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17/11/14



GOVERNMENT OF KERALA

Abstract

Social Justice Department - Establishment – Final order of the Hon'ble Kerala Administrative Tribunal in TA. No. 4825/12 filed by Smt.Jasmin.K - complied with - Orders issued.

SOCIAL JUSTICE (A) DEPARTMENT

G.O (Rt) No.664/2014/SJD.

Thiruvananthapuram, Dated: 11.11.2014.

- Read:**
1. Final order dated 19.05.2014 in T.A. No. 4825/12 filed by Smt.Jasmin.K.
 2. Representation dated 31.05.2014 submitted by Smt.Jasmin.K.
 3. Letter No. A VI (1) 33716/D5/GW dated 30.08.2014 from the Kerala Public Service Commission.

ORDER

Smt.Jasmin.K, Peedikayil House, Paduthodu, Vennikulam, Pathanamthitta, has filed T.A. No. 4825/12 before the Hon'ble Kerala Administrative Tribunal with the contention that the applicant was a candidate included in the rank list published by the Kerala Public Service Commission on 17.12.2004 for appointment to the post of Child Development Project Officer under Social Justice Department. She was included as rank no. 2 in the supplementary list for Muslim. The previous rank list for the above post was published in the year 1984, as per which 15 candidates from that list were appointed on 21.12.1984. The last candidate advised was at MR1 15 - open competition in the 100 point roster, for applying communal rotation in appointments. While so, one Sri.M.P.Joseph and another has filed O.P.No. 4877 of 1987 before the Hon'ble High Court praying for a direction to report two vacancies to the PSC, pursuant to the interim order of the Hon'ble High Court two vacancies were reported. The PSC advised candidates to those vacancies and turns of those candidates were MR1 - 16 Muslim and MR1 - 17 open competition. The original petition was ultimately dismissed on 04.12.1987. In view of the dismissal of the original petition, the advices of two candidates at MR1 - 16 Muslim and MR1 - 17 open competition were cancelled and they were never appointed. But without noticing the cancellation of the aforementioned advices, the advice started at MR1 - 18 Ezhava in the next rank list issued on 17.12.2004. The last candidate advised was at the roster point MR1 - 53 open competition. In the meantime, the first person in the Muslim Supplementary list was advised at MR1 - 46 Muslim. The applicant contented that one turn of the Muslim was wrongly overlooked and hence she is entitled to be advised and appointed and that if the first among the Muslim candidates from the list should have been advised in the turn of MR1 - 16 Muslim, she would have been advised at MR1 - 46 Muslim turn. Hence, she has requested to follow the rules of reservation and to rectify the mistakes committed, by not advising a Muslim candidate.

2. The Hon'ble Kerala Administrative Tribunal as per the order read above has directed the Government to consider appointing the applicant invoking its power under Rule 39 of the KS& SSR to one of the existing vacancies in the post of CDPO in Social Justice Department within three months from the date of receipt of a copy of the order.

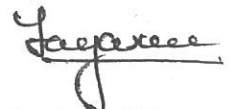
3. Government have examined the case in detail. The appointment to the post of CDPO is done as per the advice of Kerala Public Service Commission. In the instant case the applicant contented that she has not got appointment because one turn of Muslim was wrongly overlooked. As the PSC is the rightful authority to advise candidates as per reservation/rotation to the respective communities, and the PSC have not categorically reported that the candidate was overlooked for advise, Government cannot therefore interfere in the matter. Hence there is little scope for invoking Rule 39 of KS& SSR in this case as the said Rule is to be invoked in cases where there are compelling reasons justifying such action. Hence the applicant cannot be considered for appointing as CDPO by invoking Rule 39 of KS & SSR. The direction contained in the order of the Hon'ble Kerala Administrative Tribunal is complied with accordingly.

(By order of the Governor)
Dr.K.M.ABRAHAM
Additional Chief Secretary

To

Smt.Jasmin.K, Peedikayil House, Paduthodu.P.O, Vennikulam, Pathanamthitta - 689 544.
The Director of Social Justice, Thiruvananthapuram.
The Advocate General, Thiruvananthapuram (with C/L)
The Principal Accountant General (Audit), Kerala, Thiruvananthapuram.
The Accountant General (A & E), Kerala, Thiruvananthapuram.
Information and Public Relations Department, Web and New Media (for publishing in the website).
The Stock file/Office copy.

Forwarded/By order,



Section Officer