



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

Subject: Unauthorized absence of Mst. Minha Hanief (Junior Engineer) from duties-Termination thereof.

Reference: No. PF/JE/CTPK/19/934-35 dated 30.04.2019 from Chief Town Planner, Town Planning Organization, Kashmir.

Government Order No: 236-PW(R&B) of 2022

Dated: 22-07.2022

Whereas, the Chief Town Planner, Town Planning Organization Kashmir vide his office communication No. PF/JE/CTPK/19/934-35 dated: 30.04.2019 intimated that Mst. Minha Hanief, borne on the establishment of PW(R&B) Department is on deputation to Town Planning Organization Kashmir vide Govt. Order No. 424- PW(R&B) of 2012 dated 13.09.2012; and

Whereas, Mst Minha Hanief was granted Child Care Leave for 120 days vide office order No. 97 CTPK 2018 dated: 02.11.2018, and the official was supposed to report back on duties on 11.03.2019; and

Whereas, Mst Minha Hanief, Junior Engineer did not report back on duty despite of repeated reminders issued by the Executive Engineer, Survey Cum Investigation Division, Town Planning Organization; and

Whereas, the Chief Town Planner, Town Planning Organization Kashmir accordingly requested to take strict disciplinary action against the said official for remaining on unauthorized absence from Government duty; and

Whereas, the department vide communication No. PW(R&B) NG/74/2019 dated 29.05.2019, directed the Chief Engineer PW(R&B) Department Kashmir to serve final notice to the official at her residential address and also to appoint an Inquiry officer into the matter and submit a report to this department for taking further necessary action; and

Whereas, the Chief Engineer PW(R&B) Kashmir appointed Superintending Engineer PW(R&B) Circular Road Project Srinagar as Inquiry Officer in the case; and

Whereas, the Inquiry Officer submitted report in the matter vide communication No. SE/CRP/ES/2918-20 dated 29.06.2019, with the findings that the absentee, Junior Engineer has willfully remained unauthorizedly absent from duties and obtained leaves on the basis of concealment of facts and information and such mis-conduct by the absentee Junior Engineer warrants disciplinary action in terms of relevant clauses of Civil Services Rules; and

Whereas, the Chief Engineer issued the final notice to Mst. Minha Hanief, Junior Engineer but she failed to resume duties; and

Whereas, the Administrative Department vide letter No. PW/R&B) NG/74/2019 dated 27.11.2019, served notice to the said Junior Engineer at her residential address and directed her to join duties within a period of 02 weeks; and

Whereas, vide this department letter dated 10.01.2020, the Chief Engineer PW(R&B) Kashmir and Chief Town Planner, Planning Organization Kashmir were requested to share the present status of the case alongwith their specific views/comments; and

Whereas, in response, the Chief Town Planner vide communication No.PF/ J00E/ CTPK/ 294-97 dated 20.02.2020, intimated that the said junior Engineer was supposed to resume duties on 01.03.2019 after availing Child Care Leave but, despite of repeated notices, the Junior Engineer has not reported back on duties till date. The Inquiry Officer recommended action to be taken against the defaulting official in terms of relevant clause of Civil Service Conduct Rules; and

Whereas, Mst. Minha Hanief, Junior Engineer filed writ petition in the Hon'ble Court of Additional District and Session Judge Srinagar praying for the following relief but, no interim order has been passed by the Hon'ble District Court:-

- i. By issuance of a Decree of declaration, the impugned communication No. PE/TE/Xen/SID/2019/215-17 dated 29.03.2019 forming Annexure (G) be declared null and void and accordingly quashed.
- ii. By issuance of a decree of mandatory injunction, the defendants be directed not to act and/or proceed ahead pursuant to the impugned communication and for bear from taking any kind of action against the plaintiff.
- iii. By issuance of a decree of permanent injunction, the defendants be directed to extend the leave under rules whatever kind due in favour of the plaintiff.
- iv. The Hon'ble Court be pleased to pass any order decree as may be seen just and appropriate in favour of the plaintiff and against defendants. Same shall be in consonance with law and justice.

Whereas, the case was further examined in the department and the opinion of Additional Secretary (Legal) was sought, who suggested the following line of action:-

1. Frame the Charges by the Competent Authority i.e the appointing Authority of the official or the authority to whom the appointing authority is subordinate and serve the same to the official.
2. After receipt of written statement from the official in response to charges, appoint an Inquiry officer to inquire into the charges served to the official with advice to submit the report within one month.
3. Decide on the basis of the Inquiry report and the merits of the case the punishment to be imposed on the official for which opportunity of being heard has to be provided to him/her mandatory in case of major punishment like termination of services.
4. Consider the reply if any submitted and thereafter issue the order of penalty.



