



കേരള ഗസറ്റ് KERALA GAZETTE

അസാധാരണം EXTRAORDINARY

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No. 1909

DIRECTORATE OF INDUSTRIES AND COMMERCE

NOTIFICATION

DIC/548/2021-EE1.

Dated, Thiruvananthapuram, 1st July, 2021.

The following are the Reviewed Select List of officer for promotion to the category of Foreman (Tool Room) for CFSC in the Department of Industries and Commerce. Reviewed the select list prepared by the Departmental Promotion Committee (Lower) on 30-12-2015 on the basis of the direction of the Hon'ble Kerala Administrative Tribunal in O.A. No. 08/2016 dated 7-4-2017 and the direction of the Hon'ble High Court of Kerala in O.P. (KAT) No. 289/2018 & O.P. (KAT) No. 158/2017 dated 18-11-2020, by the Departmental Promotion Committee



(Lower) in its meeting held on 20-4-2021 and approved by the Government as per the Government Order (Rt.) No. 661/2021/ID dated 29-6-2021.

I. FOREMAN (TOOL ROOM) -2014

One post of Foreman (Tool Room) was fell vacant on 1-4-2011 due to retirement of Sri P. T. Gopinathan, Director of Industries and Commerce issued circular No. ED3/8978/10 dated 15-11-2011 inviting willingness from qualified persons for being appointed by transfer to the said post. Five incumbents submitted their willingness in the prescribed format. The Director of industries and Commerce had been taken the matter to the notice of the Government vide Letter No. EE2/17630/2012 dated 14-3-2013 and sought advice and clarification on points whether from which categories among the five applicants can be considered for promotion to the post of Foreman (Tool room) and Foreman (Rubber). The Government vide letter No. 8648/A2/2013/ID dated 16-5-2013 had informed that the eligible and qualified candidates from the category of Junior Co-Operative Inspector (in the order of seniority) might be considered for appointment as Foreman (Tool room) and Foreman (Rubber) at Common Facility Service Centres. Government further instructed that the appointment to the post of Foreman (Tool Room) and Foreman (Rubber) can only be made from the select lists since these two posts are included in the Special Rules for Kerala Industries Service.

But the appointment to these posts was not made in due course and hence Sri Syam, S., Junior Co-operative Inspector and another namely Sri Abhilash Varma, P. I., Junior Co-operative Inspector who were included later in the select list approached the Honourable Kerala Administrative Tribunal and filed O.A. No. 1960/2013 and the Honourable Kerala Administrative Tribunal disposed the case on 11-9-2013.

Accordingly Departmental Promotion Committee (Lower) held Ad hoc meeting on 4-3-2014 and published select list No. EE1/17630/12 dated 16-5-2014 for Foreman (Tool Room) and Foreman (Rubber) including the name of Sri Syam, S. as Sl. No.1 in the both posts.

Based on the select list, Sri Syam, S., Junior Co-operative Inspector was appointed to the post of Foreman (Tool Room) vide proceedings No. ED4/8978/10 dated 2-7-2014.

Against the non-inclusion of his name in the select list and the said order of appointment, Machine Operator Grade-II (Rubber) Sri Renjith Raju filed O.A. No. 1121/14 before the Honourable Kerala Administrative Tribunal to consider his name for promotion to the post of



Foreman (Tool Room). Honourable Kerala Administrative Tribunal on 4-12-2014 in O.A. No. 1121/14 directed the 2nd respondent i.e., Director of Industries and Commerce to place Annexure A15 (representation of Sri Renjith Raju dated 26-6-2014) before a Review Departmental Promotion Committee and cause its disposal within two months. The Honourable Tribunal also directed that Sri Renjith Raju and Sri S. Syam are to be given an opportunity to file the representations pointing out their respective claims. Both Sri Renjith Raju and Sri Syam, S. filed their representations.

Ad hoc Departmental Promotion Committee convened on 18-8-2015 and the committee examined the matter on the basis of G.O. (Ms.) No. 52/2015/ID dated 30-4-2015 and G.O. (Ms.) No. 54/2015/ID dated 6-5-2015. So the Departmental Promotion Committee reiterated its earlier stand that Sri Syam, S. as eligible candidate to the post of Foreman (Tool Room) and decided to retain him. But necessary proceedings had not been issued to comply the court order dated 4-12-2014 in O.A. No. 1121/14 in the matter.

Against this, Sri Renjith Raju approached the Honourable Kerala Administrative Tribunal for Contempt of Court Case against the Convener of Departmental Promotion Committee (Lower) i.e., Director of Industries and Commerce. Only then it was realized that the entire direction of Tribunal and representations which were dealt in a different file was inadvertently not placed before the DPC.

In the light of Contempt of Court case filed by Sri Renjith Raju, Machine Operator Grade-II (Rubber), The Review Departmental Promotion Committee (Lower) met at 2:30 PM on 30-12-2015. The Committee considered the names of persons from the field of choice for reviewing the select list prepared by the Departmental Promotion Committee on 18-8-2015 on the basis of the direction of Honourable Kerala Administrative Tribunal in O.A. No. 1121/14 dated 4-12-2014 and the G.O. (Ms.) No. 54/14/ID dated 6-5-2015 of Industries (A) Department.

