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GOVERNMENT OF KERALA

Abstract

Water Resources Department – Establishment – Order of the Hon'ble Kerala Administrative Tribunal in OA (EKM)696/2015 – Complied with - Orders issued.

WATER RESOURCES (A) DEPARTMENT

G.O.(Ms)No.57/2017/WRD

Dated, Thiruvananthapuram, 17/07/2017.

- Read:- 1)G.O(Ms)No.06/2013/WRD dated 16/01/2013.
2)G.O(Rt)No.84/2015/WRD dated 30/01/2015.
3)Order of the Hon'ble Kerala Administrative Tribunal in OA (EKM)696/2015 dated 09/11/2016.
4)Letter No.C5-27067/2015 dated 24/01/2017 of the Chief Engineer(I&A), Thiruvananthapuram.

ORDER

Sri.A.V.Aji and others while working as HR Workers in Irrigation Department have filed OA(EKM)No.598/2014 before the Hon'ble Kerala Administrative Tribunal praying for a direction to the 1st respondent to regularize them as SLR Workers. In order to comply the order, Government as per Government Order read as 2nd paper above have rejected the request of the applicant since all applicants do not satisfy the criteria of 10 years' service fixed by the Government for regularization as per Government Order read as 1st paper above.

2) Aggrieved by this order, Sri.A.V.Aji and 7 others filed another OA 696/2015 before the Hon'ble Kerala Administrative Tribunal for getting relief as done earlier in the case of the applicants involved in OA No.1210 of 2013. In OA No.1210 of 2013, the Tribunal had observed that regularisation cannot be denied provided that the applicants satisfied all the conditions prescribed by Government except break of service.

3) Taking into account of the above observation, the Tribunal as per order read as 3rd paper above has ordered that the applicants are entitled to succeed and Annexure A6 Order read as 2nd paper above is set aside. The Tribunal declared that the applicants are entitled for regularisation as SLR Workers and appropriate orders in accordance with the findings of Hon'ble Kerala Administrative Tribunal will be passed by the 1st respondent within a period of two months from the date of receipt of the copy of the order.

4) The Chief Engineer(I&A) as per the letter read as 4th paper above has requested to take favourable decision in the matter as the HR Worker having service break were regularised as SLR Workers earlier as per the order in OA No.1210/2013. Continuous service cannot be insisted, as it is not specified in the Government Order read as 1st paper above. The Hon'ble Tribunal in OA No.1210/2013 filed by Sri C.C.Madhusoodanan Pillai and others observed that break in service cannot be considered as a disqualification for regularisation.

5) Government have examined the matter in detail and are pleased to regularise the applicants in the OA(EKM)No.696/2015 Sri.A.V.Aji, Sri.A.V.Vasudevan Pillai, Sri.Roy Varghese, Sri.P.T.Sunil, Sri.K.P.Johnson, Sri.M.A.Prasad, Sri.Roy C.A., and Sri.Ramesan as SLR Workers with effect from 16/01/2013 subject to the condition that the monetary benefits will be effected from the date of issuance of order.

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 persons 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.1214 dated 12/07/2017)

The Law Department(Vide U.O(R)No.5650/F3/2017/Law dated 20/03/2017).

The Finance Department(Vide U.O(R)No.456251/Ind&PWB3/17/Fin. Dated 02/05/2017).

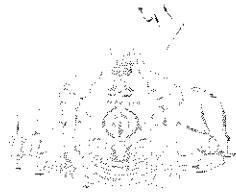
✓ The Information Officer, Web & New Media Division, Information & Public Relations Department.

Stock File/O.C.

Forwarded/ By Order


Section Officer.

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കേരള സർക്കാർ

മന്ത്രിസഭായോഗത്തിന്റെ നടപടിക്കുറിപ്പുകൾ

തീയതി : 12-07-2017

ഫയൽ നം.1077740/എ2/2016/ജ.വി.വ.

ഇനം നം: 1214

വിഷയം : ജലവിഭവ വകുപ്പ് - ജലസേചന വകുപ്പിലെ എച്ച്.ആർ. വർക്കർമാരായ ശ്രീ.എ.വി.അജി, ശ്രീ.എ.വി.വാസുദേവൻ പിള്ള, ശ്രീ.റോയ് വർഗ്ഗീസ്, ശ്രീ.പി.റ്റി.സുനിൽ, ശ്രീ.കെ.പി.ജോൺസൺ, ശ്രീ.എം.എ.പ്രസാദ്, ശ്രീ.റോയി.സി.എ. ശ്രീ.രമേശൻ എന്നിവരെ എസ്.എൽ.ആർ. വർക്കർമാരായി നിയമിക്കുന്നത്.