Whereas, the charges were framed in the form of Memorandum, Article of Charges and Statement of Imputation and forwarded to the Chief Town Planner, Town Planning Organization Kashmir vide this department letter No. PW(R&B)/NG/ 74/2019 dated 26.11.2020, for serving to the delinquent official (Mst. Minha Hanief, JE) on deputation to Town Planning Organization Kashmir; and

Whereas, in defense reply to the charges framed against the said Junior Engineer, the department received representation submitted by her father namely Mohammad Hanief on behalf of her daughter mentioned therein that the Article of Charges are based on false and frivolous allegations as she has applied for Child Care Leave for 120 days which was granted to her and thereafter she applied for extension of leave but no decision on the same was taken and it was presumed that the same has been granted; and

Whereas, it was further mentioned in the representation that the department failed to take decision on the application of his daughter Mst. Minha Hanief, seeking extension of her leave, so she was constrained to approach the Hon'ble Court. Besides she is willing to resume her duties as soon as International Flights are operated as she is stuck in USA due to pandemic COVID-19 disease; and

Whereas, the reply to the charges submitted by the father of Mst Mina Hanief, Jr. Engineer on behalf of her daughter was found unsatisfactory. Accordingly, vide Govt. Order No. 44-PW(R&B) of 2021 dated 28.01.2021, Mr. Mian Abdul Naim, I/C Superintending Engineer PW(R&B) Circle Srinagar-Budgam was appointed as Inquiry officer to inquire into the charges served to Mst. Minha Hanief, Junior Engineer (Civil) and the findings of the Inquiry report speaks as under:-

1. Willfully remained absent from legitimate duties.
2. Obtained leaves on the basis of concealment of facts/information.
3. Proceeded abroad without prior permission of Competent Authorities.
4. Not joined back on duties despite of repeated notices and responded through proxies.

Whereas, it was found that in light of various rules governing the field, the case of Mst. Minha Hanief, Jr. Engineer is squarely covered under Article 128 of J&K CSR, which pronounces that unauthorized absence from duty or overstaying the leave involves loss of appointment of a Government servant. Though Rule 128 contemplates loss of appointment, but no order of termination of service of a Government servant on account of unauthorized absence from duty or overstaying the leave can be passed without holding inquiry against her in terms of Rule 33 of the Classification Control & Appeal Rules, 1971; and

Whereas, vide Government order No. 340-PW(R&B) of 2021 dated 05.11.2021, Shri Rajnish Kumar, JKAS, Additional Secretary to the Government, Public Works (R&B) Department, J&K was appointed as Inquiry Officer for conducting inquiry into the charges framed against Mst. Minah Hanief, Junior Engineer; and

Whereas, the Inquiry Officer submitted the report in the matter with the following findings :-


"The record reveals that the official had joined the service as Junior Engineer in the department on 01-2-2012 and has served in the department only upto 02-09-2012 and thereafter remained on leave sanctioned/un-sanctioned. The leave was



sanctioned from time to time from 09/2013 to 02/2019.

The charged official has not been attending duties for last 09 years, which is unbecoming of a government servant under J&K Service Conduct Rules. This attitude by the official had kept the JE civil post blocked and resulted in shortage of manpower and loss of opportunities for aspirants, which is not acceptable, for which the department should take the cognizance and corrective measure.

The official has availed leave of various kinds in different spells upto 02/2019 while posted in the office of Executive Engineer SI Division of Town Planning Organization Srinagar Kashmir. During the leave period, the present residential address by the absconding JE has been shown as N 18 Rawalpura, Housing Colony, Sanat Nagar Srinagar but on contrary to that the Certificate of Live Birth submitted by Mrs Minha Hanief, the DOB of her child (Construable; her first child) is 10.12.2015, whereas the address depicted over the certificate states that the address of Mother/co-parent is Cook County Chicago Illinois USA. It clearly indicates that the absconding JE had gone aboard without prior permission from the competent authority and has submitted leave applications through proxies thereby misleading the department for a considerable time. It is explicitly construable that the official has meticulously planned her over-stay in aboard by keeping hierarchy in dark by concealing the information regarding her whereabouts, submitting maternity leave in continuation to extra-ordinary leave and thereafter child care leave with repeated extension. The delinquent absconding employee has indulged into grave violation of employee service conduct rules, by concealing her physical stay abroad. Besides, admonishingly provided representations for extension of leaves through proxies when continuous reminders were communicated for joining the duties, but till date the official has not appeared in person to report back to her duties and is still absconding. Despite of all above opportunities provided by the department, the charged official was called for being heard in person through the medium of notices dated 23-11-2021, 02-12-2021 and final notice on 07-1-2022, but the charged official didn't responded and the Inquiry is concluded ex-parte. Commensurate with the corroborative facts/detailed reports in the case, the absconding official (Mst Minha Hanief, Junior Engineer, Civil) is found willfully absent from duties and has obtained leave on the basis of concealment of facts/information. She has misled the Government and such action on part of Mst. Minha Hanief, Junior Engineer warrants action under Article 128 volume-I of the Jammu & Kashmir Civil Service Regulation 1956."



Now, therefore, in terms of Article 128 Volume-I of the Jammu and Kashmir Civil Service Regulation, 1956, Mst. Minha Hanief, Junior Engineer, Civil with the approval of the competent authority, is hereby terminated from the Government service with immediate effect.

By order of the Government of Jammu and Kashmir

Sd/-

(Shailendra Kumar)IAS
Principal Secretary to the Government
Public Works (R&B) Department

Dated: 22.07.2022

No: PWD-NGAZ0CIV/55/2021-05

Copy to the:-

1. Principal Secretary to the Hon'ble Lieutenant Governor.
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
3. Principal Secretary to the Government, General Administration Department.
4. Director Archeology, Archives and Museums, Jammu & Kashmir.
5. Chief Engineer, PW(R&B) Department, Kashmir.
6. Senior Law Officer, Public Works (R&b) Department.
7. Special Assistant to Advisor (B) to the Hon'ble Lieutenant Governor, J&K.
- ✓ 8. Private Secretary to the Principal Secretary to Government, PW(R&B) Department.
9. Concerned.
10. In-charge website, Public Works (R&B) Department.

(Hamid Hameed)

Under Secretary to the Government