



GOVERNMENT OF KERALA



Abstract

Health & Family Welfare Department - Medical Education Service - Establishment - Final Order dated 17.11.2021 of the Hon'ble Kerala Administrative Tribunal in OA No. 2130/2021 filed by Smt. Bilkheez Beegum S. - Complied with - Orders issued.

HEALTH & FAMILY WELFARE (B) DEPARTMENT

G.O.(Rt)No.751/2022/H&FWD Dated,Thiruvananthapuram, 02-04-2022

- Read:-
1. Representations dated 06.07.2021, 28.10.2021 and 24.11.2021 from Smt. Bilkheez Beegum S.
 2. Letter No.C5/OA 2130/2021/AGO dated 24.11.2021 from the Advocate General, Kerala, Thiruvananthapuram.
 3. Final Order dated 17.11.2021 by the Hon'ble Kerala Administrative Tribunal in OA 2130/2021
 4. Letters No.H1/5307/2021/DME dated 15.12.2021 and 01.02.2022 from the Director of Medical Education.

ORDER

The Hon'ble Kerala Administrative Tribunal in its order read 3rd paper above has directed the first respondent i.e., Secretary, Health and Family Welfare Department to consider and pass appropriate orders on Annexure-A6 statutory appeal, in accordance with law, after affording an opportunity of hearing to the applicant and other affected parties, if any, within a period of three months from the date of receipt of a copy of this order.

2. As directed and as authorized, the applicant was heard by the Joint Secretary, Health & Family Welfare Department on 16.12.2021. The grievance of the applicant is the reassignment of seniority in the cadre of Laboratory Technician Grade-II and cancellation of the promotion order issued by the Director of Medical Education dated 23.12.2014. Smt. Bilkheez Beegum while working as Lab Technician applied for Leave Without Allowance for three years from 21.03.2005 but the same was rejected as she had not completed three years of service. She reported for duty on 20.07.2005 and again entered on Leave Without Allowance from 01.08.2005 with medical certificate. But she did not turn up for duty after the expiry of the leave for 119 days. Hence she was on unauthorized absence from 28.11.2005. Then she physically

reported for duty on 06.02.2008. The Director of Medical Education finalized the disciplinary action initiated against Smt. Bilkheez Beegum for unauthorized absence by barring one increment without cumulative effect under KSC (CC&A) Rules, 1960. Smt Bilkheez Beegum completed her probation on 08.03.2010.

3. As per G.O.(Rt)No.1766/2015/H&FWD dated 11.06.2015, Government had regularised the unauthorised absence of Smt. Bilkheez Beegum during the period from 21.03.2005 to 19.07.2005 and from 20.02.2005 to 20.02.2008 as Leave Without Allowance otherwise than on Medical Certificate relaxing Rule 88(ii) Part I KSR on condition that the leave period will not count for increment, higher grade, pension and accumulation of earned leave. Smt. Bilkheez Beegum was promoted to the post of Lab Technician Grade-I with effect from 01.12.2013. But when the seniority list of Lab Technician Grade-I was prepared, the seniority of Smt. Bilkheez Beegum was calculated from the date on which she had rejoined service i.e., 21.02.2008 instead of considering the date of advice. Though Smt. Bilkheez Beegum submitted objection in this regard before the Director of Medical Education, the seniority and date of promotion of the applicant was modified and the order issued by the Director of Medical Education granting promotion with effect from 01.12.2013 was cancelled.

4. Government have examined the matter in detail. As per Circular No. 72/05/Fin dated 30.12.05, it has been clarified that Leave Without Allowance sanctioned under Rule 88/88 (ii), Part I, KSRs otherwise than on Medical Certificate will not count for increment, higher grade, pension and accumulation of Earned Leave. However, the period will be considered as qualifying service for seniority, promotion and half pay leave. Therefore, the past service of the applicant prior to the period of absence need not be forfeited. Hence, the Leave Without Allowance sanctioned under Rule 88(ii) of Part I KSRs will not affect the advice seniority of a person admissible to him under the provisions of Rule 27(c) of Part II KS&SSRs. The seniority of Smt. Bilkheez Beegum is eligible to be calculated from the date of advice.

5. In the above circumstances, Government are pleased to dispose the Annexure A6 appeal by issuing direction to the Director of Medical Education to cancel the promotion order issued as per Annexure A2 and to restore the seniority of Smt. Bilkheez Beegum S in the cadre of Laboratory Technician Grade-II.

6. The order dated 17.11.2021 of the Hon'ble Kerala Administrative Tribunal in OA No. 2130/2021 read as 3rd paper above is complied with accordingly.

(By order of the Governor)
DILIP. C.D.
JOINT SECRETARY

The Advocate General, Thiruvananthapuram (with C/L)
The Director of Medical Education, Thiruvananthapuram.

The Principal, Government Medical College, Kollam.
Smt. Bilkheez Beegum S, Laboratory Technician Grade I, Government
Medical College, Kollam.
The Principal Accountant General (Audit/A&E), Kerala,
Thiruvananthapuram.
The Information & Public Relations Department (Web & New Media)
Stock file/Office Copy.

Forwarded/By order

Section Officer