



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

Subject:- Absconding of Shri Rakesh Kumar, I/c Head Draftsman.

Reference:- No. PS/US/Z/03/2022 dated: 13.09.2022 from Inquiry Officer

Government Order No. 447 -PW (R&B) of 2022
Dated: 07 -12-2022

Whereas, Shri Rakesh Kumar, I/C Head Draftsman was transferred from PW(R&B) Department to JKPCC Ltd vide Govt. Order No. 359-PW(R&B) of 2013 dated 04.10.2013; and

Whereas, after joining in JKPCC, the said official was absconding from duties w.e.f 21.12.2017; and

Whereas, the Chief Engineer PW(R&B) Department Jammu vide this Department's letter No. PW(R&B)/NG/92/2018 dated 26.07.2019, was requested to appoint an enquiry officer in the matter, who shall enquire the whole matter and submit his findings to the department; and

Whereas, the Chief Engineer, PW(R&B) Jammu, in response to letter dated 26.07.2019, constituted the committee consisting of following members.

1. Executive Engineer PW(R&B) Division Katra.
2. Technical Officer to Superintending Engineer PW(R&B) Circle Jammu
3. Assistant Executive Engineer PW(R&B) City Sub Division-I Jammu.

Whereas, the Chief Engineer PW(R&B) Jammu vide letter No. CEJ/Estab/S/2375 dated 26.12.2019, submitted the report of the above mentioned committee, which revealed that Shri Rakesh Kumar I/C Head Draftsman had remained absent from duties w.e.f 21.12.2017 to 20.08.2019, due to un-predictable acute mental problem and not having desirable physical condition.

Whereas, the report of the above committee also stated that the official was unable to inform about his whereabouts to his superiors due to his undesirable mental condition at that time; and

Whereas, the committee members had also stated that the official did not intend to remain absent intentionally, it was only due to his mental and physical condition which made him helpless to continue his duties and proposed that the absent period of the I/C Head Draftsman should be settled as leave due to him; and

Whereas, the above report of the committee was examined in the department and the Chief Engineer PW(R&B) Jammu vide this Department's letter dated 22.01.2020, was requested to furnish the following details/information in the first instance:-

- i. Leave account of the official alongwith service records.
- ii. Medical Certificate to be issued by the designated medical officer in terms of Article 128 of J&K CSR.
- iii. Specific recommendations/comments with reference to disposal of case/claim of the official.

Whereas, in response, the Chief Engineer, PW(R&B) Jammu vide communication No. CEJ/Estab/S/14-15 dated 01.05.2020 submitted the requisite information with the request that the absent period of the official may be settled against the leave due in his credit; and

Whereas, the case was again examined and Chief Engineer PW(R&B) Jammu vide this department's letter of even number dated 28.08.2020 was requested to furnish a factual report alongwith medical report/certificate in the matter enabling the department to proceed ahead; and

Whereas, in turn, the Chief Engineer PW(R&B) Jammu vide communication No. CEJ/Estab/S/1253 dated 03.10.2020 forwarded the photocopy of his earlier communication dated 26.12.2019 and intimated that requisite information stands already submitted; and

Whereas, the case was further examined in the department and it was observed that the case appears fraud and frivolous on account of medical report issued on 20.04.2018 as it mentions about the leave of 468 days from the day the official absented himself; and

Whereas, accordingly, the Chief Engineer PW(R&B) Jammu vide this department's letter dated: 07.12.2020, was requested to conduct a fresh inquiry into the matter and furnish report/clarification within week's time. however, as per records, the requisite report after gap of one and half year was not submitted in the matter; and

Whereas, the Managing Director, JKPCCLtd Jammu vide communication dated 02.08.2022 in continuation to his office letter No. PS/MD/3411-15 dated 10.07.2018 & No. PS/MD/1504-11 dated 20.06.2019 apprised about the unauthorized absence of Sh. Rakesh Kumar, I/C Head Draftsman; and

Whereas, the Managing Director, JKPCCLtd stated that Sh. Rakesh Kumar served legal notice to Commissioner Secretary to Govt. PW(R&B) department, Chief Engineer PW(R&B) Jammu and Managing Director JKPCCLtd through F.A, Natnoo, Advocate and Associates vide No. FAN/Adv/2922/85 dated 11.05.2022, enclosing various documents like directions of Central Administrative Tribunal Jammu bench dated 26th April in case OA No. 61/378/2022; and

Whereas, the MD, JKPCCLtd further intimated that the CAT does not take the cases of corporations, accordingly Mr. Gupta, Ld. Advocate for PWD department appeared before the CAT and directions of the Central Administrative Tribunal (CAT) dated 26th April 2022, by virtue of which OA (Petition) was disposed off with the consent of Mr. Gupta the Ld. Advocate with the directions to the respondents as under:-

"... on considering the above submissions of the counsels for parties, this OA is disposed of at admission stage, without expressing any opinion on merits of the case directing the respondents to consider the representation of the applicant dated 21.08.2019 alongwith recommendations of the inquiry committee dated 26.12.2019 as per the provisions of relevant rules and binding instructions on the subject and decide it with a reasoned order within six weeks from the date of receipt of certified copy of this order and within one week thereafter to communicate it to the applicant, No Costs".

