



GOVERNMENT OF KERALA

Abstract

Local Self Government Department - Shri.A.Shahjahan IAS(Rtd)- Leave Travel Concession and encashment of earned leave for 10 days as per GO.(Rt) 2814/2022/LSGD dated 15/11/2022 - ratified - Orders issued.

LOCAL SELF GOVERNMENT (EM) DEPARTMENT

സ.ഉ.(സാധാ) നം.2371/2025/LSGD Dated,Thiruvananthapuram, 28-09-2025

Read 1.GO.(Rt)No. 2814/2022/LSGD dated 15.11.2022.

2. Letter number GE15/A/A.J/Re-emp-dated 27.03.2023 from
The office Accountant General
(A&E),Thiruvananthapuram.

3.G.O(Rt) No.234/2025/LSGD dated 23.01.2025.

4.Do letter No. SEC/1200/2021-A1 dated 13.12.2023 and
07.08.2024 from the Secretary, State Election Commission.

ORDER

As per the Government Order read as 1 above, Government had accorded sanction to Shri.A.Shajahan, IAS(Rtd), the State Election Commissioner for availing Leave Travel Concession and encashment of earned leave for 10 days as on 11.10.2022.

2. As per the letter read 2 above, the Accountant General , (A&E),Thiruvananthapuram had pointed out that the Secretary, State Election Commission, Trivandrum had requested authorization of encashment of Earned Leave in connection with LTC for additional period of 10 days to Shri.A.Shajahan, IAS(Rtd) without considering such EL encashment already availed for six times during his prior service. It was also stated that the appointment of Shri.A. Shajahan as SEC w.e.f. 31.03.2021 by the State Government was a fresh

appointment and not a case of re-appointment.

3. The Accountant General, had further informed that Shri.A.Shajahan took charge as SEC on the FN of 31.03.2021 before the actual date of his retirement from IAS on 31.07.2021. As per G.O. (MS)No.87/2011/LSGD dated 16.04.2011, Rule 3 of the State Election Commissioner(Conditions of Service) Rules 1993, "if a person who immediately before the date of assuming office as State Election Commissioner had elected to draw a pension in respect of any previous service, his salary as SEC shall be reduced by the amount of that pension. vide letter dated 07.04.2021 of the State Election Commission, Accountant General was asked to finalize the retirement benefits of Shri.A.Shajahan from IAS with effect from 31.03.2021 and to authorize his salary in the post of SEC from 01.04.2021, in accordance with the above provision. His pensionary benefits for period served in IAS was thus fixed by Accountant General and hence rule/correspondence imply that the appointment of Shri.A. Shajahan is equivalent to that of a re-employed pensioner.

4. The Accountant General had further explained that, "as per GOI decision under Rule 15 of LTC Rules, a re-employed pensioner will be entitled to encashment of Earned Leave along with LTC up to the limit of 60 days including the number of days for which encashment has been allowed while in service, and that as per GO(MS)No.378/2013/LSGD dated 05.12.2013, the State Election Commission shall have the status, salary and allowances equal to that of a judge of a High Court. As per intimation No.A1-90972/2011 dated 05.01.2012 issued by the Registrar General, High Court of Kerala, the judges of the High Court of Kerala are eligible to encash earned leave as per CCS(Leave) Rules, which are applicable to IAS officers holding

the rank of Secretary to Government and above. It was also stated that in accordance with these rules, the total leave encashed during the entire career shall not exceed 60days".

5. Considering the above reasons Accountant General had stated that " it was not clear whether the appointment of Shri.A.Shajahan, IAS(Rtd) as State Election Commission was a fresh appointment and not a case of re-employment. It was also not clear whether the surrender of Earned Leave for LTC can be sanctioned without considering such EL encashment already availed by the officer during his prior service. " Accordingly, The Accountant General had requested to review the orders issued for sanction of 10 days Earned Leave Surrender over and above 60 days already availed by Shri.A.Shajahan during his service in IAS vide GO(Rt)No.2814/2022/LSGD dated 15.11.2022.

6. Based on the request from the Accountant General, the Government had set apart the first G.O as per the order read 3 above, stating that it has already been clearly stipulated in State Election Commission (Condition of Service) Rules 1993 regarding the grant of leave to the State Election Commissioner appointed from service and to those appointed otherwise, treating the appointment as State Election Commissioner as a fresh appointment.

7. Meanwhile, the Government have received a DO letter from the Secretary, State Election Commission read 4 above. The Secretary, State Election Commission informed that State Election Commission is a constitutional body established under Articles 243K and 243ZA of the Constitution of India. The State Election Commissioner is appointed by the Governor of Kerala under clause (1) of Article 243 K of the Constitution of India. He holds the office for a period of five years or up

to the age of 65 years, whichever comes first. State Election Commission is independent of the Government and enjoys the same status, powers and authority as Election Commission of India. The State Election Commissioner can only be removed from office by the president in the manner provided in Clause (4) of Article 124 of the Constitution for the removal of the Judge of the Supreme Court. The conditions of service in respect of State Election Commissioner shall not be varied to his disadvantage after his appointment. These constitutional protections have been provided to State Election Commissioners.

