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Government of Jammu and Kashmir
Public Works (R&B) Department
Civil Secretariat, J&K

Subject: Termination of Mr. Mohammad Akbar Malla, Works Supervisor, PW(R&B) Department, Kashmir

Government Order No: 164 -PW(R&B) of 2021
Dated: 30 -04-2021

WHEREAS, Sh. Mohammad Akbar Malla was appointed as Works Supervisor by the Chief Engineer, PW(R&B) Department Kashmir in the year 1997 vide their Order No. K-26(Estab) of 1997 dated 19.05.1997 issued by Chief Engineer, R&B Department Kashmir; and

WHEREAS, SHO, Police Station, Rajbagh, Srinagar vide letter No. 2242/5A/RB/09 dated 10.10.2009 requested Chief Engineer, R&B Kashmir to provide service particulars/documents of Sh. Mohammad Akbar Malla, Works Supervisor in view of complaint against the official under investigation with them about variation of Date of Birth; and

WHEREAS, the Superintending Engineer R&B Circle Ganderbal-Bandipora vide his letter No. 689-91 dated 05.05.2010 forwarded the original Service Book along with original Matriculation Certificate of Sh. Mohammad Akbar Malla, Works Supervisor R&B Division Ganderbal; and

WHEREAS, as per the service records, the Date of Birth of Sh. Mohammad Akbar Malla was recorded as 01.04.1967 while as the actual Date of Birth as per the Matriculation Certificate produced by the official was 04.05.1961; and

WHEREAS, the said Matriculation Certificate was forwarded to J&K State Board of School Education for verifying its authenticity/genuineness and the same was furnished by J&K BOSE vide their Letter No. J-955 dated 22.11.2011

according to which the Date of Birth recorded in the service records was found in contravention to Matriculation Certificate; and

WHEREAS, the Superintending Engineer R&B Circle Ganderbal-Bandipora was instructed by Chief Engineer R&B Kashmir to constitute a committee at Circle Level under the Chairmanship of Superintending Engineer and re-examine the case of Works Supervisor *ab-initio* meticulously; and

WHEREAS, the Superintending Engineer vide his letter No. 6731-34 dated 23.08.2012 furnished the report of the committee, according to which, the DOB i.e. 01.04.1967 recorded in the Service Book of the official was found fictitious as the same has been recorded as per Matriculation Certificate which belongs to some other person namely Mohammad Akbar Malla S/o Abdul Razak Malla while as the parentage of Works Supervisor is Abdul Rehman Malla and his actual Date of Birth is 04.05.1961; and

WHEREAS, the report further suggested that as per the actual D.o.B of the official, he was over aged and required relaxation of upper age bar from the competent authority and it is felt that the concerned official has deliberately produced matriculation certificate of some other person of his name and got the Date of Birth recorded in his service book probably in connivance with the concerned dealing assistant to avoid the sanction for relaxation in upper age bar and paving out way to unauthorized extension in his service; and

WHEREAS, after examination of the case, Sh. Mohammad Akbar Malla, Works Supervisor was charge sheeted by the department vide No. PW(R&B)HRM/43/2013 dated 19.03.2015 which was duly replied by him whereby the official denying all the allegations of producing any certificate bearing Date of Birth as 01.04.1967 and requested that he has been appointed after completing all the procedural formalities; and

WHEREAS, vide Government Order No. 161-PW(R&B) of 2015 dated 30.06.2015, the then Chief Engineer R&B Kashmir Sh. S.K.Razdan was appointed as inquiry officer to conduct inquiry into the matter and to furnish the report within one month; and

