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GOVERNMENT OF KERALA

Abstract

Water Resources Department – Establishment – Order of the Hon'ble Kerala Administrative Tribunal in OA No.1604/2016 – Complied with - Orders issued.

WATER RESOURCES (A) DEPARTMENT

G.O.(Ms)No.59/2017/WRD

Dated, Thiruvananthapuram, 18/07/2017.

- Read:- 1)G.O(Ms)No.06/2013/WRD dated 16/01/2013.  
2)Order of the Hon'ble Kerala Administrative Tribunal in OA No.1604/2016 dated 25/07/2016.  
3)Letter No.C5-25260/2014 dated 08/12/2016 of the Chief Engineer(I&A), Thiruvananthapuram.

ORDER

Sri.C.A.Hameed & 9 others filed OA 1604/2016 before the Hon'ble Kerala Administrative Tribunal seeking direction to regularise them as SLR Workers.

2) The Hon'ble Kerala Administrative Tribunal in the order read as 2<sup>nd</sup> paper above has directed the 1<sup>st</sup> respondent to consider and pass orders on Annexure A4 in accordance with law after affording an opportunity of being heard to the applicants within two months from the date of receipt of a copy of the order.

3) Accordingly the petitioners were heard on 08/11/2016. The applicants are HR Workers in Irrigation Department. They contend that they were denied of the benefit of being regularised as SLR Workers even though all of them fulfilled the conditions stipulated in Government Order read as 1<sup>st</sup> paper above by which HR workers were regularised as SLR Workers.

4) As per the letter read as 3<sup>rd</sup> paper above, the Chief Engineer(I&A) has reported that the applicants were excluded from the list of HR Workers considered for being regularised as SLR Workers because they didn't have 10 years service as stipulated in the Government Order read as 1<sup>st</sup> paper above. But the applicants argued that all of them had 10 years of service as on 01/01/2011, though it was not continuous service. They also argued that continuous service is not stipulated in the said Government Order and hence the same cannot be used now to deny them the benefit of regularisation. The Hon'ble Kerala Administrative Tribunal in OA-1210/2013 has also held that the said Government Order does not stipulate 10 years of continuous service as a pre-requisite for being considered for regularisation.

5) The Chief Engineer(I&A) has submitted the service details of the applicants obtained from the authorities concerned. On verifying the same it is seen that Sri.V.R.Suresh Kumar, 5<sup>th</sup> applicant in the OA was not in service as on 01/01/2011. As such he does not satisfy the 3<sup>rd</sup> condition prescribed by Government as per Government Order read as 1<sup>st</sup> paper above, for regularisation.

6) Government have examined the matter in detail and are pleased to regularize the applicants in the OA 1604/2016, Sri.C.A.Hameed, Sri.C.P.Madhusoodanan Pillai, Sri.Venugopal K.M., Sri.P.S.Vijayakumar, Sri.P.A.Ashok Kumar, Smt.Leela T.C., Sri.M.R.Sajeev, Sri.Manoj Kumar P.G. and Sri.A.V.Chandran excluding Sri.V.R.Suresh Kumar who is not eligible as per the conditions of the Government Order read as 1<sup>st</sup> paper above, 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.

7) The Order of the Hon'ble Kerala Administrative Tribunal read as 2<sup>nd</sup> paper above is complied with accordingly.

(BY ORDER OF THE GOVERNOR)  
**TINKU BISWAL**  
Secretary to Government

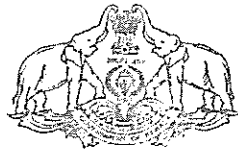
To

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.1213 dated 12/07/2017)  
The Law Department(Vide U.O(R)No.2690/Opi.F3/2017/Law dated 18/02/2017).  
The Finance Department(Vide U.O(R)No.419050/Ind&PWB3/17/Fin. Dated 17/03/2017).  
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.786060/എ2/2016/ജ.വി.വ.

ഇനം നം: 1213

വിഷയം : ജലവിഭവ വകുപ്പ് - ജലസേചന വകുപ്പിലെ എച്ച്.ആർ. വർക്കർമാരായ ശ്രീ.സി.എ.ഹമീദ്, ശ്രീ.സി.പി.മധുസൂദനൻപിള്ള, ശ്രീ. വേണുജഗപാൽ കെ.എം., ശ്രീ.പി.എസ്.വിജയകുമാർ, ശ്രീ.പി.എ.അശോക് കുമാർ, ശ്രീമതി ലീല റ്റി.സി., ശ്രീ.എം.ആർ.സഖ്യാവ്, ശ്രീ.മനോജ് കുമാർ പി.ബി., ശ്രീ.എ.വി.ചന്ദ്രൻ എന്നിവരെ എസ്.എൽ.ആർ. വർക്കർമാരായി നിയമിക്കുന്നത്.

