



GOVERNMENT OF KERALA

Abstract

Higher Education Department - Private Aided Colleges -Judgment dated 2-3-2018 in WP(C) 4697/2018 filed by Sri.T.C.George ,Clerk, St Peter's College Kolenchery-Disposed- Orders issued.

HIGHER EDUCATION (D) DEPARTMENT

G.O.(Rt)No.

958/2018/HEDN Dated,Thiruvananthapuram,16/05/2018

- Read: 1 Judgment dated 2-3-2018 by Honourable High Court of Kerala in WP(C) 4697/2018 filed by Sri T C George.
2 Letter No. E5/22894/2017/Coll.Edn. Dated 4.4.2018 from the Director of Collegiate Education

ORDER

Sri T.C.George, Clerk, St Peter's College Kolenchery has filed WP(C) 4697/2018 relating to his promotion as done by the Manager as UDC in St Peter's College, Kolenchery. The Honourable Court has disposed the matter with direction to the 4th respondent ie Secretary, Higher Education to take up, consider and pass orders on Ext.P7 appeal by the petitioner with notice to the petitioner and the Manager, within a period of two months from the date of receipt of a copy of this judgment.

In accordance with the direction in the Judgment read as 1st above, the petitioner and the first respondent were called for a hearing on 4-5-2018. Sri.T.C.George, the petitioner has attended the hearing. But the Manager, St Peter's College, Kolenchery has not attended the hearing. The Official from the Directorate of Collegiate Education has attended the hearing.

During the hearing,Sri. T.C.George, the petitioner, has claimed that he is eligible for promotion as per the Provisions of Rule 18 (c) of KS&SSR since it has been stated that a probationer in any category or a service or class of service is eligible to count for probation, his service, if any, performed otherwise than in a substantive capacity on regular appointment to a higher category of the same service or class of service, as the case may be. Hence the petitioner has requested to consider his case in accordance with the above provision

The Director of Collegiate Education has reported that Sri.M.M.Mathew and Sri. T.C.George, who were earlier working as Lab/Library Assistant in St Peters College, Kolenchery were promoted

as LDC with effect from 1.6.2015 and 1.10.2015 respectively by the Management and the same has been approved by the Director of Collegiate Education.

Later the Management has promoted Sri.M.M.Mathew as Senior Clerk on 1.4.2016 and Sri.T.C.George as Senior Clerk on 1.6.2015. As per the Provisions in the Statutes of Mahatma Gandhi University, one year probation is necessary for promotion to the post of Senior Clerk. Hence Sri.M.M.Mathew will complete the one year probation on the AN of 31.3.2016 and Sri.T.C George will complete the one year probation on the AN of 30.10.2016 only, if the incumbents have not taken any other leave than Casual Leave. Since the Management has promoted the incumbents before the date of completion of probation, the Director of Collegiate Education has rejected the approval and directed the Management to resubmit the proposal after declaration of probation and revising the promotions accordingly. Later the Management has revised the date of promotion of Sri.M.M.Mathew as 1.6.2016 (Date of deceleration of Probation in the post of LDC 31.5.2016) and the same has been approved by the Director of Collegiate Education, as per Order No E5/22894/17 dated 12.3.2018.

But Sri.T.C.George has filed the present Writ Petition, against the direction given by the Director of Collegiate Education. In the mean time Sri. Binoy Chacko, who was senior to the petitioner was promoted as LDC on 10.9.2016, on attaining 50 years of age (DOB 10.9.1996). It has been reported that the promotion was made to the same vacancy in which Sri. T. C.George was promoted.

The Director of Collegiate Education has reported that one year probation within two years of service is envisaged for the employees entering service in Aided Colleges in Class I, II and III posts. It has also been stipulated in the statutes that the persons who have not completed the one year probation is not eligible for promotion.

Government have examined the matter in detail with respect to Exhibit P7 of the Writ Petition, arguments raised by the petitioner during the hearing & relevant Rules/Provision in Statutes and with reference to the report of the Director of Collegiate Education. As per the Rule 28(a) of KS&SSR it is stated that no member of a service shall be eligible for promotion from the category in which he was appointed to the service unless he has satisfactorily completed his probation in that category. On scrutiny of the matter it is seen that the action of the Management in promoting Sri.T.C.George as Senior Clerk without completing the one year probation in the post of LDC is against Rules/provisions in the Statutes.

It is seen that the probation of the incumbent in the post of L D Clerk gets completed on 31.10.2016 only, provided that the incumbent has

not taken any leave other than Casual leave. Hence the promotion of the incumbent to the post of Senior Clerk, can be done only after 1.11.2016, if there is a clear vacancy. Since the action of the Manager in promoting Sri. T.C.George as Senior Clerk, before the completion of the probation is against the Rules/Provisions in the Statutes, the Director of Collegiate Education is hereby informed that the Manager, St Peter's College, Kolenchery may be directed to cancel the promotion of Sri. T.C.George which has been done before the completion of the one year period of probation. The Manager may also be given direction to promote the petitioner as per the seniority, and that too to a clear vacancy that had occurred after the successful completion of probation of the incumbent. The directions of the Honourable High Court of Kerala in the Judgment dated 2.3.2018 in WP(C) 4697/2018 filed by Sri.T.C.George is complied herewith.

By order of the Governor
MARY LALY C Y
UNDER SECRETARY

- To:-
- 1) The Director of Collegiate Education, Thiruvananthapuram(with SB of Sri T C George)
 - 2) The Deputy Director of Collegiate Education, Ernakulam
 - 3) The Advocate General, Kerala, Ernakulam (with Covering letter)
 - 4) The Principal/Manager, St Peter's College, Kolenchery 682311.
 - 5) Sri T C George, Clerk, St Peter's College, Kolenchery 682311
 - 6) Stock File/Office copy

Forwarded/By order


Section officer

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