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KERALA WATER AUTHORITY

**Jalabhavan
Thiruvananthapuram – 695033
Kerala - India**

PROCEEDINGS OF THE MANAGING DIRECTOR

PRESENT : ANIE JULA THOMAS IAS

Sub: KWA– Admn – Promotion to the post of Mechanical Superintendent – complying the common Judgment in WP(C)No.3633/2023 and 21838/2023 Compliance Order issued– Reg

No. KWA-JB/4319/2023-E5

Dated:13-06-2024

Read: 1. WP(C)No.3633/2023 filed by Sri.Y.K.Shaji and others.
2. Order No: 4600/E5/2023/KWA Dated 20.06.2023 of MD, KWA, TVPM.
3. WP(C)No.21838/2023 filed by Sri.Aneesh U.D. and others.
4. Common Judgment in WP(C)No.3633/2023 and 21838/2023.
5. Final Seniority list of Operator/Head Operator/Mechanical Superintendent as on 01.05.2022.
6.This office proceedings.No.KWA/JB/4350/2024-E5 dated,31.05.2024.
7.Ltr.No.KWA/WSSD/AEE/AB1/1951/Operator dt.27.11.2023 of the Assistant Executive Engineer ,WS Sub Division, Kanjiramkulam.

ORDER

Kerala Water Authority is having a sanctioned strength of 1727 Operators and 345 Head Operators, at present there are 6 sanctioned post of Mechanical Superintendent. The promotion avenue of Head Operator is Mechanical Superintendent under the special rules 1966 and Technical Special Rules 2023.

Sri Y K Shaji and Sri T K Jayakumaran are persons with disability in the cadre of Head Operator who are far seniors have approached the Hon'ble High Court of Kerala for the promotion to the post of Mechanical Superintendent.

Sri.Y.K.Shaji and others had filed a WP(C)No.3633/2023 for seeking the following reliefs.

- i. To issue a Writ of Mandamus or any other appropriate writ, order or direction to Respondent No.1 to sanction the Kerala Water Authority Technical Service Rules, 2018 within such time fixed by this Honorable Court;
- ii. To issue a Writ of Mandamus or any other appropriate writ order or direction to respondents 2, 3 and 4 to fill up the 2 vacancies of Mechanical Superintendent by following seniority in the cadre of Head Operator who possess the essential qualification of 2 years experience in the concerned cadre and observing the principles of reservation for persons with disability as mandated under the Persons with Disabilities Act, 2016 within such time fixed by this Hon'ble Court;
- iii. Considering the exigencies and necessity for urgent consideration of the grievance voiced in this Writ Petition (C), production of English translations of documents in vernacular, may kindly be dispensed with for the time being;
- iv. Such other reliefs which this Hon'ble Court may deem fit and proper in the interest of justice.

Sri Aneesh U D and Sri Prasad K V, Head Operators have filed a case seeking promotion to the post of Mechanical Superintendent in WP(C) No:27004/2022. The Hon'ble High Court of Kerala in its judgment dated 01.09.2022 ordered that "Having heard the learned Standing Council also, this writ petition is disposed of with a direction to the 1st respondent to take up Exts P3 and P4 representations submitted by the petitioners and consider and pass orders on the same in accordance with law. Appropriate orders shall be passed within period of 2 months from the date of receipt of a copy of this judgment".

The Hon'ble High Court of Kerala wide its interim order dated 03.02.2023 in WP(C) No:3633/2023 ordered that "There will be interim order directing the respondents to ensure that while filling up the vacancies of Mechanical Superintendent, the provisions of right of the persons with Disabilities Act, 2016 will be followed. The reservation contemplated under persons with Disabilities Act, 2016 has to be followed".

Accordingly the petitioners Sri Aneesh U D and Sri Prasad K V were heard and compliance order was issued vide read 2nd above. Aggrieved by the same Sri Aneesh U D and Sri Prasad K V had filed WP(C)No.21838/2023 for seeking the following reliefs.

- (i) To issue Writ of Certiorari or any other order or direction calling for the records leading to Exhibit P5 and quash the same;
- (ii) To issue a Writ of Mandamus or any other order or direction directing the 2nd respondent to promote petitioners to the post of Mechanical Superintendent in Kerala Water Authority forthwith;
- (iii) To issue a Writ of Mandamus or any other order or direction directing the 2nd respondent not to fill Mechanical Superintendent post vacancies in Kerala Water Authority.
- (iv) To issue a Writ of Mandamus or any other order or direction directing the 2nd respondent to fill Mechanical Superintendent post in Kerala Water Authority as per The Kerala Water Authority Technical Service Rules, 2023;
- v. Dispense with filing of the translation of vernacular document;

vi. To grant such other and further reliefs as are just, proper and necessary in the facts and circumstances of the case.