8. The Secretary, State Election Commission has also informed that "pursuant to clause(2) of Article 243 K of the Constitution of India, Government of Kerala had prescribed the rules regarding the Conditions of Service of the State Election Commissioner, Kerala, as per G.O. (Ms)No.227/93/LAD dated 03.12.1993, published as SRO No.1865/93 in the Kerala Gazette. As per Rule 3 of the said rules (amended as per G.O.(Ms)No.378/2013/L.S.G.D dated 05.12.2013), the State Election Commissioner, Kerala shall have the status, salary and allowances equal to that of a Judge of a High Court. As per Rule 7 of the said rules, "Save as otherwise provided in these rules, the State Election Commissioner shall be entitled to such other allowances, as are, for the time being, applicable for a judge of a High Court. " In the proviso to Rule 3, it is specifically mentioned as to how the salary of State Election Commissioner has to be fixed ("Provided that if a person who, immediately before the date of assuming office as the State Election Commissioner was in receipt of or, being eligible so to do, had elected to draw a pension (other than a disability pension) in respect of any previous service under the Central Government or under the State Government, his salary as State Election Commissioner shall be

reduced, (a) By the amount of that pension; and (b) if he had, before assuming office, received in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension"). As per Rule 5(2) (amended as per GO(MS) No.378/13/LSGD dated 05.12.2013), "Any other person who is appointed as the State Election Commissioner may be granted leave in accordance with such rules as are for the time being applicable to the Judge of a High Court including those in relation to Leave Travel Concessions"."

9. Under these circumstances, the Secretary, SEC has reiterated that the remarks of the AG is to be considered as irrelevant . Further, it was submitted the Secretary, SEC that "the appointment of Shri.A.Shajahan, IAS (Rtd) as State Election Commissioner is a fresh appointment by invoking the provisions under clause(1) of Article 243K of the Constitution of India and not a reappointment as per Rule 100 of Part III, Kerala Service Rules. His salary was fixed as per proviso to Rule 3 of the State Election Commissioner (Condition of service) Rules (amended as per G.O.(Ms) No.87/11/LSGD dated 16.04.2011). Leave and LTC are to be sanctioned as per Rule 5(2) of the above rules. Hence, according to this rule, the State Election Commissioner is eligible for Leave Travel Concession as applicable to a judge of a High Court and LTC to High Court Judges are granted as per the High Court Judges Traveling Allowance Rules, 1956. As per Rule 7-A of the above Rules, a Judge of a High court is eligible to avail LTC for himself, his wife, dependants for visiting any place in India, during his leave, twice a year in accordance with the rules applicable in this regard to a member of IAS holding the rank of Secretary to Govt. Hence Secretary , State Election Commission requested that Shri.A.Shajahan IAS(Rtd) State Election Commissioner, Kerala is eligible to avail LTC twice a

year. And there is no sufficient ground for rejection of the application of Surrender of Earned Leave in connection with LTC availed by the State Election Commissioner".

10. It was brought to notice of the government by the Secretary, SEC that "the rules do not provide for any reduction of benefits owing to the reason that Shri.A.Shajahan, IAS (Rtd), State Election Commissioner was formerly employed as Secretary to Government. The State Election Commissioner is appointed by the Governor in exercise of the powers under Article 243 K of the Constitution of India. The salary and allowances payable to the State Election Commissioner are governed by the provisions of State Election Commissioner(Conditions of Service) Rules, 1993, framed by the Government in exercise of the powers under Article 243 K. Therefore State Election Commissioner in office is eligible to get all benefits on par with the Judges of High Court. The former employment of the State Election Commissioner is not a relevant factor for refusing any benefits conferred under State Election Commissioner(Conditions of Service) Rules, 1993.It was also pointed out that the benefits conferred under State Election Commissioner(Conditions of Service)Rules, 1993 were enjoyed by all former State Election Commissioners irrespective of their previous employment, and hence, cannot be denied to the present incumbent".

11. Government have reconsidered the matter and revoke the Government Order read 3 above and hereby ratify the order allowing leave travel concession and encashment of earned leave for 10 days as on 11.10.2022 vide Government Order No. GO.(Rt) 2814/2022/LSGD dated 15/11/2022 read 1 above.

(By order of the Governor)

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സ്പെഷ്യൽ സെക്രട്ടറി

To:

Shri. A. Shahjahan IAS(Rtd), State Election Commissioner, Kerala.

The Secretary, State Election Commission Kerala .

The Principal Accountant General (A&E/Audit), Kerala,
Thiruvananthapuram.

Finance (Dev-wing) Department (U.O. Number 2460981/DEV-
1/95/2023-FIN).

Law (Opinion-D) Department (OPN- D3/170/2024-LAW).

P & ARD (ADV- B2/124/2024-PandARD).

The Executive Director, Information Kerala Mission,
Thiruvananthapuram.

Information & Public Relations Department (Web and new media).

Stock File/Office Copy [LSGD- EM2/63/2023-LSGD]

Forwarded /By order

Section Officer

Copy To:-

PS to Hon'ble Chief Minister.

PS to Hon'ble Minister, Finance .

PS to Hon'ble Minister, Local Self Government Department.

PA to Special Secretary, Local Self Government Department.