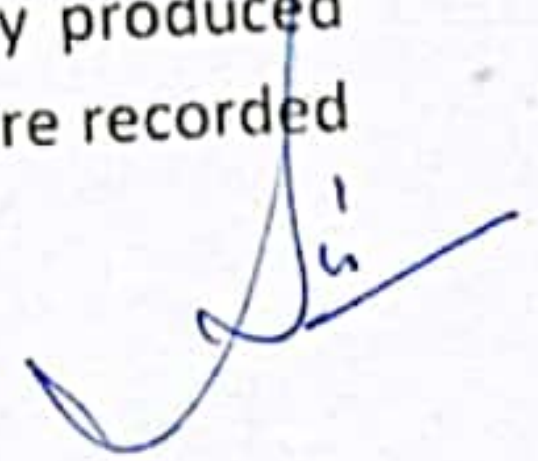
WHEREAS, in the mean time the Chief Engineer R&B Kashmir vide his letter No. CE/RBK/ES/7703-04 dated 01.05.2015 intimated that the instructions in the instant matter are awaited from Administrative Department and the Executive Engineer was advised to Stop the pay dues in favour of the official. The Superintending Engineer has reported that the family of the Works Supervisor is in a miserable conditions due the stoppage of the pay dues and has requested for issuance of instructions in this behalf; and

WHEREAS, the Chief Engineer submitted the inquiry report vide No. CE/RBK/ES/26214 dated 10.11.2015 and reported that the Executive Engineer (R&B) Division 3rd vide his communication No. 840 dated 29.05.1997 had reported to the Chief Engineer (R&B) Kashmir that the appointee had furnished the affidavit with the plea that his actual name is Sh. Mohammad Akbar Malla S/o Ab. Rehman Malla, R/o Yangoora Ganderbal and requested for issuance of necessary corrigendum in this regard. Accordingly, a correction slip to the order No. K-26(Estab) of 1997 dated 19.05.1997 was issued by the Chief Engineer (R&B) Kashmir vide No. CE/6733-37 dated 01.08.1997 which reads as under:-

"Please substitute the name of appointee in the office order No. K-26(Estab) of 1997 dated 19.05.1997 as under:

*Sh. Mohammad Akbar Malla
S/o Ab. Rehman Malla
R/o Yangoora Ganderbal"*

WHEREAS, the report further elucidate that the appointee was supposed to furnish DOB as well as PRC before the DDO (Executive Engineer R&B Div 3rd) which he had not done. Instead of providing the certificates, the appointee at that time had produced an affidavit deliberately for necessary corrections in appointment order and the appointee seems to have deliberately produced the fake certificate of some other name sake, particulars of which are recorded on the service book of appointee; and



WHEREAS, the Chief Engineer, PW(R&B) Department Kashmir has further submitted that the Works Supervisor has not taken any undue financial benefit under the garb of writing of wrong date of birth till date; and

WHEREAS, the inquiry officer (Chief Engineer R&B) recommended that the post facto sanction of relaxation of upper age bar may be considered in his favour under rules besides, the following punishment be imposed on him:

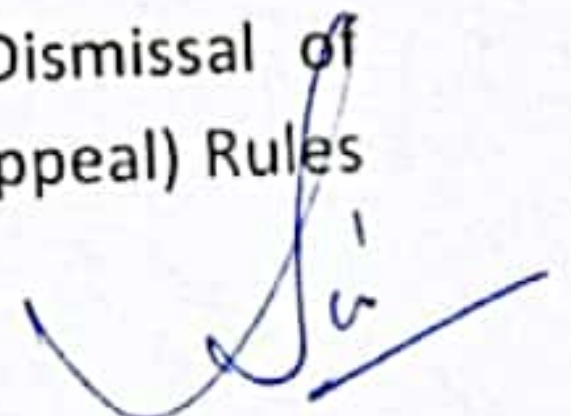
1. Reversion to lower grade w.e.f. March-2013 or forfeiture of 2nd Insitu promotion due to him w.e.f. 01.06.2015.
2. Non sensitive posting in future.

WHEREAS, aggrieved of the stoppage of pay dues in his favour w.e.f Feb. 2013, Sh. Mohammad Akbar Malla, Works Supervisor approached to the Hon'ble Court of Law for seeking relief through the medium of a writ petition bearing SWP No. 2245/2017 titled Mohammad Akbar Malla V/s State & others and the Hon'ble High Court was pleased to pass the interim directions on 03.11.2017 as under:

"In the meantime, subject to objections and till date before the Bench, the status of the petitioner with regard to his services shall not be disturbed and respondents shall also consider release of legitimately earned wages in favour of the petitioner"