Whereas, MD, JKPCCLtd further intimated that the representation of Sh Rakesh Kumar dated 21.08.2019 which was mentioned in the directions of Central Administrative Tribunal (CAT), was received in his office, wherein Sh Rakesh Kumar has requested as under:-



"..... Due to mental problem and not physically in good condition, I remained absent from dated 21.12.2017 to till date. as sir for your kind information that the concerned doctor have advised me to take complete bed rest and not to disturb your mind because you got the acute mental problem.

Sir, whatever the further necessary action the department wants to take against me, I am ready to face and will full fill the necessary clearance before the concerned authority.

Therefore, it is very kindly requested to look into the matter and consider my application for the joining my service as Incharge head Draftsman again on date 21.08.2019 at 2PM before your great kindness.

Further in the enquiry report of the office of Chief Engineer PW(R&B) Department Jammu enclosed with the legal notice and mentioned in the directions of Central Administrative Tribunal(CAT) (copy annexed as "A"), it has been put on record that the official did not intent to remain absent intentionally and it was only due to his mental and physical condition which made him helpless to continue his duties. Further it is proposed that the absent period of the incharge Head Draftsman should be settled from leave due to him"

Whereas, the Central Administrative Tribunal (CAT) vide its directions dated 26th April 2022, directed to consider the representation of the applicant dated 21.08.2019 alongwith recommendations of the Inquiry Committee dated 26.12.2019 as per provisions of relevant rules and binding instructions on the subject and decide it with a reasoned order within six weeks from the date of receipt of a certified copy of this order and within one week thereafter to communicate it to the applicant.

Whereas, MD, JKPC further stated that petitioner namely Shri Rakesh Kumar, I/C Head Draftsman is not corporation borne and is on deputation from PW(R&B) department and the speaking consideration order is required to be issued by the department itself so that the case is settled; and

Whereas, the case was examined afresh in the department and the department was not satisfied with the action taken by the Inquiry Committee constituted earlier as the concerned inquiry officers have not conducted the inquiry properly; and

Whereas, accordingly, vide Govt Order No. 280- PW(R&B) of 2022 dated 18.08.2022, Shri Rakesh Kumar I/c Head Draftsman was attached with the office of Development Commissioner (Works) Civil Secretariat, J&K and Dr. Zeba Suleman, JKAS, Under Secretary to Government, Public Works (R&B) Department was appointed an inquiry officer to conduct an inquiry into the matter of unauthorized absence from duties of the said I/c Head draftsman w.e.f 21.12.2017 to 20.08.2019; and

Whereas, the inquiry officer was directed to submit its report within 15 days with a clear picture so that a consideration order is issued in compliance to Hon'ble CAT directions dated 26.04.2022; and

Whereas, the inquiry officer, vide communication No. PS/US/Z/03/2022, dated: 13.09.2022, submitted its report with the recommendation that the period of un-authorised absence of Shri Rakesh Kumar, I/C Head Draftsman be treated as Dies-non in terms of Article 163 of J&K CSR with a strict warning to remain careful in future; and

Whereas, the inquiry report submitted by the inquiry officer vide communication dated 13.09.2022 was accepted by the department and it was decided to take action as warranted under rules; and

Whereas, vide this department's letter dated 24.11.2022, the official was informed to state within a period of 07 days whether charges made against him are correct and whether he has adequate and sound justification for un-authorized absence, failing which action as warranted under Article-163 of J&K CSR shall be initiated against him without any further notice; and

Whereas, in response, the official has stated that the inquiry officer in the matter has fairly conducted and concluded the inquiry proceedings, however, the official has placed actual and factual position regarding unauthorized absence with substantive proof.

Now, therefore, in terms of Article 163 of J&K CSR and in view of the recommendations of the Inquiry officer, the period of un-authorized absence from duties of Mr. Rakesh Kumar, I/C Head Draftsman, presently attached with the office of Development Commissioner (works) for the period from 21.12.2017 to 20.08.2019 is hereby treated as Dies-non.

By order of the Government of Jammu & Kashmir.

Sd/-
(Shailendra Kumar) IAS,
Principal Secretary to the Government
Public Works(R&B) Department.

No. PWD-NGAZOCIV/225/2022-05

Dated 07-12-2022

Copy to the:-

1. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
2. Managing Director, JKPCCLtd. Jammu.
3. Development Commissioner Works, PW(R&B) Department.
4. Director, Archives, Archaeology and Museums J&K Jammu.
5. Chief Engineer, PW(R&B) Department, Jammu.
6. OSD to Hon'ble Advisor (B) to Lt. Governor Public Works (R&B) Department.
7. Pvt. Secretary to Principal Secretary to Govt. Public Works (R&B) Department.
8. Concerned Official.
9. Incharge Website, PW(R&B) Department.
10. Government Order/Stock file(w.3.s.c.s).



(Hamid Hameed)

Under Secretary to Government,
Public Works(R&B) Department

