

**GOVERNMENT OF KERALA****Abstract**

LSGD - LID&EW - OA[EKM] No.573/2024 filed by Sri.Vasu.T.P, Executive Engineer(rtd) before the Hon'ble Kerala Administrative Tribunal - Complied with - Orders issued.

LOCAL SELF GOVERNMENT(EWB)DEPARTMENT

G.O.(Rt)No.1578/2024/LSGD Dated,Thiruvananthapuram, 23-08-2024

- Read 1 Order of the Honourable Kerala Administrative Tribunal in OA No.395/2019, dated:26.02.2019.
- 2 G.O.(Rt)No.2173/2019/LSGD dated 03.10.2019.
- 3 Representation submitted by Sri.Vasu.T.P, dated:20.03.2020.
- 4 Representation submitted by Sri.Vasu.T.P, dated:02.03.2024.
- Order dated. 30.05.2024 of the Honourable Kerala
- 5 Administrative Tribunal in OA[EKM]No.573/2024 filed by Shri. Vasu.T.P.

ORDER

Sri.Vasu.T.P, Executive Engineer(rtd) has filed an OA[EKM] No.573/2024 before the Hon'ble Kerala Administrative Tribunal, praying for a direction to grant retrospective promotion as Executive Engineer with effect from 06.11.2017, the date in which his immediate junior was promoted.

2. The Hon'ble Kerala Administrative Tribunal, in its order read as 5th paper above, disposed the OA by directing the first respondent to consider and pass appropriate orders on his Annexure A3 and Annexure A4 representations in accordance with law, within a period of three months from the date of receipt of copy of the order.

3. In Annexure A3 & A4 representations, the demand of the

applicant is to promote him to the post of Executive Engineer with all consequential service benefits with effect from the date of promotion of his immediate junior, Sri.Chandran.C to that post.

4. The DPCs (H) 2017 & 2018 held on 27/10/2017 and 14/12/2017 had superseded the incumbent for promotion to the post of Executive Engineer, due to the pendency of a disciplinary action in government file number 242/EW2/2015/LSGD in connection with the irregularities in Ponnani municipality. Further which was finalised by barring one annual increment without cumulative effect vide GO(Rt)No.2403/2018/LSGD dated 11.09.2018. After that he was considered in the Departmental Promotion Committee held on 2018 and included in the select list for the year 2019 with a condition that, he has to be promoted to the vacancy arising on or after 11.09.2019, the date in which the currency of penalty of the case is over. Aggrieved by the above DPC(H) decision he filed OA 395/2019 before the hon'ble KAT.

5. In compliance with the direction of the Hon'ble KAT in OA 395/2019 read as 1st paper above, the incumbent's request for restoration of seniority was reviewed by the DPC(H) 2019 held on 10.07.2019 and observed that there is no ground to review the earlier decision and complied the court direction vide the G.O read as 2nd paper above by rejecting his plea. However, the applicant purposefully hide this GO in the present OA No. 573/2024 to mislead the honorable Tribunal.

6. Note (ii) under 28(b)(i)(7) of Part-II, KS&SSRs says that, the vacancy that would have gone to the officer but for his suspension or the criminal proceedings/departmental proceedings against him for the imposition of major penalty should be filled only on a temporary basis by the next person in the approved list. If the officer is completely exonerated, he will be promoted by convening an ad hoc Departmental Promotion Committee. If the exoneration is not complete, the

Departmental Promotion Committee may decide each case on its merits.

7. The promotions and appointment by transfer to the selection posts are made from a select list prepared from among the members eligible on account of their merit and ability. The DPC is the authority to assess the merit and ability of a candidate for promotion/appointment to the selection posts. The power of inclusion or exclusion of an officer in a select list is vested with the DPC.

8. Subsequent on the order dated 30.05.2024 of the Honorable Kerala Administrative Tribunal in OA[EKM]No.573/2024, Government have examined all aspects of the matter in detail once again. As there are no new facts or versions to be taken afresh in the representations the govt has decided to adhere to the earlier decision taken vide GO(Rt)No.2173/2019/LSGD dated 03.10.2019. Therefore the petitioner's prayer in Annexure A3 and A4 representation deserves no merits and is hereby rejected.

9. The order of the Hon'ble Kerala Administrative Tribunal vide read as 4th paper above is thus complied with accordingly.

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

To:

1. The Advocate General, Ernakulam.
2. The Principal Director, LSGD, Thiruvananthapuram.
3. The Chief Engineer, LSGD, Thiruvananthapuram.
4. Sri. Vasu. T.P., Executive Engineer (Rtd) (Through the Principal Director)
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

Signed by

Keerthi I P

Section Officer

Date: 24-08-2024 11:15:36