



GOVERNMENT OF KERALA

Abstract

WP(C) No.16627/2021 filed by Sri. Jameskutty E.A, LPSA (Rtd) – Judgement complied - Orders issued.

FINANCE [PENSION-B] DEPARTMENT

G.O.(Rt) No.7638/2021/Fin

Dated, Thiruvananthapuram, 26/11/2021

Read:- 1. Judgement dated 12.08.2021 in WP(C) No.16627/2021.
2. Notes submitted by Sri. Jameskutty E.A towards the hearing conducted on 17.11.2021 in compliance of Judgement in WP(C) No.16627/2021 dated 12.08.2021.

ORDER

Sri. Jameskutty E.A retired from the post of Lower Primary School Assistant on 30.06.2018 from Central U.P School, Pulapatta, an aided school. He had filed WP(C) No.16627/2021 before the Hon'ble High Court of Kerala for reckoning his prior provisional service (1 year 9 months and 20 days) through employment exchange for pensionary benefits.

2) As per the Judgement read 1st above, the Hon'ble High Court directed the 1st respondent (Finance Department) to take up, consider and pass orders on Ext.P5 representation preferred by the petitioner with notice to the petitioner and after hearing him through any appropriate means, including video conferencing, within a period of three months from the date of receipt of a copy of the judgement. As such the petitioner has submitted Notes towards the hearing conducted on 17.11.2021. In the notes, it is submitted that at the time of the provisional service of the petitioner, the provisional service was eligible for pension as per GO(P)No.543/89/Fin dated 20.11.1989 and hence he is eligible for counting of his provisional service for his pensionary benefits, as his provisional service will come in between 20.11.1989 and 01.10.1994 and he had started his regular service before 01.10.1994.

3) Government have examined the matter in detail. As per GO(P)No.543/89/Fin dated 20.11.1989, it was ordered that the provisional service of an employee with or without break will be reckoned as qualifying service for pensionary benefits. This was issued when the Government Decision No.2 under Rule 33 Part I KSRs was in existence according to which provisional service on regularisation or

followed by regular appointment with or without break in the same category of post would be treated as officiating service for the limited purpose of granting of increments subject to conditions stated therein. Since the said Government Decision was deleted with effect from 01.10.1994 as per GO(P)No.540/94/Fin dated 30.09.1994, Government had cancelled GO(P)No.543/89/Fin dated 20.11.1989 w.e.f 01.10.1994 vide GO(P)No.3116/1998/Fin dated 15.12.1998.

4) As per GO(P) No. 540/94/Fin dated 30.09.1994, the Government Decision No. 2 below Rule 33, Part I, KSRs was deleted and thus all provisional service with or without break till 30.09.1994 will be reckoned for increment if followed by regular appointment before 01.10.1994 subject to the condition that Educational Qualification, Method of Appointment and Scale of Pay in both provisional and regular appointments should be the same. Also as per GO(P)No.2357/99/Fin dated 25.11.1999 the provisional service with or without break rendered by the employees upto 30.09.1994 which qualifies for earning increments in terms of Government Decision No.2 under Rule 33 Part I, KSRs will be reckoned as Qualifying Service for pension irrespective of dates of retirement after 20.11.1989.

5) Even though the petitioner had different spells of employment service before 01.10.1994, it is not reckonable for pension as the method of appointment in Government School and aided school are entirely different. Moreover employment service will be considered only with Government service. Also since the regular appointment of the petitioner is in an aided school, the employment service period cannot be considered for granting increments and service which cannot be considered for granting increments in the regular service shall not be reckonable for pensionary benefits as per GO(P)No.2357/99/Fin dated 25.11.1999.

6) In the above circumstances, the request of the petitioner (Ext.P5) does not merit consideration and is rejected. The Order of the Hon'ble High Court of Kerala, dated 12.08.2021 thus stands complied with.

(By order of the Governor)

A. SHIBU

ADDITIONAL SECRETARY (FINANCE)

To

The Principal Accountant General (A&E), Kerala, Thiruvananthapuram.

The Accountant General (Audit-II), Kerala, Thiruvananthapuram.

The Advocate General, Kerala, Ernakulam.

Sri. Jameskutty E.A, Ettiyil House, Konikazhi P.O, Pulapatta, Palakkad - 678632.

General Education (B) Department.

The Nodal Officer, www.finance.kerala.gov.in for publishing in the Website.

Stock File/Office Copy (E-1843225).

Forwarded/By Order



Accounts Officer