



## GOVERNMENT OF KERALA

### Abstract

General Education Department - Higher Secondary Education - Establishment - OA(E) Nos .648, 695 and OA Nos. 1115, 1260, 1276, 1367, 1742, 1744 and 1802 of 2015 - Order of Hon'ble Kerala Administrative Tribunal- Complied with - Orders issued.

### GENERAL EDUCATION (U) DEPARTMENT.

G.O (Rt) No.5035/2015/G.Edn. Dated,Thiruvananthapuram 26/10/2015.

Read: (1) GO(P) No.143/2015/G.Edn. Dated 27/5/2015

(2) Proceedings No.AD C6/ 5697/2015/HSE dated 21/09/2015 from Director, Higher Secondary Education, Thriuvananthapuram.

(3) Letter No. 52982/U1/2015/G.Edn. Dated 29/09/2015

(4) Order dated 01/10/2015 of the Hon'ble Kerala Administrative Tribunal in OA(E) Nos.648, 695,OA Nos. 1115, 1260, 1276, 1367, 1742, 1744 and 1802 of 2015

(5) GO(Rt) No.4757/2015/G.Edn. Dated 07/10/2015

(6) Decision taken by the committee constituted as per GO(Rt.)No.4757/2015/G.Edn dated 07.10.2015

### ORDER

As per G.O read as 1<sup>st</sup> paper above, Government issued transfer norms/guidelines for the General Transfer of Higher Secondary School Teachers. This order was issued based on the proposal of Director, Higher Secondary Education, which was framed in accordance with the minutes of discussion conducted by Director, Higher Secondary Education with the representatives of service organizations on 27/04/2015. Based on the above transfer norms Director, Higher Secondary Education made the general transfer of Higher Secondary School Teachers during the academic year 2015-16 vide proceedings read as 2<sup>nd</sup> paper above. But it had come to the notice of the Government that so many anomalies and mistakes have crept in while issuing the transfer order. Hence Government directed the Director of Higher Secondary Education to freeze the transfer order for the time being and issue after the local body elections duly rectifying the defects, vide Government letter read as 3<sup>rd</sup> paper above.

2. Some teachers filed different OAs before the Hon'ble Kerala Administrative Tribunal challenging the transfer order issued by the Director of Higher Secondary Education. The Hon'ble Kerala Administrative Tribunal, as per the common order read as 4<sup>th</sup> paper above, directed that Government will forthwith form a Committee to look into all aspects and that Committee will evaluate the procedure so far adopted and find out whether the transfers are foolproof and will give ample opportunity to the teachers who are desirous to get transferred to submit their options properly and with full knowledge of the existing vacancies in different schools. The Hon'ble Kerala Administrative Tribunal has made this aspect clear by ordering that since the various aspects including seniority and other relevant factors will have to be considered by the authority while effecting transfers. The fate of the teachers who have joined already in the transferred stations also will be a matter for the Committee to consider and Committee will take appropriate decision in the matter. It has also been directed that the said exercise will be completed with utmost expedition. All the steps so far taken will be assessed on the merits and wherever defects and anomalies have to be rectified appropriate direction will be issued. The Hon'ble Kerala Administrative Tribunal has therefore directed the Director, Higher secondary Education, the 3<sup>rd</sup> respondent in OA No. 1276/2015 to forthwith implement the directions issued by the Government as per Circular No. 52982/U1/2015/G.Edn dated 29/09/2015 and he will have to wait for further orders from the Government after the entire exercise is completed. The Committee to be appointed is also free to consider whether there are any anomalies in the transfer norms under which the transfers are being effected. The Hon'ble Kerala Administrative Tribunal has also directed that appropriate direction will be issued by the Committee of the Government itself after looking in to the grievance of the teachers who have been transferred and were not able to join in any stations.

3. In compliance with the common order read as 4<sup>th</sup> paper above, Government constituted a committee as per the Government Order read as 5<sup>th</sup> paper above to examine all the aspects regarding the General transfer of Higher Secondary School Teachers/Higher Secondary School Teachers (Junior) 2015-16 as ordered by the Hon'ble Kerala Administrative Tribunal and as directed, therein, complete the exercise with utmost expedition.