WHEREAS, instructions were passed by the Department vide No. PW(R&B)/Legal/222/2017 dated 10.09.2018 to the Chief Engineer, PW(R&B) Department to implement the Judgment dated 05.06.2018 passed by the Hon'ble Court by releasing the withheld salary of the petitioner and file compliance report in this regard before the Hon'ble Court; and

WHEREAS, the case was again examined in detail from varied aspects and finally it came to fore that the official has managed to fudge his Date of Birth at the time of his appointment & he was found guilty of wilful deceit and the department decided to impose Major Penalty upon him viz Dismissal of Service, in terms of Rule 33 of J&K CSR (Classification, Control & Appeal) Rules 1956; and



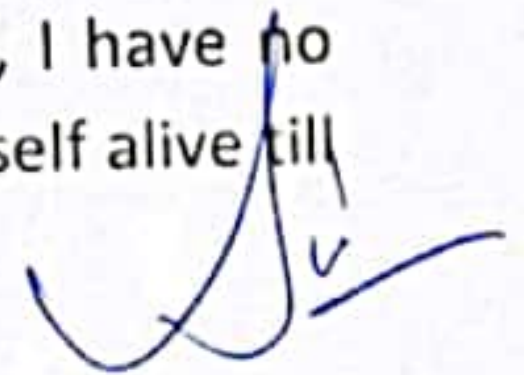
WHEREAS, the official was served a notice vide No. PW(R&B)/HRM/43/2013 dated 18.03.2021 which reads as under:

"Upon culmination of enquiry into tempering /fudging of Date of Birth, it has been established that you have managed to fudge your Date of Birth at the time of your appointment and you have been found guilty of wilful deceit. Therefore, the department intends to impose one of the major penalty upon you viz *"Dismissal from the Service"*.

In this regard, before the penalty is imposed, you are hereby informed through the medium of this notice and to provide a chance to represent before the Principal Secretary to Government, PW(R&B) Department, to defend yourself against the charges against you within a period of 15 days; failing which it shall be presumed that you have nothing to say in your defence and action as warranted under Rule 30 of J&K Civil Services (Classification, Control & Appeal) Rules shall be initiated against you."

WHEREAS, in response, the official represented by a medium of representation in person before the Additional Secretary, PW(R&B) Department denying the allegations and showing his ignorance about his wrong doings. The representation reads as under:

- That I have been appointed as Works Supervisor by the Chief Engineer R&B Department Kashmir vide Order No. K-26(Estab) of 1997 dated 19.05.1997.
- That at the time of appointment, I completed all procedural formalities and submitted original and actual records before the concerned quarters and no fake document has been produced by the undersigned.
- That I have never submitted the original or photocopy of matriculation certificate where under my date of birth has been mentioned as 01.04.1967 while as my date of birth is 04.05.1961.
- Now it is requested that I am retiring on 05/2021 and is attend age of 60 years after my retirement. I am having only source of living my pension, if any action against me is taken during my old age period, I have no source except my pension to live for keeping my wife and myself alive till my last breath.



WHEREAS, the reply furnished by the official has not been dispelling off the charges and averting the imposition of Major Penalty on him.

NOW, therefore, in terms of Rule 30 of J&K CSR (Classification, Control & Appeal) Rules 1956, the services of Sh. Mohammad Akbar Malla, Works Supervisor, PW(R&B) Division Ganderbal is hereby terminated with immediate effect.

By order of the Government of Jammu and Kashmir.

Sd/-

(Shailendra Kumar) IAS

Principal Secretary to the Government

Dated: 30-04-2021

No. PW(R&B)/HRM/43/2013

Copy to the:-

1. Joint Secretary (J&K) Ministry of Home Affairs, GOI.
2. Commissioner/Secretary to Government, General Administration Department.
3. Chief Engineer, PW(R&B) Kashmir.
4. Director Archives, Archaeology & Museums J&K Jammu.
5. OSD to Hon'ble Advisor (B) for information.
6. Pvt. Secretary to Principal Secretary to Government, PW(R&B) Department.
7. Concerned official.
8. Government Order file/Stock file/Monday Return (v.3.s.c).

(Shahid Mahmood) IAS

Additional Secretary to Government