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GOVERNMENT OF KERALA

Abstract

Water Resources Department – Establishment – Order of the Hon'ble Kerala Administrative Tribunal in TA 2508/2012 (WP(C) 32471/2011) – Complied with - Orders issued.

WATER RESOURCES (A) DEPARTMENT

G.O.(Ms)No.63/2017/WRD

Dated, Thiruvananthapuram, 29/07/2017.

- Read:- 1)G.O(P)No.501/2005/Fin. Dated 25/11/2005.
2)G.O(P)No.61/2010/Fin. Dated 09/02/2010.
3)Order of the Hon'ble Kerala Administrative Tribunal in TA 2508/2012 (WP(C) 32471/2011) dated 20/07/2016.
4)Letter No.B8-31353/2011 dated 22/11/2016 of the Chief Engineer(I&A), Thiruvananthapuram.

ORDER

Smt.Vinitha P.L., Casual Sweeper filed TA 2508/12 before the Hon'ble Kerala Administrative Tribunal seeking for a direction to regularise her as Part Time Sweeper with effect from 02/05/2002 with all service benefits excluding arrears of salary for the period that she was out of employment.

2) The Hon'ble Kerala Administrative Tribunal while considering the case, has pointed out that had the applicant challenged the termination in the year 2002, she would definitely have been accommodated in a suitable vacancy. The respondents were required to accommodate her in another vacancy then which was actually done only on 01/04/2006 in a retirement vacancy. Hence the situation of the applicant requires proper consideration by reckoning her prior service for the limited purpose of regularization. Moreover, the break in service in between should not result in denial of the benefit to the applicant under Exhibits P2 and P3 viz the orders read as 1st and 2nd papers above. The same is evident in the light of the fact that said Government Order read as 2nd paper above takes in all existing Part Time Sweepers working as on the date of the said order, whatever may be the mode of appointment.

3) In view of the above, the Hon'ble Kerala Administrative Tribunal in the order read as 3rd paper above has ordered that "the applicant is entitled for the benefit of Exhibit P3 Government Order. A proposal for regularization along with the sweeping area certificate and a proper application signed by the applicant will therefore be forwarded to the Government by the 4th respondent within a period of six weeks from the date of receipt of a certified copy of the order and thereafter the first respondent will pass appropriate orders in the light of the findings rendered above by regularizing the service of the applicant at least from the date of Exhibit P3 Government Order within a further period of three months. On such regularization the applicant will be entitled for arrears of salary also".

4) The Chief Engineer(I&A) in the letter read as 4th paper above has reported that there is a sanctioned post of Part Time Sweeper in the Office of the Assistant Executive Engineer, Minor Irrigation Sub Division Office, Neyyattinkara and the sweeping area of the office comes to 144.68m², which is calculated by the Assistant Engineer, PWD Building, Neyyattinkara.

5) Government have examined the matter in detail and are pleased to regularise Smt.Vinitha P.L., Casual Sweeper as Part Time Sweeper and posted in the sanctioned post of Part Time Sweeper in the Office of the Assistant Executive Engineer, MI Sub Division, Neyyattinkara with effect from 09/02/2010 ie; the date of order read as 2nd paper above.

6) The Order of the Hon'ble Kerala Administrative Tribunal read as 3rd paper above.

is complied with accordingly.

(BY ORDER OF THE GOVERNOR)

TINKU BISWAL

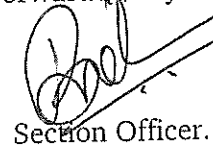
Secretary to Government

To

The person concerned (Through Chief Engineer (I&A),Thiruvananthapuram)
The Chief Engineer (I&A),Thiruvananthapuram.
The Advocate General, Kerala, Thiruvananthapuram Branch, Vanchiyoor P.O.,
Thiruvananthapuram(with covering letter).
The Principal Accountant General (Audit) Kerala, Thiruvananthapuram.
The Accountant General(A&E), Kerala,Thiruvananthapuram/Thrissur.
The General Administration(SC)Department(Vide Item No.1262 dated 27/07/2017)
The Finance Department(Vide U.O(R)No.443833/Ind&PWA2/17/Fin.
dated 11/05/2017).
The Information Officer, Web & New Media Division, Information & Public Relations
Department.
Stock File/O.C.

Copy to:-PS to Minister, Water Resources Department

Forwarded/ By Order


Section Officer.

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രഹസ്യം

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കേരള സർക്കാർ
മന്ത്രിസഭായോഗത്തിന്റെ നടപടിക്കുറിപ്പുകൾ

തീയതി : 27-07-2017

ഫയൽ നം.836844/എ2/2016/ജ.വി.വ.

ഇനം നം: 1262

വിഷയം : ജലവിഭവ വകുപ്പ് - ശ്രീമതി വിനിത പി.എൽ. കാഷ്വൽ സ്വീഷറെ പാർട്ട് ടൈം സ്വീഷറായി റഗുലറൈസ് ചെയ്യുന്നത്.

തീരുമാനം : കുറിപ്പിലെ നിർദ്ദേശം അംഗീകരിച്ചു.

(ഒപ്പ്)
പിണറായി വിജയൻ
മുഖ്യമന്ത്രി
(ശരിപ്പകർപ്പ്)

നളിനി നെറ്റോ
ചീഫ് സെക്രട്ടറി

സെക്രട്ടറി, ജലവിഭവ വകുപ്പ്.

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Urgent. Put up orders.

