountant General (A&E/Audit) Kerala, Thrissur.

6. The Executive Director, Information Kerala Mission.

7. The Web & New Media, I & PRD.

8. Stock File/Office Copy

Forwarded /By order

Signed by

Keerthi I.p

Date: 21-07-2023 12:18:09

Section Officer