The Departmental Promotion Committee found that Sri Renjith Raju was the only incumbent who had become qualified and eligible to the post of Foreman (Tool Room) at the time of occurrence of vacancy i.e., on 1-4-2011. The Committee decided to cancel the select list prepared on 18-8-2015 and to prepare the new list for the post of Foreman (Tool Room). The Committee decided to include Sri Renjith Raju in the select list for the post of Foreman (Tool Room).



Sri Syam, S. who was aggrieved by the decision taken by Review Departmental Committee held on 30-12-2015 to exclude his name for promotion to the post of Foreman (Tool Room) approached the Kerala Administrative Tribunal with a prayer to direct the respondents to retain his name in the select lists for promotion to the post of Foreman (Tool Room) and permit him to continue in that post and filed O.A. No. 8 of 2016.

Kerala Administrative Tribunal In its Judgment Dated 7-4-2017 in O.A. No. 8 of 2016 and in the Contempt Petition No. C.P. (C) No. 193 of 2015 in O.A. No. 1121/2014, the proceedings of the Departmental Promotion Committee held on 30-12-2015 were set aside with a direction to convene a meeting of the Departmental Promotion Committee to take a fresh decision in accordance with the findings in the judgment after considering the various aspects as already directed, from among persons who have expressed their willingness pursuant to the letter dated 15-11-2011 of the second respondent. Also directed that, the same should be done within a period of three months from the date of receipt of a certified copy of the order. Till then the applicant will not be reverted from the post of Foreman (Tool Room).

In the light of the order in O.A. No. 8 of 2016, the Contempt Petition filed by Sri Renjith Raju was closed. Against this order Sri Renjith Raju filed case No. O.P. (KAT) 158/2017 in the Honourable High Court of Kerala.

One of the finding in the judgment dated 7-4-2017 in O.A. No. 8/2016 is that the posts of Part-time Contingent Employees, Last Grade servants, Lower Division Clerk and Upper Division Clerk will also come under the Industries Subordinate Service and hence the incumbents who hold that posts are also eligible to be considered for the post of foreman (Tool Room). Hence the Director of Industries & Commerce and the Government also filed appeal against the judgment of the Tribunal dated 7-4-2017 in the High Court as O.P. (KAT) 289/2018.

The Honourable High Court of Kerala in its judgment dated 18-11-2020 in the appeal petition ordered that “.....As we have already found that the clarification issued by Government regarding the status of the Machine Operator Grade-I & II can at best operate only prospectively i.e., on or w.e.f. 6-5-2015 the 1st respondent would be the person who qualified first as his probation was duly declared on 10-3-2012. In that view of the matter, we have no hesitation to hold that the 1st respondent was entitled to be considered for appointment by transfer as Foreman (Tool Room) and the direction issued by the Tribunal warrants no interference. The Original Petitions fail and they are accordingly dismissed. No costs.”



As per the Tribunal's judgment dated 7-4-2017 in O.A. No. 8/2016, direction to convene a meeting of the Departmental Promotion Committee to take a fresh decision in accordance with the findings of the Honourable KAT after considering the various aspects as already directed, from among persons who have expressed their willingness pursuant to the letter dated 15-11-2011 of the second respondent (i.e., Director of Industries and Commerce).

Accordingly a Review Departmental Promotion Committee is convened on 20-4-2021. The Committee considered the findings of the Honourable Kerala Administrative Tribunal in its judgment dated 7-4-2017 in O.A. No. 8/2016 and in the light of the direction of the Honourable High Court of Kerala in its judgment dated 18-11-2020 in O.P. (KAT) No. 289/2018 & O.P. (KAT) No. 158/2017.

As per Rule 28(b)(i)7(vi) of the Kerala State & Subordinate Service Rules 1958 is "When there are more than one feeder category carrying different scales of pay, they shall be shown in separate lists and persons in a lower scale of pay shall be appointed only after appointing all persons on a higher scale of pay, unless the Special Rules prescribe a ratio or any special order of preference for each feeder category". As such the persons who have expressed their willingness pursuant to the letter dated 15-11-2011 have included in the separate field of choice and the review Departmental Promotion Committee considered the same.

The review Departmental Promotion Committee decided to cancel the select list prepared on 30-12-2015 and to prepare the new select list for the post of Foreman (Tool Room). The Committee decided to include the following incumbent in the select list for the post of Foreman (Tool Room) for the year-2014 against the one vacancy in the said post based on the findings of the Honourable Kerala Administrative Tribunal in its judgment dated 7-4-2017 in O.A. No. 8/2016 and in the light of the direction of the Honourable High Court of Kerala in its judgment dated 18-11-2020 in O.P. (KAT) No. 289/2018 & O.P. (KAT) No. 158/2017.

1. Sri Syam, S.

BHANDARI SWAGAT RANVEERCHAND I.A.S.,

*Director of Industries and Commerce
& Convener of Departmental Promotion Committee (Lower)*