തീരുമാനം : കുറിപ്പിലെ നിർദ്ദേശം അംഗീകരിച്ചു.

(ഒപ്പ്)  
പിണറായി വിജയൻ  
മുഖ്യമന്ത്രി  
(ശരിപ്പകർപ്പ്)

നളിനി സനറ്റോ  
ചീഫ് സെക്രട്ടറി

സെക്രട്ടറി, ജലവിഭവ വകുപ്പ്.

*Urgent.*  
*7/12/17*  
*12/7*

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

1. File No. 786060/A2/2016/WRD
2. Department Water Resources (A) Department
3. Subject Proposal for regularisation of Sri.C.A.Hameed, Sri.C.P.Madhusoodanan Pillai, Sri.Venugopal K.M., Sri.P.S.Vijayakumar, Sri.P.A.Ashok Kumar, Smt.Leela T.C., Sri.M.R.Sajeev, Sri.Manoj Kumar P.G. and Sri.A.V.Chandran, HR Workers of Irrigation Department 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 regularisation of Sri.C.A.Hameed, Sri.C.P.Madhusoodanan Pillai, Sri.Venugopal K.M., Sri.P.S.Vijayakumar, Sri.P.A.Ashok Kumar, Smt.Leela T.C., Sri.M.R.Sajeev, Sri.Manoj Kumar P.G. and Sri.A.V.Chandran, HR Workers of Irrigation Department as SLR Workers in compliance of the orders of Hon'ble Kerala Administrative Tribunal in OA 1604/2016 dated 25/07/2016.

2) Sri.C.A.Hameed & 9 others filed OA 1604/2016 before the Hon'ble Kerala Administrative Tribunal seeking direction to regularise them as SLR Workers.

3) Hon'ble Kerala Administrative Tribunal in the order dated 25/07/2016 directed the 1<sup>st</sup> respondent to consider and pass orders on Annexure A4 in accordance with law after affording an opportunity of being heard to the applicants within two months from the date of receipt of a copy of the order.

4) Accordingly the petitioners were heard on 08/11/2016. The applicants are HR Workers in Irrigation Department. They contend that they were denied of the benefit of being regularised as SLR Workers even though all of them fulfilled the conditions stipulated in Government Order No.G.O(Ms)06/13/WRD dated 16/01/2013 by which HR workers were regularised as SLR Workers.

5) As per the report of Chief Engineer(I&A) the applicants were excluded from the list of HR Workers considered for being regularised as SLR Workers because they didn't have 10 years service as stipulated in the Government Order. But the applicants argued that all of them had 10 years of service as on 01/01/2011, though it was not continuous service. They also argued that continuous service is not stipulated in the said Government Order. Therefore they are eligible for being regularised as SLR Workers.

6) The Chief Engineer has submitted the service details of the applicants obtained from the authorities concerned. On verifying the same it is seen that Sri.V.R.Suresh Kumar, 5<sup>th</sup> applicant in the OA was not in service as on 01/01/2011. As such he does not satisfy the 3<sup>rd</sup> condition prescribed by Government for regularisation.

7) When consulted 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/ജവീവ നമ്പർ ഉത്തരവ് 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 അസമീരപ്പെടുത്തുകയുണ്ടായി. 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 at Para 39 ADFN”.

9) Para 39 ADFN proposed to regularise the applicants in OA 1604/2016 except Sri.V.R.Suresh Kumar as SLR Workers with effect from 16/01/2013 subject to the condition that the monetary benefits would be effected from the date of issuance of the order.

10) Later vide G.O(Ms)No.18/2017/WRD dated 07/04/2017, the Condition No.2 in No.G.O(Ms)06/13/WRD dated 16/01/2013 was modified 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.”