4. The committee met on 08.10.2015, 09.10.2015, 14.10.2015, 16.10.2015 and 19.10.2015. The committee examined all the aspects. The committee sought the details of the procedure so far adopted by Director, Higher Secondary Education for issuing transfer order on 21.09.2015. It was noticed that the existing vacancies in different schools were not published by Director, Higher Secondary Education before inviting the applications for General

Transfer. Hence the teachers did not get ample opportunities to submit their options properly. After the Committee was constituted, 145 complaints/representations were received and were scrutinized by the committee. On scrutiny of the complaints received and the process undertaken by the Director, Higher Secondary Education, the committee found out the following anomalies/mistakes in the transfer order issued by the Director, Higher Secondary Education.

- i. The existing vacancies of HSSTs set apart for General Transfer have not been published by DHSE before inviting the application for General Transfer.
- ii. Thereby the teachers did not get ample opportunities to submit their option properly.
- iii. As per the Transfer norms, 10% of the total vacancies in a district shall be set apart for compassionate transfer. However it has not been correctly followed. This resulted in many teachers getting transfers /retention at their present station on compassionate ground. This spoiled the chances of eligible teachers who opted home station as per seniority criteria. In some extent, this led to a situation that in certain disciplines no eligible teacher got transfer to their home district wherein all the vacancies were seen filled up on compassionate ground.
- iv. In the case of inter district transfers, some juniors were seen transferred to their choice of station over looking their seniority.
- v. As per norms issued by Government, it has been stipulated that General transfer of HSSTs shall only be made by online method. It was seen that the online method was limited for inter district transfers. Ultimately, this resulted in many complaints alleging denial of opportunities to select their schools opted in their home stations.
- vi. By resorting to intra - district transfer manually, anomalies and mistakes like double posting, school not of their choice, school at faraway places, posting without vacancy in the concerned subject, posting in aided higher secondary schools etc occurred

5. Of the 145 complaints/representations received by the Committee, the nature of complaints/representations is as follows.

1. Thrown out cases	-38
2. Home district transfer request	-18
3. Compassionate ground transfer request	-21
4. Convenient posting transfer request	-54
5. Other request including request for retain in school	-14
Total-145	

6. The committee considered the grievances and examined those that require rectification/correction. After having examining the anomalies/ mistakes, committee decided to give following directions to carry out rectification and completion of the transfer process in a fair, transparent and foolproof manner vide 6<sup>th</sup> paper above.

- (1) *The existing vacancies of Higher Secondary School Teachers set apart for General Transfer shall be published in website. The teachers who have completed the respective station more than five years shall be treated as open vacancy.*
- (2) *The teachers who opt Home Districts and those who are thrown out from Home Districts should be given opportunity to exercise option to their district and schools of their choice.*
- (3) *Seniority of the teachers shall be the criteria for allotment of schools of their choice in accordance with the option exercised.*
- (4) *As envisaged in the guideline, vacancies for resorting transfer on compassionate ground should be calculated in district wise, which should not exceed 10% of the total vacancies. Therefore, the compassionate transfers already granted should be reviewed by the committee constituted vide GO(Rt) No.4226/15/G.Edn dated 18.09.2015 for the purpose. The case of those teachers who are retained on compassionate ground should also be reviewed by the committee constituted as per the above Government Order*

dated 18.09.2015 and should be brought under the 10% quota earlier mentioned. In any case the compassionate transfer should not be exceed 10% of the total vacancies in a district for transfer on compassionate grounds. The priority list prepared by the Committee constituted (vide GO(Rt) No.4226/15/G.Edn dated 18.09.2015) should be published in website for the full knowledge of all concerned. The priority list of exempted categories mentioned in clause 2(X)in G.O.(P) No.143/2015/G.Edn dated 27/05/2015 should also be published in the website.

