

21152

10/10/17



GOVERNMENT OF KERALA

Abstract

Water Resources Department – Establishment – Order of the Hon'ble Kerala Administrative Tribunal in OA 2354/2013 – Complied with - Orders issued.

WATER RESOURCES (A) DEPARTMENT

G.O.(Ms)No.76/2017/WRD

Dated, Thiruvananthapuram, 15/09/2017.

- Read:- 1)G.O(Ms)No.06/2013/WRD dated 16/01/2013.
2)Order of the Hon'ble Kerala Administrative Tribunal in OA 2354/2013 dated 22/12/2016.
3)Letter No.C5-36687/2013 dated 20/02/2017 of the Chief Engineer(I&A), Thiruvananthapuram.

ORDER

Sri.K.M.Aboobacker, HR Worker in Irrigation Department was regularised as SLR Worker as per Government Order read as 1st paper above.

2) Since Sri.K.M.Aboobacker, who was included as Sl.No.818 in the Government Order read as 1st paper above was not appointed as SLR Worker as he did not satisfy the condition that "HR/CLR employee must be in service as on date", he filed OA 2354/2013 before the Hon'ble Kerala Administrative Tribunal praying to give permission to join duty as SLR Worker.

3) The Hon'ble Tribunal as per the order read as 2nd paper above has observed that as regards the contention regarding refusal on the part of the applicant to do the work, there is no concrete evidence, but only the assertion made in the Reply Statement. It can be seen that even the 500 days' of work required is spread over ten years. That means only a few days work is allotted in each year. There is nothing to suspect the plea of the applicant that he was available for work and has not refused to do any work. It can also be seen that the details of the applicant has been verified and he has been included in Annexure A3 order. Thereafter, the implementing authority cannot deny the benefits to the applicant by arising the plea that he had not worked from 24/10/2011. Therefore the Court has declared that the applicant is legally entitled to be appointed as SLR Worker and to permit him to join duty as SLR Worker and to grant all consequential benefits including arrears within a period of 3 months from the date of receipt of a copy of the order.

4) The Chief Engineer(I&A) has informed that as per records Sri.K.M.Aboobacker has not worked either as HR or as CLR after 24/10/2011.

3) Government have examined the matter in detail with the observation made by the Court and are pleased to direct the Chief Engineer(I&A) to appoint Sri.K.M.Aboobacker, who has already been regularised as SLR Worker as per Government Order read as 1st paper above, as SLR Worker with effect from 16/01/2013 and to sanction all consequential benefits including arrears.

6) The order of Hon'ble Kerala Administrative Tribunal read as 2nd 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 (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.1426 dated 13/09/2017)

The Law Department(Vide U.O(R)No.7434/Suit II(3)/2017/Law dated 19/04/2017.

The Finance Department(Vide U.O(R)No.496823/Ind&PWB3/17/Fin. Dated 16/06/2017).

✓ 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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കേരള സർക്കാർ
മന്ത്രിസഭായോഗത്തിന്റെ നടപടിക്കുറിപ്പുകൾ

തീയതി : 13-09-2017

ഫയൽ നം.74/എ2/2017/ജ.വി.വ.

ഇനം നം: 1426

വിഷയം : ജലവിഭവ വകുപ്പ് - ജലസേചന വകുപ്പിൽ 16.01.2013-ലെ ജി.ഒ.(എം.എസ്.) നം.6/13/ജ.വി.വ. പ്രകാരം എസ്.എൽ.ആർ. വർക്കരായി റഗുലറൈസ് ചെയ്ത ശ്രീ. കെ.എം. അബൂബക്കറിനെ എസ്.എൽ.ആർ. വർക്കരായി നിയമിക്കുന്നത്.

തീരുമാനം : കുറിപ്പിലെ നിർദ്ദേശം അംഗീകരിച്ചു.

(ഒപ്പ്)
പിണറായി വിജയൻ
മുഖ്യമന്ത്രി
(ശരിപ്പകർപ്പ്)

ഡോ. കെ.എം. എബ്രഹാം
ചീഫ് സെക്രട്ടറി

സെക്രട്ടറി, ജലവിഭവ വകുപ്പ്.



14/9 - 82/14/9

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

- | | | |
|-----|--|---|
| 1. | File No. | 74/A2/2017/WRD |
| 2. | Department | Water Resources (A) Department |
| 3. | Subject | Proposal for appointing Sri.K.M.Aboobacker, regularised as SLR Worker vide G.O(Ms)06/2013/WRD dated 16/01/2013, as SLR Worker - Reg:- |
| 4. | Date of Chief Minister's order for placing before the Council | 30/07/17 |
| 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. | 26/08/2017 |
| 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. | 26/08/2017 |
| 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 | 29/08/2017 |
| 14. | Date of Submission of Fair Copies | 07/09/2017 |
| 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

This note deals with the proposal for appointing Sri.K.M.Aboobacker, as SLR Worker who was regularised as SLR Worker as per G.O(Ms)06/2013/WRD dated 16/01/2013, as SLR Worker.

2) As per G.O(Ms)6/2013/WRD dated 16/01/2013, 834 HR/CLR Workers have been regularised as SLR Workers.

3) As the appointment of the above 834 workers are subject to the conditions prescribed by the Government, the Chief Engineer(I&A) has informed that Sri.Aboobacker, Sl.No.818 in the said order was not appointed as SLR Worker since he does not satisfy the condition that "HR/CLR employee must be in service as on date". Aggrieved by this order, Sri.Aboobacker filed OA 2354/2013 before the Hon'ble Kerala Administrative Tribunal. The Tribunal considered the case on 22/12/2016 and has ordered to permit him to join duty as SLR Worker and to grant all consequential benefits including arrears within a period of 3 months from the date of receipt of a copy of the order.

