

MOST IMMEDIATE



GOVERNMENT OF KERALA

10460
4/6/10

No.32869/EW2/10/LSGD

Local Self Government (EW) Department
Thiruvananthapuram, Dated, 31.05.10.

From

The Secretary to Government

To

The Chief Engineer (Administration)
Public Works Department
Thiruvananthapuram.

Sir,

Sub:- Local Self Government Department – Engineering Wing – Junior
most 2nd Grade Overseer of PWD – Absorbed in Local Self
Government Engineering Cadre – reg

- Ref:-
1. GO(Ms).27/08/PWD dated, 29.07.08
 2. GO(Ms).42/10/2010 dated, 04.05.10
 3. Orders dated, 25.05.2010 of the Division Bench of Hon'ble High Court in W.A. No.770, 772, 773, 774, 775, 776, 778 & 779/2010 in WP(C).13517/2010 filed by Sri. Sajan K. Peter, 2nd Grade Overseer and others.

I am to forward herewith a copy of the reference (3) cited and to request you to take immediate action to relieve all the 2nd Grade Overseers who ^{are} absorbed in Local Self Government Department Engineering Cadre vide the GO 2nd cited in compliance with the directions of the Hon'ble High Court.

Yours faithfully

REHNA BEGUM. S
Under Secretary
For Secretary to Government

Approved for issue

Section Officer.

[Handwritten signature]

Encl on No: EA2/5188/2008 dated 4-6-2010

Copy forwarded to All Superintending Engineers. They are directed to relieve all 2nd grade Dimer under orders of deployment to LSGD, except those who have filed SLPs in the Apex

AA

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D.C.R.

2/6 CE
A & B BAND ADMIN.

EA2
3/6

Court and obtained stay orders. The
posting orders of IInd Grade D'man vide
Order NO: ES/2002/08/CE/LSGD dated
18-3-2010 is available in the ~~Net's~~
website of PWD.

^{4/6/10}
for Chief Engineer

4/6/10

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Att: Sri. Sathiesh chandran J.S. Lson.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present :

THE HON'BLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THE HON'BLE MR. JUSTICE P.S.GOPINATHAN

Tuesday the 25th day of May 2010/4TH JYAISHTA 1932

MA.No.772/2010

Against Judgment dated 23/04/2010 in WPC.13517/2010 of this Court.

APPELLANT/PETITIONER:

SAJAN K.PETER, II GRADE DRAFTSMAN PWD
(ROADS SUB DIVISION), ADOOR RESIDING AT
KUMARAMPARAMBIL, NEDUMON P.O., ERNAKULAM.

BY ADV. SRI. K.SHAJ

RESPONDENTS/RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT LOCAL SELF GOVERNMENT
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.
2. THE CHIEF ENGINEER, PWD ADMINISTRATION,
THIRUVANANTHAPURAM.
3. THE CHIEF ENGINEER,
LOCAL SELF GOVERNMENT DEPARTMENT,
THIRUVANANTHAPURAM.

BY GOVT. PLEADER

Prayer for Interim relief in the WRIT APPEAL that in the circumstances stated in the appeal memorandum the High Court be pleased to grant stay of further proceedings pursuant to Exhibit P2 order to the extent it affects the petitioner by not disturbing the present posting of the petitioner/appellant and also to issue a direction to the third respondent to consider Exhibit P3 representation submitted by the petitioner and pass appropriate orders in accordance with law and pending disposal of this Writ Petition pending disposal of this writ appeal.

This WRIT APPEAL coming on for admission on 25/05/2010 upon perusing the appeal memorandum and the Court on the same day passed the following:

p.t.o.



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C.N.RAMACHANDRAN NAIR &
P.S.GOPINATHAN, JJ.

.....
Writ Appeal Nos.770,772,773,774,775,776,
778 & 779 of 2010
.....

Dated this the 25th day of May, 2010.

ORDER

Ramachandran Nair, J.

Government Pleader takes notice.

2. All the appellants are Second Grade Overseers/Draughtsman in PWD. PWD is divested of much of their work on account of formation of local authorities like Grama Panchayats, Block Panchayats etc., which are directly taking up developmental work which was otherwise done by the State Government through it's Public Works Department. In order to cater to the needs of the local authorities, State Government has formed Kerala Local Self Government Engineering Service. The proposal under the Rules is to deploy the excess technical staff at lower levels to the newly formed service so that they could be accommodated in the Panchayats and other Local Self Government agencies. In fact, corresponding Rule is made for deployment of excess number of Engineers from the PWD to the Local Self Government Department to

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serve the local authorities. As part of the exercise, Engineers were proposed to be deployed retaining the seniors with PWD and sending the juniors to the Local Self Government service. Deployment of Engineers from the PWD to the new Department was challenged in this court and this court rejected their claim. However, SLP filed before the Supreme Court is still pending and even though a status quo order is passed, Supreme Court has not interdicted interim arrangements being made by the department. Following the Division Bench judgment, the Writ Petitions filed by the appellants were dismissed by the learned Single Judge, against which these Writ Appeals are filed.

3. In the normal course we should follow the Division Bench judgment and dismiss the Writ Appeals. However, since the Division Bench judgment is pending in SLP before the Supreme Court, we feel ultimate decision in the Writ Appeal should be taken only after the Supreme Court disposes the appeals. However, Government Pleader pointed out the difficulties experienced by the Government in as much as the new service is lacking sufficient technical persons to be engaged in Grama Panchayat, Block Panchayat etc., while PWD has excess staff. Since PWD has discontinued work with local authorities, the

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latter have to necessarily engage technical staff from the newly formed service to carry out work. Since the claim of the Government is that there is excess staff at all levels with PWD, necessarily they will have to be deployed to the new service and new recruitment in PWD should not be done because there is likelihood of these people coming back, if the Supreme Court allows similar claim by the Engineers. We, therefore, pass an interim order permitting the Government to deploy the appellants and similarly placed persons from PWD to Local Self Government Department, but with specific prohibition against Government from filling up any of the vacancies consequently arising, by direct recruitment or otherwise, in PWD. In other words, those posts will be either abolished or will be kept in a dormant stage until final decision is taken by the Supreme Court.

Sd/-

C.N. Ramachandram No

Judge

Sd/-

P. S. Gopinathan

Judge

pms

22/5/10

(true copy)

[Signature]

Assistant Registrar