



GOVERNMENT OF KERALA

Abstract

Finance Department – The benefit granted based on court orders or otherwise by reckoning past service of State Government Employees in State Public Sector Undertakings, State Autonomous or similar bodies as qualifying service for the purpose of pension- review of such cases – Orders issued.

FINANCE (PENSION - B) DEPARTMENT

G.O.(P).No.39/2021/Fin. Dated, Thiruvananthapuram, 26/02/2021

Read:- 1.G.O(Rt)No.308/2016-Home dtd 30/01/2016.
2. SRO No. 415/2018 in G.O(P)No.93/2018/Fin dated 16/06/2018
3. Judgment of the Hon'ble High Court, Ernakulam dated 08/09/2020 in OP(KAT)No.277/18 and connected cases.
4. Opinion of Law (Suit-I) Department dated 30/12/2020, No.13665/Suit 1(2)/2020/Law

ORDER

The Hon'ble High Court in Mohammed Basheer V.State of Kerala (2014(4) KHC 658) interalia directed to count past service in KSRTC and other such Public Undertakings as qualifying service along with the service rendered under the Government of Kerala for the purpose of computing pensionary benefits. Government had filed Special Leave Petition CC No.23003-23004/2015 against the judgement of the Hon'ble High Court of Kerala dated 28/10/2014 in OP(KAT)770/2013, 1570/2013 before the Hon'ble Supreme Court of India, but the same was dismissed by the Hon'ble Court vide judgement dated 7/8/2015 in SLP(C)No.23003-23004/2015 of the Hon'ble Supreme Court. Later Government had filed Review Petition(C)2108-2109/2015 against the dismissal of Special Leave Petition, which was also dismissed by the Hon'ble Court vide judgement dated 27/04/2016. The petitioner had approached, by filing Contempt case (C)No.1511/2015, the Hon'ble High Court of Kerala against Government alleging non-compliance of judgement dated 28/10/2014 in OP(KAT)770/2013, 1570/2013. In order to avoid contempt of court procedure Government accorded sanction for counting of prior service in

Kerala Road Transport Corporation along with Government service in respect of Sri.Mohammed Basheer for pensionary benefits as per reference 1st cited.

As per existing provision past service under the autonomous bodies and public sector undertakings cannot be reckoned as qualifying service along with state service. In the judgement dated 28/10/2014 in OP(KAT) No.770/2013(2) the Hon'ble High Court has observed that the Note below Rule 20, Part III KSRs' has no statutory validity. In order to protect the interest of the state in similar cases, Government have decided to incorporate the note as a part of Rule 20 Part III KSRs accordingly, Government have modified Rule 20, Part III KSRs vide reference 2nd cited. But following the footsteps of Mohammed Basheer V.State of Kerala (2014 (4) KHC 658) the Hon'ble Administrative Tribunal has allowed a number of original applications and the Government had implemented the orders by reckoning past service of the applicants in autonomous bodies and public sector undertakings as qualifying service for the purpose of pension and DCRG.

The Hon'ble High Court in the judgement read 3rd above held that,

- (i) The decision in Mohammed Basheer OP No.10540/1998 and WP(C)6536/2007 are overruled.
- (ii) The decision in P.K.Babu and Dileeb.B are affirmed.

(iii) Rules 11 and 20 of Part III KSR read along with G.O(P)No.369/87/Fin dated 31/03/1987, G.O(P)No.383/89/Fin dated 29/08/1989 and G.O(P)No.228/2001/Fin dated 02/02/2001 do not provide for reckoning of the past service, of State Government Employees, in State Public Sector Undertakings, State Autonomous or similar bodies as qualifying service for the purpose of their pension and Death Cum Retirement Gratuity payable as retirement benefits for service rendered in the State Government. The Law Department in their opinion read 4th above has pointed out that the decision in Mohammed Basheer is no longer a good law w.e.f 08/09/2020, as it was on the basis of mistaken understanding of the Rule. Based on the High Court verdict, all cases in which benefits were given in compliance of the court order can be reviewed by the Administrative Department.

Government have examined the matter in detail and are pleased to order that all cases in which benefits, by reckoning of the past service of State Government Employees in State Public Sector Undertakings/ State Autonomous or similar bodies as qualifying service for the purpose of their

pension and Death Cum Retirement Gratuity, were allowed in compliance of the court order and Government decisions already taken based on the judgement in Mohammed Basheer's case shall be reviewed by the Administrative Department/Heads of Department concerned w.e.f the date of judgement ie, 08/09/2020, as the applicants/petitioners are not entitled to the benefits given on the basis of a judgement which is overruled. But monetary benefit disbursed prior to 1st March 2021 need not be recouped.

By Order of the Governor,
RAJESH KUMAR SINGH IAS
ADDITIONAL CHIEF SECRETARY (FINANCE)

To

The Principal Accountant General (A&E), Thiruvananthapuram.
The Accountant General (Audit-II), Thiruvananthapuram.
The Advocate General, Kerala, Ernakulam.
The Advocate General, Kerala, Thiruvananthapuram.
The Liaison Officer, Office of the Advocate General, Kerala, Ernakulam,
The Administrative Department/Heads of Department concerned
The Nodal officer, www.finance.kerala.gov.in for publishing on the website.
Stock File / Office Copy (PEN-B2/103/2017-FIN (E-583574)).

Forwarded/By Order



Section Officer