



GOVERNMENT OF KERALA

Abstract

FINANCE DEPARTMENT - BENEFIT OF TIME BOUND HIGHER GRADE – COUNTING OF WAR/MILITARY SERVICE AS QUALIFYING SERVICE - JUDGEMENT DATED 25/03/2015 OF THE HON'BLE SUPREME COURT IN CIVIL APPEAL NO.3136/2015 (SPECIAL LEAVE PETITION (C) NO.3969 OF 2013) AND OTHER CAs – COMPLIED WITH-ORDERS ISSUED

FINANCE (PRC A) DEPARTMENT

G.O (P) No. 408/2015/Fin

Dated, Thiruvananthapuram 14 /09/2015.

- Read: (i) G.O (P) No.764/81/(384)/Fin dated 16/11/1981
(ii) G.O (P) No.132/91/Fin dated 21/2/1991
(iii) GO (P) No.930/93/Fin dated 8/12/1993
(iv) Circular No.95/97/Fin dated 16/12/1997
(v) GO (P) No.622/03/Fin dated 20/11/2003
(vi) Circular No.46/08/Fin dated 08/08/2008.

ORDER

As per the Government Order read as first paper above, war/military service which counts for civil pension will also be reckoned for computing the 13 year qualifying service for the grant of benefit of higher grade in respect of Non-gazetted officers with effect from 1/7/1979 and the Civilian Service under military will not be counted for higher grade. Vide the Government Order referred as second, this benefit has been extended to the Gazetted officers also. As per the Government Order read as third, this benefit has been limited as first time - bound higher grade. Vide the circular cited as fourth, it is clarified that all employees who have got appointment in civil posts after discharge from military service and who are eligible to get their military service counted for higher grade and civil

pension should return the mustering out concessions for getting those benefits. Vide Government Order referred as 5th paper above, it is clarified that with effect from 1/3/1992 war/military service which counts for civil pension will be reckoned for one higher grade only in respect of Gazetted and Non-gazetted officers.

(2) The conditions for reckoning of military service to assess civil pension are contemplated in Rule 8 (C) of part III Kerala Service Rules. As per this Rule Ex-service men who were re-employed in state service to count their military service along with the state service for pension provided that they should have been terminated from military service before a pension is earned and subject to refund of bonus or gratuity, if any, received from military service. If they were re-employed in state service after a pension is earned Rule 8 (C) is not applicable. They are permitted to draw military pension and state pension. In such cases state pension will be given by reckoning the service under the State Government only.

(3) Hon'ble Supreme Court in its judgement dated 25/3/2015 has observed that the Government Orders and the Rule 8 (C) operate in different fields, i.e. grant of higher grade and grant of pensionary benefits. While Rule 8 (C) applies to computation of pension on retirement from civil service in the state and does not bar grant of an appropriate higher grade of pay to a re-employed ex-serviceman in civil service, whereas the Government Orders operate with respect to grant of higher grade of pay alone and does not contemplate condition for grant of pension. The Government Orders cannot be read with the rule to erroneously conclude that unless the retiral benefits from military service are refunded, the military service of such ex-serviceman would not be considered as qualifying for grant of higher grade. Thus the stipulation contained in Rule 8 (C)

cannot be read with the eligibility condition for grant of higher grade of pay in the absence of any specific incorporations in the GO (P) No. 622/03/Fin dated 26/11/2003.

(4) Government have examined the matter in detail and are pleased to clarify that the ex-servicemen who were under war/military service got appointment in the state civil service in Gazetted and Non-gazetted posts are eligible to get the benefit of first time - bound higher grade by counting their war/military service without refunding their mustering out benefits. The civilian service under military will not be counted for granting higher grade.

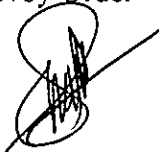
By order of the Governor,

B.SRINIVAS
Secretary (Finance Expenditure)

To

The Principal Accountant General (Audit), Kerala, Thiruvananthapuram
The Accountant General (A&E), Kerala, Thiruvananthapuram
Heads of Department
Departments in Secretariat
The Nodal Officer, www.finance.kerala.gov.in for publishing in the website
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Section Officer