തീരുമാനം : കുറിപ്പിലെ നിർദ്ദേശം അംഗീകരിച്ചു.

(ഒപ്പ്)
പിണറായി വിജയൻ
മുഖ്യമന്ത്രി
(ശരിപ്പകർപ്പ്)

നളിനി സെക്രട്ടറി
ചീഫ് സെക്രട്ടറി

സെക്രട്ടറി, ജലവിഭവ വകുപ്പ്.

Urgent.
12/7/17

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

- | | | |
|-----|--|---|
| 1. | File No. | 1077740/A2/2016/WRD |
| 2. | Department | Water Resources (A) Department |
| 3. | Subject | Proposal for regularisation of Sri.A.V.Aji, Sri.A.V.Vasudevan Pillai, Sri.Roy Varghese, Sri.P.T.Sunil,Sri.K.P.Johnson, Sri.M.A.Prasad, Sri.Roy C.A., Sri.Ramesan, HR Workers as SLR Workers - Reg:- |
| 4. | Date of Chief Minister's order for placing before the Council | 10/06/17 |
| 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 | Yes, Law Department |
| 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. | 07/07/17 |
| 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. | 09/07/17 |
| 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 | 11/07/17 |
| 14. | Date of Submission of Fair Copies | 11/07/17 |
| 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 the regularisation of Sri.A.V.Aji, Sri.A.V.Vasudevan Pillai, Sri.Roy Varghese, Sri.P.T.Sunil, Sri.K.P.Johnson, Sri.M.A.Prasad, Sri.Roy C.A., Sri.Ramesan, HR Workers in compliance to the orders of Hon'ble Kerala Administrative Tribunal in OA(EKM)696/2015 dated 09/11/2016.

2) Sri.A.V.Aji and others while working as HR Worker in Irrigation Department have filed OA(EKM)No.598/2014 before the Hon'ble Kerala Administrative Tribunal praying for a direction to the 1st respondent to regularize them as SLR Workers.

3) In order to comply the order, Government vide G.O(Rt)No.84/2015/WRD dated 30/01/2015 have rejected the request of the applicant since all applicants do not satisfy the criteria of 10 years' service fixed by the Government for regularization vide G.O(Ms)No.06/13/WRD dated 16/01/2013.

4) Aggrieved by this order, Sri.A.V.Aji and 7 others filed another OA 696/2015 before the Hon'ble Kerala Administrative Tribunal for getting relief as done earlier in the case of the applicants involved in OA No.1210 of 2013. In that OA, the Tribunal has observed that regularisation cannot be denied providing that they satisfied all the conditions prescribed by Government except break of service.

5) Taking into account of the above observation, the Tribunal vide judgment dated 09/11/2016 in OA No.696/2015 has ordered that the applicants are entitled to succeed and Annexure A6 Order viz G.O(Rt)No.84/15/WRD dated 30/01/2015 is set aside. The Tribunal declared that the applicants are entitled for regularisation as SLR Workers and

appropriate orders in accordance with the findings of Hon'ble Kerala Administrative Tribunal will be passed by the 1st respondent within a period of two months from the date of receipt of the copy of the order.

6) When consulted the Law department has remarked as follows:-

“HR/CLR വർക്കർമാരെ SLR ആയി മാറ്റി നിയമിക്കുന്നതിന് നിലവിലുള്ള മാസദണ്ഡങ്ങൾ പ്രകാരമുള്ള നിയമനങ്ങൾ ഉമാദേവി കേസിൽ ബഹു.സുപ്രീംകോടതി പുറപ്പെടുവിച്ച വിധിന്യായത്തിന്റെ അന്തസ്സത്തയ്ക്ക് വിരുദ്ധമല്ല എന്നും സമാനമായ വിഷയത്തിൽ ഈ വകുപ്പ് 2690/ഒപ്പി.എഫ്.3/17/നിയമം നമ്പരായി ഭരണവകുപ്പിന്റെ 786060/എ 2/2015/ജവിവ നമ്പർ ഫയലിൽ 18/02/2017 ൽ രേഖപ്പെടുത്തിയ അഭിപ്രായം ഈ ഫയലിലെ പ്രതിപാദ്യ വിഷയത്തിനും ബാധകമാണെന്ന് ഭരണവകുപ്പിനെ അറിയിക്കുന്നു.”

