



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

Subject: Initiation of RDA against Er.Rajesh Gupta, then Executive Engineer, PW(R&B) Division Udhampur. (Verification No.UD-44/2017).

Government order No. 297 PW(R&B) of 2022
Dated: 31 -08-2022

Whereas, General Administration Department vide O.M No. GAD-VIGORDA/141/2021-02- GAD (Computer No.66797) dated 21.02.2022, forwarded a copy of communication No.ACB/ Veri-UD-44/2017-1186-87 dated: 22.01.2022, alongwith along with its enclosures of Anti Corruption Bureau, for initiation of RDA against Er.Rajesh Gupta, then Executive Engineer, PW(R&B) Division Udhampur, in terms of J&K Civil Services (Classification, Control & Appeal) Rules, 1956 and Circular Instructions issued vide Circular No. 24-JK(GAD) of 2021,dated 17.07.2021.

Whereas, ACB vide above quoted reference intimated that verification was conducted by this Bureau on the basis of a complaint lodged by one Harsh Dev Singh, Chairman JKNPP against officers/officials of PW(R&B) Udhampur alleging therein that the approvals were given to several contractors which were far in excess of original amount of contracts allotted to them i.e 100% to 200% of extensions of original contracts, obtaining of work orders without formal tenders and without observing codal formalities etc.

ACB further stated that:

1. During the course of verification, the requisite record was obtained, besides conduct of spot inspection of several works by Engineering Wing of ACB Jammu, as per report of which the works so executed were found in satisfactory condition. The works were allotted to lowest tenderer as per tendering documents. Most of the works were executed as per allotment but exceeded over original allotted cost and approvals of the same were given by then Superintending Engineering PW(R&B) Circle Udhampur. All the works were executed at site and no loss to state exchequer has been found.
2. The extension of work as per permissible norms was 5%, however huge extensions stands surfaced which is violation of codal procedure, for which the then Executive Engineer namely Rajesh Gupta as well as then Superintending Engineer PW(R&B) Udhampur Mr. Ashok Kumar Gandotra are liable for departmental action. However, then Superintending Engineer PW(R&B) Udhampur namely Mr.Ashok Kumar Gandotra, superannuated from the active government services on 30.09.2018.

Whereas, vide communication No.PWD-HRM1/139/2021-05-Departemnt of PWD R&B (C.No.80888) dated: 09.03.2022, article of charges were served to the subject through Chief Engineer, PW(R&B) Department Jammu.

Whereas, the Chief Engineer, PW(R&B) Department Jammu vide communication No. CEJ/Estab./S/28-29 dated 11.04.2022, forwarded the reply of the article of charges submitted by the accused Engineer, to this Department. The reply/case was examined thoroughly and it was decided to conduct inquiry into the instant matter.

Whereas, vide Government Order No.151-PW(R&B) of 2022 dated 28.04.2022, Er. Kishore Kumar, I/c Superintending Engineer, PW(R&B) Circle Udhampur-Reasi and Er. Mohd Zabair, I/c Executive Engineer, PW(R&B) Div.Udhampur were appointed as Inquiry Officer and Presenting Officer respectively to conduct the enquiry into the matter.

Whereas, vide Communication No. SEU/2022-23/3483 dated 16.06.2022, the Inquiry Officer reported that all the works were executed satisfactorily through e-tendering mode except one work which was executed departmentally that too on reasonable rates that too in the interest of public safety and for smooth plying of vehicular traffic. The work exceeded the original allotment so as to avoid further accidents without loss of time as two accidents occurred during the period Oct 2015 and January, 2016 wherein many precious lives were lost and left many injured. Further, no loss to state exchequer has been found and recommended dropping of all charges against the delinquent officer.

Whereas, the instant case was referred to the Development Commissioner (Works) for comments in the matter. The DCW returned the file with the following comments:-

"on perusal of the file, the communication from vigilance Organization (now ACB) reveals that at the time of spot inspection, works so executed were found in satisfactory condition. The works were allotted to lowest tenderer. The most of the works had been executed as per allotment but exceeded over original allotted cost and approvals of the same were given by the then Superintending Engineer PW(R&B) Circle Udhampur. All works were executed at site and no loss to state exchequer has been found. The cost of following four works exceeded the allotted cost & Post facto approval was applied for and duly granted by the then Superintending Engineer PWD(R&B) Circle Udhampur and the Supplementary agreement was drawn between allottee contractor and the Executive Engineer and which was duly accepted by Superintending Engineer PW(R&B) Circle Udhampur vide Nos. 11025 dated 19.03.2016, 57/supp of 3/2016, 11187 dated 22.03.2016, 99 supp of 3/2017:-

1. Construction of R/wall in Km 16th on Ramnagar Dudu road allotted for an amount of Rs. 1.69 lacs to Sh.Bupinder Kumar Gupta. The said contracts has been extended beyond originally allotted amount by Rs.6.12 lacs.As per Inquiry officer report "as the work of construction of R/wall was in progress, due to heavy downpour, the outer edge of the road in Km 16th got severely eroded thereby narrowing the road formation width considerably and making it a serious black spot vulnerable to accidents and as such work on it could not have been delayed. As the allotment of new contract would have

consumed considerable time, It was found prudent to get the additional quantum of work executed immediately through the same agency On his allotted rates ,terms & condition”.