27/7
29/7/17



GOVERNMENT OF KERALA
(SHRI. PINARAYI VIJAYAN MINISTRY)
Note for the Council of Ministers

1. File No. 836844/A2/2016/WRD
2. Department Water Resources (A) Department
3. Subject Proposal for regularisation of Smt.Vinitha P.L., Casual Sweeper as Part Time Sweeper of Irrigation Department - Reg:-
4. Date of Chief Minister's order for placing before the Council 08/06/2017
5. (i) Does the case involve financial commitments/implications Yes
(ii) If the answer to the above is in the affirmative, whether Finance Dept. been consulted and their remarks incorporated in the Council Note. Yes
6. Are any other departments concerned with the case and if so, have they been consulted and their remarks incorporated in the Note for the Council No.
7. Name of Joint Secretary who submitted the Draft Note. Smt.Seenathu Beevi S.
8. Name of Secretary who approved the Draft Note. Smt.Tinku Biswal
9. Date of approval of the Draft note for the Council by the Secretary. 18/07/2017
10. Name of Chief Secretary who approved the Draft Note. Smt.Nalini Netto
11. Date of approval of the Draft Note for the Council by the Chief Secretary. 19/07/2017
12. Name of Minister who approved the Draft note. Sri.Mathew T.Thomas
13. Date of approval of the Draft Note for the Council by the Minister 21/07/2017
14. Date of Submission of Fair Copies 22/07/17
15. Date of decision by the Council of Ministers.
16. Number and date of the G.O./letter communicating the decision.

NOTE FOR THE COUNCIL OF MINISTERS

The subject matter of this note is regarding regularisation of Smt.Vinitha P.L., Casual Sweeper as Part Time Sweeper in compliance to the orders of Hon'ble Kerala Administrative Tribunal in TA 2508/2012 (WP(C) 32471/2011) dated 20/07/2016.

2) Smt.Vinitha P.L. has filed the TA 2508/12 before the Court seeking for a direction to regularise her as Part Time Sweeper with effect from 02/05/2002 with all service benefits excluding arrears of salary for the period that she was out of employment.

3) The applicant was originally engaged as a Casual Sweeper on 02/05/2002. While continuing so, she was replaced by a regular Employment Exchange hand from 01/02/2003. Later when a retirement vacancy arose on 01/04/2006, she was re-engaged and she is continuing thereafter throughout.

4) The Hon'ble Kerala Administrative Tribunal while considering the case, has pointed out that if the applicant had challenged the termination in the year 2002, definitely she would have been accommodated in a suitable vacancy. The respondents had to provide her in another vacancy then which was actually done only on 01/04/2006 in a retirement vacancy. Hence the situation of the applicant requires proper consideration by reckoning her prior service for the limited purpose of regularization. But, the break in service in between should not result in denial of the benefit to the applicant under Exhibits P2 and P3 viz G.O(P)No.501/05/Fin dated 25/11/2005 and G.O(P)No.61/10/Fin dated 09/02/2010 respectively. The same is evident in the light of the fact that said Government Order Exhibit P3 (G.O(P)61/10/Fin dated 9/02/2010) takes in all existing Part Time Sweepers working as on the date of the said order, whatever may be the mode of appointment.

5) Considering the above facts, the Court has ordered that "the applicant is entitled for the benefit of Exhibit P3 Government Order. A proposal for regularization along with the sweeping area certificate and a proper application signed by the applicant will therefore be forwarded to the Government by the 4th respondent within a period of six weeks from the date of receipt of a certified copy of this order and thereafter the first respondent will pass appropriate orders in the light of the findings rendered above by regularizing the service of the applicant at least from the date of Exhibit P3 Government Order within a further period of three months. On such regularization the applicant will be entitled for arrears of salary also".

6) In this connection the Chief Engineer has reported that there is a sanctioned post of Part Time Sweeper in the Office of the Assistant Executive Engineer, Minor Irrigation Sub Division Office, Neyyattinkara and the sweeping area of the office comes to 144.68m², which is calculated by the Assistant Engineer, PWD Building, Neyyattinkara.

7) When consulted the Finance Department has remarked as follows:-

“Administrative Department is informed that, for complying the orders of the Hon'ble KAT, Finance agrees to regularise Smt.Vinitha P.L. Casual Sweeper against the sanctioned post of Part Time Sweeper in the Office of the Assistant Executive Engineer, MI Sub Division, Neyyattinkara with effect from 09/02/2010, ie the date of Exhibit order of G.O(P)No.61/2010/Fin. Dated 09/02/2010”.

8) In the above circumstances, in order to comply the orders of Hon'ble Kerala Administrative Tribunal, Smt.Vinitha P.L., Casual Sweeper has to be regularised as Part Time Sweeper and posted in the sanctioned post of Part Time Sweeper in the Office of the Assistant Executive Engineer, MI Sub Division, Neyyattinkara with effect from 09/02/2010 ie; the date of Exhibit order of G.O(P)No.61/2010/Fin dated 09/02/2010.

9)When circulated the Hon'ble Chief Minister has ordered to place the matter before the Council of Ministers.

Point for Decision

Whether Smt.Vinitha P.L., Casual Sweeper may be regularised as Part Time Sweeper with effect from 09/02/2010 ie; the date of Exhibit order of G.O(P)No.61/2010/Fin dated 09/02/2010 in order to comply the order of the Hon'ble Kerala Administrative Tribunal dated 20/07/2016 in TA 2508/2012 ?