As the common issues are involved, both these writ petitions are taken up and disposed of by a common Judgment. Vide read 4th above, the Hon'ble High Court of Kerala has delivered common Judgment dated 18.10.2023 and as follows.

"In that view of the matter, these writ petitions are ordered and the following directions are issued:

(a) There will be a direction to respondents 2, 3 and 4 to fill up the first vacancy of Mechanical Superintendent by following seniority in the cadre of Head Operator who possess the essential qualification in the concerned cadre and observing the principles of reservation under Act 49 of 2016.

(b) The 2nd vacancy be filled up in accordance with the method of appointment as enumerated in Rule 3 Category II Technical Subordinate Service.

(c) W.P(C) No.21838 of 2023 will stand disposed of in terms of the above directions.

In compliance of judgement in WP(C).No.17901/2024 the senior most Head Operator Sri.Sajeev.R,Head Operator,PH Section Kollam who comes under purview of Right to Disability Act, 2016 has been promoted as Mechanical Superintendent on 31.05.2024 vide read 6th cited above and retired from service on 31.05.2024.

Vide read 7th above, The Assistant Executive Engineer, WS Sub Division, Kanjiramkulam has submitted the attested copy of Disability certificate of Sri.Y.K.Shaji, Head Operator, WS Section, Aralummoodu.

In the common judgement vide read 4th above clearly specified that "As the total cadre strength of Mechanical Superintendent is six number ,one vacancy is earmarked for a physically disabled person . Accordingly the following senior most eligible Head Operators are hereby promoted as Mechanical Superintendent

1.Sri Y K Shaji SL. No:33 Head Operator, WS Section Aralummoodu, under WS Sub Division, Kanjiramkulam is promoted as Mechanical Superintendent in the scale of pay 41300-97800 and posted to WS Section Neyyattinkara under WS Sub Division Neyyattinkara in the existing vacancy.

2.Sri Aneesh U.D SL. No:124 Head Operator, PH Section Thrithala, under PH Sub Division, Guruvayur is promoted as Mechanical Superintendent in the scale of pay 41300-97800 and posted to PWSS Section Malampuzha under PH Sub Division Palakkad in the existing vacancy.

The above promotion is purely provisional as per Rule 28 Part II KS & SSR and is liable to reversion on genuine circumstances. The pay shall be fixed as per the existing rules in force. The date of reliving and joining duty of the incumbent shall be reported to this office. The Controlling Officer are directed to obtain declaration from the incumbent to agree to refund the excess payment if any noticed on subsequent scrutiny and audit of fixation of pay consequent on promotion and it should be pasted to the Service Book. The declaration shall be countersigned by the controlling officer. The copy of declaration attached here with and necessary entries may be made in the Service Book of the incumbent.

**Hence the common judgment of the Honorable High Court of Kerala in
WP(C)No. 3633/2023 and 21838/2023 is hereby complied with.**

ANIE JULA THOMAS IAS
MANAGING DIRECTOR KWA

- To 1. Sri.Y.K.Shaji, Head Operator (through controlling officer)
2. Sri.Aneesh.U.D., Head Operator (through controlling officer)
- Copy To: 1. The Chief Engineer, Southern Region, Thiruvananthapuram/Central
Region, Kochi/Northern Region, Kozhikkode.
2. The Superintending Engineer, P.H.Circle,
Thiruvananthapuram/Thrissur/Palakkad.
3. The Chief Law Officer, KWA, Thiruvananthapuram.
4. The Law Officer ,Legal Cell Kochi.
5. The Deputy Law Officer, KWA, Thiruvananthapuram.
6. The Executive Engineer, Water Supply Division,
Neyyattinkara/P.H.Division, Thrissur/P.H.Division,Palakkad.
The Assistant Executive Engineer, Water Supply Sub Division,
7. Kanjiramkulam./Water Supply Sub Division Neyyattinkara/P.H.Sub
Division, Guruvayoor/P.H.Sub Division, Palakkad.
The Assistant Engineer, Water Supply Section, Aralummoodu/Water
8. Supply Section Neyyattinkara/P.H.Section, Thrithala/PWSS Section,
Malampuzha.

PA to MD/PA to Joint MD/PA to TM/CA to CE(HRD & GL)/DCE(GL)/ Sr.AO/
AO(Admn.)/ JSI/File.