



## GOVERNMENT OF KERALA

### Abstract

Local Self Government Department -Final Order of Hon'ble Kerala Administrative Tribunal in OA(EKM)No 1052/2017 - Complied with - Orders Issued

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### LOCAL SELF GOVERNMENT (EPA)DEPARTMENT

G.O.(Rt)No.1102/2024/LSGD Dated,Thiruvananthapuram, 22-06-2024

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Read 1 Leave Application dated 08.02.2016 submitted by Smt.Ajitha A

2 GO (Rt)No.2001/2016/LSGD dated 27.06.2016

3 Representation dated 06.09.2016 submitted by Smt. Ajitha A

4 Final Order of Hon'ble Kerala Administrative Tribunal dated 21.10.2016 in OA 1592/2016.

5 GO (Rt) No. 511/2017/LSGD dated 22.02.2017

6. Final order of Hon'ble Kerala Administrative Tribunal dated 13.09.2023 in OA(EKM)1052/2023

### ORDER

The Hon'ble Kerala Administrative Tribunal as per final order read as 6<sup>th</sup> paper above, in OA 1052/2023 filed by Smt. Ajitha.A Head Clerk Puthunagaram Grama Panchayat, against non-grant of leave on medical certificate has set aside the Government Orders read as 2<sup>nd</sup> and 5<sup>th</sup> papers above and directed to pass orders granting Leave Without Allowances on Medical Certificate to the applicant for the period from

01.07.2013 to 18.08.2015, within a period of two months from the date of receipt of a copy of the Order.

2. While the petitioner was working as Senior Clerk in the office of the Panchayat Deputy Director, Palakkad, she entered on maternity leave from 3.10.2012 to 31.03.2013 and continued on half pay leave from 1.4.2013 to 30.05.2013. Meanwhile the applicant on promotion as Accountant joined in the promoted post on 31.05.2013 and applied for Half Pay Leave for the period from 01.06.2013 to 30.06.2013 and extended leave for a period of 779 days from 01.07.2013 to 18.08.2015 on Medical Certificate and re-joined duty producing fitness certificate on 19.08.2015. Applying existing rules of submission of application and sanction of leave without allowances ( LWA ) in KSRs , since the chance for obtaining a second medical opinion required was lost in the case of the petitioner, Government vide GO read as 2<sup>nd</sup> paper has issued orders granting LWA other than on Medical Certificate to the applicant for the period from 1.7.2013 to 18.08.2015 under Rule 88 of Part I KSR on condition that the said period will not be counted for increment, higher grade, pension, earned leave etc, in the light of Circular , vide Cir No 36/94/Fin dated 14.06.1994 which states that the leave sanctioning authority shall insist on submission of leave applications in time by the officers concerned and the applicant should be informed of the same ; Clause III of the Circular also provides that LWA on medical certificate for long periods including piece-meal applications shall be processed immediately and forwarded to the Heads of Departments/ Government so that the chance to seek a second medical opinion by the leave sanctioning authority in terms of Rule 118(a) Part I KSR will not be lost.

3. Aggrieved by the loss of service benefits, the applicant had filed OA(EKM) 1592/2016 in which the Hon'ble Tribunal has passed orders directing the Government to consider and pass orders on Annure A9 review application . As per the Tribunal direction Government have considered the appeal petition filed by the applicant and issued GO read as 5<sup>th</sup> paper above rejecting her review petition on the basis of the circular read above against which the applicant filed the OA(EKM) No 1052/2017 before the Hon'ble Kerala Administrative Tribunal and the Hon'ble Tribunal vide Judgment dated 13.09.2023 in the above OA has observed that applicant has submitted the consolidated application on direction from the respondents on the basis of the direction issued by

Government and therefore it could not be said that the applicant was responsible for denial of opportunity to get a second medical opinion. It is also observed that the applicant could not have anticipated a contingency which would require leave for the entire period covered by the consolidated application and further opined that the Annexure A7 order refusing to grant LWA on medical certificate and in converting the leave applied as LWA otherwise than on medical certificate on condition that the applicant will not be entitled to the service benefits for the said period as unsustainable and set aside the the Annexure A7 & A11 orders and directed Government ( 1<sup>st</sup> respondent) to pass orders granting LWA on medical certificate to the applicant for the period from 01.07.2013 to 18.08.2015.

4. Government have examined the matter in detail and are pleased to accord sanction Leave Without Allowance to the applicant Smt.Ajitha.A, Head Clerk, Puthunagaram Grama Panchayat ,Palakakad on Medical Certificate under the provisions of KSR Part I Rule 88 from 01.7.2013 to 18.08.2015 on the condition that the leave period will not be considered for earned leave.

5. The Final Order of the Hon'ble Kerala Administrative Tribunal vide paper read as 6<sup>th</sup> above is thus complied with.

order of the Governor)

LEENA N P

ADDITIONAL SECRETARY

To:

1. The Advocate General, Kerala , Ernakulam (with Covering Letter)
2. The Principal Director , Local Self Government Department,  
Thiruvananthapuram
3. The Principal Accountant General (A&E/Audit) Kerala,
4. The Deputy Director , Local Self Government Department, Palakkad  
/Thiruvananthapuram/ Thrissur,

5. Finance Department (vide U O Remarks No.e-2657145/Dev1/2024-Fin dated 23.03.2024)
6. Information & Public Relations (Web & New media)Department
7. The Executive Director, Information Kerala Mission.
8. Stock File/Office Copy(File No. 218/EPA1/2016/LSGD)

Forwarded /By order

Signed by

Danuja M S

Date: 22-06-2024 17:02:18

Section Officer