2. Construction of R/wall in Km 3rd RD-450-700 on Ramnagar Dudu road allotted for an amount of Rs. Rs.5.23 lacs to Sh.Bikram .The said contracts has been extended beyond originally allotted amount by Rs.2.00 lacs. As per Inquiry officer report, “due to urgent requirement as per site conditions, the construction of a drain with allied works, additional work amounting to Rs 2.00 lacs was got executed to prevent sliding of land and damage to the newly constructed retaining wall which could not have been envisaged beforehand”.
3. Construction of R/wall in Km 2nd RD 200-300 on Kwarnoo Plater road allotted for an amount of Rs 2.48 lacs to Sh.Puran Singh .The said contracts has been extended beyond originally allotted amount by Rs.3.12 lacs. As per Inquiry officer report “due to execution of additional quantum of work on emergent basis in the shape of additional length of retaining wall as well as increase in its-height as per site requirements, which could not have been envisaged before, the cost of the work got increased by Rs.3.12 lacs over and above allotted cost’ for which post facto approval was sought for and duly granted by the then Superintending Engineer PWD(R&B) Circle Udhampur”.
4. Providing and laying WBM G-III in stretches/patches and providing and laying 20mm thick premix carpet on Barnara Jansal Road Km 1st RDO to Km 4th RD 500 allotted for an amount of Rs. Rs. 14.05 lacs to Sh.Amit Kumar & work was executed for an amount of Rs.15.50 lacs. As per Inquiry officer report “ due to requirement at site as the road was marked with deep ruts, ditches etc, additional quantum of work was executed on emergent basis for providing safe, smooth & uninterrupted movement of vehicular traffic on this road. The WBM and premix carpet quantities got increased as per basic site requirements.

The officer has resorted to this act in view of urgent works which originated during , execution like sudden erosion, land sliding etc. various fatal ‘accidents and public demand were been alleged to led to increase in the quantum of work. Manual for Procurement of work 2019 in clause 3.5.7(c) states that “In case of an emergency situation’s arising after natural disasters, situations where timely completion of the work is of utmost importance subject to the reason for such decision being recorded and approval of the competent authority obtained”.

Work namely “strengthening of shoulders of Majalta road damaged due to lying of Reliance cable” was executed departmentally. In this regard amount received on account of damages for laying of OFC shall be utilized for the restoration of damage on same road after taking proper approval from the competent authority. The restoration amount shall be 17.5% lower than the amount received on account of damages caused for laying of OFC, that 17.5% amount will be part of revenue. The work for restoration of damages occur for laying of OFC shall be carried out by adopting all the codal procedures such as Technical Sanction, Tendering & Allotment. Unless & until there is any exigency, the work shall be executed departmentally that too with proper permission from the higher authorities. However the works have been executed through selection by nomination in accordance with terms and condition, as per CPWD Works manual 2019 Part-I, Chapter 1 clause 1.5(1) Restoration of essential services in case of accidents/break down etc. has been concerned under Emergent works and such emergent works can be executed without call of tenders by issuing work order. Moreover as per Chapter-3 Manual of procurement of works 2019 Ministry of Finance Department of Expenditure clause 3.5.7(i)(a). There is an urgent need for the

work and engaging in competitive tendering process would , therefore, be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable by procuring entity nor the result of dilatory conduct on its part”.

The Inquiry officer and Development Commissioner (Works) have justified the execution of works executed departmentally in view of its emergent nature as per clause 1.5(1) CPWD Manual 2019 and no loss to state exchequer has been reported thereof.

Whereas, the case was submitted to the competent authorities for final decision, the competent authorities have approved the case for closure.

Now, therefore, in view of the above and upholding the recommendation of Development Commissioner (Works), and with the approval of the competent authority the allegations leveled against Er.Rajesh Gupta, then Executive Engineer, PW(R&B) Division Udhampur are dropped and case is hereby closed.

By order of the Government of Jammu and Kashmir.

Sd/-

(Shailendra Kumar) IAS

Principal Secretary to the Government

No. PWD-RDA/27/2021-01-Dept of PWD R&B (C.No.22585) Dated: 31.08.2022

Copy to the:-

1. Principal Secretary to the Government, General Administration Department. This is with the reference to his O.M No. GAD-VIGORDA/141/2021-02-GAD (Computer No.66797) dated 21.02.2022.
2. Director, Anti Corruption Bureau, J&K.
3. Development Commissioner (Works), PW(R&B) Department.
4. Director Archives, Archaeology & Museum, J&K.
5. Chief Engineer, PW(R&B) Department, Jammu.
6. OSD to Hon'ble Advisor (B) for information.
7. Private Secretary to Principal Secretary to Government, Public Works (R&B) Department.
8. Government Order file/Stock file.

Copy also to the Joint Secretary (J&K), Ministry of Home Affairs Government of India


(Dr Zeba Saleman) JKAS

Under Secretary to the Government
Public works (R&B) Department