11) Accordingly the remarks of Law Department was again sought for obtaining clarification whether the applicant's prayer may be considered favourably since the order of Hon'ble Kerala Administrative Tribunal is well before 07/04/2017 and that Department has remarked as follows:-

"ജലവിഭവ വകുപ്പിലെ HR വർക്കർമാരെ SLR ആക്കി മാറ്റി നിയമിക്കുന്നതുമായി ബന്ധപ്പെട്ട് നിലവിലുണ്ടായിരുന്ന വ്യവസ്ഥകളിൽ 01/01/2011 ൽ സർവ്വീസിൽ 10 വർഷത്തെ തുടർച്ചയായ സേവനം പൂർത്തിയാക്കിയിരിക്കണം. പ്രസ്തുത കാലയളവിൽ ഓരോ വർഷവും കുറച്ച ദിവസമെങ്കിലും HR/CLR ജോലിയിൽ ഏർപ്പെട്ടിരിക്കണം എന്ന പുതിയൊരു വ്യവസ്ഥ കൂട്ടിച്ചേർത്തുകൊണ്ട് 07/04/2017 ൽ ഇറക്കിയ ഉത്തരവ് 25/07/2016 ലെ OA No.1604/2016 നമ്പർ കേസിലെ വിധിയ്ക്ക് ബാധകമാവുമോ എന്നതാണ് ഫയലിൽ ആരാഞ്ഞിരിക്കുന്ന നിയമപ്രശ്നം.

OA 1604/2016 നമ്പർ കേസിൽ ബഹു.കേരള അഡ്മിനിസ്ട്രേറ്റീവ് ട്രിബ്യൂണൽ 25/07/2016 ൽ പുറപ്പെടുവിച്ച ഉത്തരവ് പ്രകാരം അപേക്ഷകർ സർക്കാരിൽ സമർപ്പിച്ച അനുബന്ധം എ 4 നിവേദനം പരിഗണിച്ച് അപേക്ഷകർക്ക് പറയാനുള്ളത് കേൾക്കുന്നതിനുള്ള ഒരു അവസരം നൽകി ഉത്തരവിന്റെ സർട്ടിഫൈഡ് പകർപ്പ് ലഭിച്ച് രണ്ടു മാസത്തിനുള്ളിൽ നിയമപ്രകാരമുള്ള ഒരു ഉത്തരവ് പുറപ്പെടുവിക്കണമെന്നാണ് സർക്കാരിന് നിർദ്ദേശം ലഭിച്ചിട്ടുള്ളത്. പ്രസ്തുത ഉത്തരവ് പുറപ്പെടുവിച്ച സമയത്ത് ബാധകമായ അല്ലെങ്കിൽ നിലവിലുള്ള നിയമപ്രകാരമാണ് പ്രസ്തുത കേസിലെ അപേക്ഷകരുടെ കാര്യത്തിൽ തീരുമാനമെടുക്കേണ്ടത്. 07/04/2017 ലെ സ.ഉ.(എം.എസ്)18/2017/ജലവിവ നമ്പർ ഉത്തരവ് വഴി പ്രാബല്യത്തിൽ കൊണ്ടു വന്ന വ്യവസ്ഥയ്ക്ക് ഉത്തരവ് തീയതി മുതൽ മാത്രമേ പ്രാബല്യമുണ്ടാവുകയുള്ളൂ എന്ന് പ്രസ്തുത ഉത്തരവിന്റെ 1 ാം ഖണ്ഡികയിൽ വ്യക്തമാക്കിയിട്ടുണ്ട്. ആയതിനാൽ 25/07/2016 ലെ OA 1604/2016 നമ്പർ കേസിലെ കക്ഷികളുടെ കാര്യത്തിൽ 07/04/2017 ലെ ഉത്തരവ് ബാധകമാവുകയില്ല എന്ന് ഭരണവകുപ്പിനെ അറിയിക്കുന്നു”.

12) In the above circumstances, since the amendment order G.O(Ms)No.18/17/WRD dated 07/04/2017 is not applicable to the applicants in the OA 1604/2016, from among the ten applicants in the said OA, nine applicants viz., Sri.C.A.Hameed, Sri.C.P.Madhusoodanan

Pillai, Sri.Venugopal K.M., Sri.P.S.Vijayakumar, Sri.P.A.Ashok Kumar, Smt.Leela T.C., Sri.M.R.Sajeev, Sri.Manoj Kumar P.G. and Sri.A.V.Chandran are eligible for regularisation as SLR Workers, as they satisfy all the conditions stipulated by Government in G.O(Ms)No.06/2013/WRD dated 16/01/2013. Hence 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 the order.

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

### Point for Decision

Whether applicants in the OA 1604/2016 viz., Sri.C.A.Hameed, Sri.C.P.Madhusoodanan Pillai, Sri.Venugopal K.M., Sri.P.S.Vijayakumar, Sri.P.A.Ashok Kumar, Smt.Leela T.C., Sri.M.R.Sajeev, Sri.Manoj Kumar P.G. and Sri.A.V.Chandran excluding Sri.V.R.Suresh Kumar who is not eligible as per the conditions of the G.O(Ms)No.06/2013/WRD dated 16/01/2013, may 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?