4) The Chief Engineer(I&A) has informed that as per records Sri.K.M.Aboobacker has not worked either as HR or as CLR after 24/10/2011.

5) In the above circumstances, since Sri.K.M.Aboobacker, who was included as Sl.No.818 in the list appended to the G.O(Ms)No.06/13/WRD dated 16/01/2013, in which 834 HR/CLR Workers were regularised as SLR Workers, has not satisfied the condition that "must be in service as on date", the remarks of Law Department and Finance Department was sought as to whether there is any scope for filing appeal in the order of Hon'ble Tribunal in

OA 2354/2013 dated 22/12/2016 filed by Sri.K.M.Aboobacker against the denial of appointment as SLR Worker.

6) The remarks of Law Department in the matter is follows:-

"16/01/2013 ലെ സ.ഉ.(എം.എസ്)നം.06/2013/ജീവന പ്രകാരം അർഹരായവരുടെ പട്ടികയിൽ OA 2354/2013 ലെ അപേക്ഷകൻ ഉൾപ്പെടുകയും SLR ജീവനക്കാരനായി നിയമിച്ചുകൊണ്ട് 28/01/2013 ൽ ഉത്തരവിറക്കുകയും ചെയ്തുകൊണ്ടും നിലവിൽ സർവ്വീസിലുള്ള എച്ച്.ആർ./സി.എൽ.ആർ ജീവനക്കാരനല്ലാത്തതിനാൽ എക്സിക്യൂട്ടീവ് എഞ്ചിനീയർ നിയമനം നൽകിയിരുന്നില്ല.

4 ാം എതിർകക്ഷി മുമ്പാകെ ജോലിക്ക് ഹാജരായെങ്കിലും ജോലിയിൽ join ചെയ്യുന്നതിന് അനുവദിച്ചില്ലെന്നും, അന്വേഷിച്ചപ്പോൾ തൽക്കാലം ഏതൊരു ജോലിയും നൽകുന്നില്ലെന്ന് അറിയിച്ചതായും 24/10/2011 ലും അതിനുശേഷവും ജോലിക്ക് ഹാജരായെങ്കിലും ജോലിയിൽ ഏർപ്പെടുത്തിയില്ലെന്നുമാണ് അപേക്ഷകൻ ബോധിപ്പിച്ചിട്ടുള്ളത്.

അസിസ്റ്റന്റ് എഞ്ചിനീയർ നിർദ്ദേശിച്ചവെങ്കിലും അപേക്ഷകൻ 24/10/2011 ന് ശേഷം HR Work ചെയ്യുന്നതിന് വിസമ്മതിച്ചുവെന്നും അതിനുശേഷം ജോലി ചെയ്തിട്ടില്ലാത്തതിനാൽ HR Worker നിലവിൽ സർവ്വീസിലുണ്ടായിരിക്കണമെന്ന 16/01/2013 ലെ ഉത്തരവിലെ വ്യവസ്ഥ പാലിക്കാത്ത അപേക്ഷകനെ SLR ജീവനക്കാരനായി നിയമിക്കാൻ കഴിയുകയില്ലെന്നുമാണ് 1 ാം എതിർകക്ഷിയായ സർക്കാർ മറുപടി പത്രീകയിലൂടെ ബോധിപ്പിച്ചത്.

മറുപടി പത്രീകയിൽ ഉറപ്പിച്ചു പറയുന്നതൊഴികെ അപേക്ഷകൻ ജോലി ചെയ്യാൻ വിസമ്മതിച്ചുവെന്നതിന് തെളിവുകളില്ലെന്നും പത്ത് വർഷത്തിനുള്ളിൽ 500 ദിവസത്തെ സർവ്വീസ് പൂർത്തിയാക്കണമെന്നുള്ളത് തന്നെ ഓരോ വർഷവും കുറച്ച് ദിവസം മാത്രമേ ജോലി ഉണ്ടായിരിക്കുകയുള്ളൂ എന്നതാണ് അർത്ഥമാക്കുന്നതെന്നും ജോലിക്ക് ഹാജരായിരുന്നവെന്നും ജോലി ചെയ്യാൻ വിസമ്മതിച്ചില്ലായെന്നുള്ള അപേക്ഷകന്റെ വാദത്തിൽ സംശയിക്കാതെന്നുമില്ലെന്നും എല്ലാം പരിശോധിച്ച് ഉൾപ്പെടുത്തിയതിനുശേഷം 24/10/2011 ന് ശേഷം അപേക്ഷകൻ ജോലി ചെയ്തില്ലെന്ന വാദമുന്നയിച്ച് ഉത്തരവ് നടപ്പാക്കുന്ന അധികാരസ്ഥാനത്തിന് (implementing authority) അത് നിരസിക്കാൻ കഴിയില്ലെന്നും കോടതി വിധിച്ചു.

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

Point for Decision

Whether Chief Engineer(I&A) may be directed to appoint Sri.K.M.Aboobacker, who has already been regularised as SLR Worker vide G.O(Ms)No.06/13/WRD dated 16/01/2013, as SLR Worker with effect from 16/01/2013 and to sanction all consequential benefits including arrears in order to comply the orders of Hon'ble Kerala Administrative Tribunal in OA 2354/13 ?