(5) Transfer under preferential category and under compassionate ground should not be clubbed. Transfer under preferential category, viz SC/ST employees, Physically Handicapped, Inter – caste married employees, Ex-servicemen, relatives of Jawan, Spouse of Freedom Fighter or son/daughter who look after Freedom Fighter, parents of Mentally Retarded Children, President/ General Secretary of recognised Service organisations, parents of Deaf and Dumb Children and Widow/Widower etc. should be resorted as per the P&ARD guidelines now in force. Such category of employees shall be given a protection to continue in a particular station for a period of 5 years. He shall not ordinarily be transferred until he completes 5 years of duty/ service in a station / district. He can be transferred within 5 years only to accommodate employees belonging to the categories who have preferential claim for transfer. After expiry of 5 years of service in a particular station, a candidate belonging to the preferential category can not claim any protection against transfer and he can be transferred even to accommodate a person not belonging to a preferential category. In other words a person belonging to a preferential category ceases to be a person belonging to that category after the expiry of 5 years of service in that station and his position becomes the same as that of a general candidate.

(6) In the case of preferential categories mentioned (5) above, beneficiaries of

Inter Caste marriage should be decided in accordance with GO(MS, No.106/76/PD dated 01.04.1976 and subsequent amendments, if any, to the Government Order.

- (7) The anomaly regarding the transfer of a junior overlooking his/her senior in the inter district transfer should be rectified.
- (8) The school ranking of the school optees should be decided in accordance with general seniority/preferential claim.
- (9) The teachers who were thrown out as a result of Principal promotion or appointment should be given appointment in accordance with the transfer norms.
- (10) Allotment of home district against their districts choice will be reviewed as per seniority. The name of the school and name of the teachers who transferred should be entered in the transfer order along with the school code.
- (11) The 145 complaints/representations received as on 19.10.2015 by the Committee are to be forwarded to DHSE for reference. The representations, if any, likely to be received on a later date shall also be send to DHSE.
- (12) NIC shall be entrusted with the work on the whole transfer process through online method as stipulated in the General guidelines in a time -bound manner as indicated below.
  1. Time for exercising school options to home district – 3 days
  2. Time for exercising option for thrown out- 3 days
  3. Time for filing complaint, if any, after publishing provisional list-3 days
  4. Final transfer list shall be published thereafter.

7. The anomalies/mistakes occurred in the transfer order dated 21/09/2015 of Director, Higher Secondary Education should be rectified in accordance with the above mentioned decision of the Committee and the provisional General Transfer list should be published. The teachers should be given sufficient time to submit complaints, if any, and after rectifying the same the final general transfer shall be made with the concurrence of Election Commission, if necessary.

8. The directions of the Hon'ble Kerala Administrative Tribunal read as 4<sup>th</sup> paper is complied with accordingly.

(By order of the Governor)  
K.JANARDHANAN,  
Under Secretary to Government.

To

The Advocate General, Kerala Administrative Tribunal,  
Thiruvananthapuram (with C/L).

✓ The Director, Higher Secondary Education, Thiruvananthapuram.

The Principal Accountant General ( Audit), Kerala, Thiruvananthapuram

The Principal Accountant General (A&E), Kerala, Thiruvananthapuram.

The Information Officer, Web and New Media, Information and Public  
Relations Department ( For uploading in Government Website)

Smt. Ganga.N.K, Higher Secondary School Teacher (Chemistry) GG

Higher Secondary School, Cotton Hill, Thiruvananthapuram. (Representative of  
applicants in OA No. 1276/2015).

Sri. Baiby Thomas, Higher Secondary School Teacher (Commerce) Mahatma  
Gandhi Higher Secondary School, Palai (Representative of applicants in  
OA No. 648/2015).

Sri Pradeep.P.R, Higher Secondary School Teacher (Chemistry) GM

Higher Secondary School, Vettikavala, Kottarakara, Kollam (Representative of  
applicants in OA No. 1367/2015).

All the applicants concerned in the above OAs (Through Director, Higher  
Secondary Education, Thiruvananthapuram)

Stock File/ Office Copy.

Forwarded / By Order,

  
Section Officer  
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