



GOVERNMENT OF KERALA

Abstract

Fisheries Department - Judgement dated 21-06-2022 of the Hon. High Court of Kerala in WP(C) No. 20111/2022 filed by Shri. Sunil T K & others- Complied with-Orders Issued.

FISHERIES & PORTS (A) DEPARTMENT

G.O.(Rt)No.67/2023/F&P Dated,Thiruvananthapuram, 23-01-2023

- Read: 1) Letter No. Mfed/E4/3736/2020 dated 21-10-2020, 29-12-2020, 08-01-2021, 02-02-2021 & 10-02-2021 of the Managing Director, Matsyafed.
- 2) Letter No. DFTVM/2841/2020-F3 dated 06-01-2021 of the Director of Fisheries.(Exbt. P5)
- 3) Judgement dated 21-06-2022 of the Hon.High Court of Kerala in WP(C) No. 20111/2022.
- 4) Letter No. A1/259/2020/F&P dated 08-08-2022
- 5) GO(Rt) No. 492/2022/F&P dated 10-08-2022.

ORDER

Matsyafed as per letter read as 1st paper above submitted a proposal for regularization of 90 employees in 13 categories who have been working on temporary basis for more than 10 years. Director of Fisheries as per letter read as 2nd above has forwarded the proposal for the consideration of Government.

2. On receipt of the proposal, Government examined the matter at its appropriate level. As per the Special Rule of Matsyafed issued as per GO(P) No.5/2016/F&PD dated 17-02-2016, the appointment to which the direct recruitment is resorted to shall be made only on the basis of the select list furnished by the Kerala Public Service Commission from time to time. Based on the special rule, the vacancies in which direct recruitment is resorted to has been reported to Kerala Public Service Commission. Further, the Honourable Supreme Court of India in its Judgment in Upendra Sigh Vs. State of Bihar & Others, has declared that "Law pertaining to regularisation has now been authoritatively determined by a Constitution Bench judgement of this Court in

Secretary, State of Karnataka & Others Vs Umadevi & Others (2006 (4) SCC (1)) on the application of law laid down in that case, it is clear that the question of regularisation of daily waged appointed contrary to law does not arise.” On considering the above, Government decided to reject the proposal for regularisation of daily waged employees of Matsyafed.

3. Mean while, the daily waged employees of Matsyafed filed WP(C)No. 20111/2022 and the Hon. High Court in its Judgment read as 3rd paper above has directed the State Government to take up and dispose of Exbt. P5 proposal if it is still pending after affording the petitioners, as also similarly situated persons and the competent official of the 3rd respondent, an opportunity of being heard; thus culminating in an appropriate order and necessary action thereon as expeditiously as is possible, but not later than three months from the date of receipt of a copy of the judgment. It was also ordered that if Exbt.P5 has already been adverted to and a decision taken thereon, then a copy of the same shall be communicated to the petitioners and to the 3rd respondent by the competent Authority of the 1st respondent, within a period of one month from the date of receipt of a copy of judgment.

4. The petitioners, similarly situated persons and the competent official of the Matsyafed were not heard as the Government have already taken a decision on 15/03/2021 to reject the proposal for regularisation. Hence in compliance of the Judgement dated 21-06-2022 in WP(C)No.20111/2022, the decision regarding rejection of proposal has been communicated to the Director of Fisheries, Managing Director of Matsyafed and to the Petitioners in WP(C)No.20111/2022 as per letter read as 4th above.

5. Judgement of the Hon. High Court in WP(C)No.20111/2022 is complied with accordingly.

6. Government Order read as 5th above stands cancelled.

(By order of the Governor)
T S PRAVEEN KUMAR
DEPUTY SECRETARY

To:

The Advocate General, Kerala, Ernakulam (with C/L)
The Director of Fisheries, Thiruvananthapuram
The Managing Director, Matsyafed, Thiruvananthapuram

The Petitioners in WP(C) 20111/2022 (through the MD, Matsyafed)
The Principal Accountant General (Audit), Kerala, Thiruvananthapuram
The Accountant General (A&E), Kerala, Thiruvananthapuram

Forwarded /By order

Section Officer