7) In File 786060/A2/2015/WRD the Law Department has remarked as follows:-

“HR/CLR ജീവനക്കാരെ SLR ആയി മാറ്റി നിയമിക്കുന്നതിനായി 16/01/2013 ലെ സ.ഉ. (എം.എസ്)നം.06/13/ജവിവ നമ്പർ ഉത്തരവും പിന്നീടുണ്ടായ കോടതി വിധികളും പ്രകാരം 4 മാനദണ്ഡങ്ങളാണ് നിശ്ചയിക്കപ്പെട്ടിട്ടുള്ളത്.

- a) 01/01/2011 ൽ ചുരുങ്ങിയത് 500 ദിവസം സർവ്വീസ് പൂർത്തിയാക്കിയിരിക്കണം.
- b) 01/01/2011 ൽ 10 വർഷത്തെ സേവനം പൂർത്തിയാക്കിയിരിക്കണം.
- c) നിലവിൽ സർവ്വീസിലുള്ള HR/CLR തൊഴിലാളികളായിരിക്കണം.
- d) 01/01/2011 ൽ 58 വയസ്സ് കവിയാൻ പാടില്ല.

പ്രസ്തുത മാനദണ്ഡങ്ങളിലെ 2[ാ]മത്തെ മാനദണ്ഡം 10 വർഷത്തെ തുടർച്ചയായ സർവ്വീസ് ആയിരിക്കണമെന്ന വാദഗതികൾ ഒ.എ.1210/2013 നമ്പർ കേസിലെ 26/03/2014 ലെ വിധി പ്രകാരം ബഹു.കേരള അഡ്മിനിസ്ട്രേറ്റീവ് ട്രൈബ്യൂണൽ അസമിരപ്പെടുത്തുകയുണ്ടായി. പ്രസ്തുത വിധി ഉൾപ്പെടെ സമാനമായ കേസുകളിലെ കോടതി വിധികൾ സർക്കാർ നടപ്പിലാക്കുകയും ചെയ്തിട്ടുണ്ട്. ഈ സാഹചര്യത്തിൽ

മേൽ നിഷ്കർഷിക്കപ്പെട്ട മാനദണ്ഡങ്ങൾ പാലിക്കപ്പെടുന്ന പക്ഷം ഒ.എ.1604/2016 കേസിലെ കക്ഷികളേയും SLR വർക്കർമാരായി മാറ്റി നിയമിക്കാവുന്നതാണെന്ന് ഭരണവകുപ്പിനെ അറിയിക്കുന്നു.”

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

“Finance agrees to the proposal of Administrative Department subject to the condition that the petitioners are satisfying all the four eligibility conditions prescribed in G.O(Ms)No.06/13/WRD dated 16/01/2013 for the regularization of HR Workers as SLR Workers, but the condition of continuous service”.

9) Later Government vide G.O.(Ms)No.18/2017/WRD dated 07/04/2017 have amended the Condition No.2 in G.O(Ms)No.06/2013/WRD dated 16/01/2013 as follows:-

“(b)Should have completed 10 years of continuous service as on 01/01/2011. Should have engaged in HR/CLR work for a few days every year during the said period.”

10) In File No.786060/A2/15/WRD dealing with OA No.1604/16 filed by Sri.C.A.Hameed & others for regularisation as SLR Worker, the Law Department has informed that the amendment order is applicable only with prospective effect.

11) In the above circumstances since the amendment order G.O. (Ms)No.18/2017/WRD dated 07/04/2017 is applicable only with prospective effect, 8 applicants in the OA(EKM)No.696/2015 Sri.A.V.Aji, Sri.A.V.Vasudevan Pillai, Sri.Roy Varghese, Sri.P.T.Sunil, Sri.K.P.Johnson, Sri.M.A.Prasad, Sri.Roy C.A., Sri.Ramesan are eligible for regularisation as SLR Workers. As they have satisfied all the conditions stipulated by Government in G.O(Ms)No.06/13/WRD dated 16/01/2013 they have to be

regularised as SLR Workers with effect from 16/01/2013 subject to the condition that the monetary benefits will be effected from the date of issuance of order so as to comply the order of Hon'ble Kerala Administrative Tribunal.

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

Point for Decision

Whether Sri.A.V.Aji, Sri.A.V.Vasudevan Pillai, Sri.Roy Varghese, Sri.P.T.Sunil, Sri.K.P.Johnson, Sri.M.A.Prasad, Sri.Roy C.A., and Sri.Ramesan, the HR Workers and the 8 applicants in the OA (EKM)696/2015 may be regularised as SLR Workers with effect from 16/01/2013, subject to the condition that monetary benefits will be effected from the date of issuance of the order?