



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

Subject: Initiation of Regular Departmental Action against Er. M.A Gilkar, the then Executive Engineer PW(R&B) Division Kishtwar and Er.G.N.Ahanger the then Executive Engineer PW(R&B) Division Kishtwar.

Government Order No. 89 - PW(R&B) of 2022  
Dated: 9 .03.2022

Whereas, the General Administration Department vide communication No.GAD(Vig) 26- RDA/ 2018 dated 23.04.2018 forwarded a communication No.VO-Veri-UD-12/2014-4414-16 dated 20.03.2018 of Vigilance Organization J&K (now Anti Corruption Bureau, J&K) Along with Article of charges, statement of imputations and gist of evidences with a recommendation for initiation of RDA against the subjects, in terms of J&K Civil Services (CC&A) Rules, 1956 with the approval of the disciplinary Authority.

Whereas, vide ibid communication, the Vigilance organization (now ACB), intimated that:-

1. Pursuant to receipt of complaint against officers/officials of PW (R&B) Division Kishtwar alleging therein that the said division illegally executed the work at Chirhar- Kishtwar Road and took up the construction of road without following proper procedure like tendering, administrative approval, technical sanction etc., a verification was conducted by this Organization.
2. During the course of verification, it came to fore that the work in question was executed departmentally. Also publication of NIT bearing No. 16 of 10/2010-11 issued under No. 627-666 dated 02.01.2011 was made in local News Paper for which no response was received for tenders.
3. Verification further revealed that the said NIT was not published in National News Paper and no Administrative approval was accorded before taking up the works.
4. Further as per book of financial powers 2011, chapter 5.13, para 16, the powerdelegated to issue work order for work of emergent situation of great urgency without invitation of tenders is up to Rs. 0.50 lacs in each case for Superintending Engineering and Rs. 0.20 lacs for XEN subject to maximum Rs. 2 lacs per annum. The verification conducted revealed that four Executive Engineers namely Sh. M.A Gilkar, Sh. S.K Tikoo, Sh Madan Lal and Sh. G.N Ahanger have remained associated with the work in question who have drawn the amount of Rs. 1721575, Rs. 778835, Rs. 1432004 & Rs. 549396 respectively which was beyond their financial powers.
5. As Sh. S.K Tikoo and Sh. Madan Lal retired from services on superannuation, keeping in view the above mentioned violation of codal formalities for execution of work in question, initiation of Regular Departmental Action was recommended against Sh. M.A Gilkar, the then Executive Engineer PWD (R&B) Division Kishtwar and Sh. G.N Ahanger the then Executive Engineer PWD (R&B) Division



Kishtwar. Besides, recommended for an Alert Note to be issued to the concerned department to take up execution of works only after accord of Administrative Approval and Technical sanction from the competent authority.

Whereas, vide this department's letter dated 19.06.2019, the article of charges were served to the accused Engineers through Chief Engineer, PW(R&B) department, Jammu. An alert note vide endorsement No.PW(R&B)HTM/12/2019-Vig dated 19.07.2018 was issued to the concerned quarters.

Whereas, reply to the article of charges was delayed by M.A Gilkar . However, Er.G.N Ahanger, the then Executive Engineer submitted reply to the article of charges, consequently his case was examined and closed vide Government order No. 242-PW(R&B) of 2020 dated 28.08.2020. The GAD vide communication No.GAD(VIG)26-RDA/2018 dated 21.09.2020 addressed to ACB under intimation to this department conveyed that:-

....has noted the findings of the line department in the instant matter in respect of Er. Ghulam Nabi Ahanger, the then Executive Engineer PW(R&B) Division Kishtwar.

Whereas, after some time Er.M.A Gilkar also submitted reply to the article of charges, same was examined and vide Government Order No.61-PW(R&B) of 2021 dated 05.02.2021, Er.Nasir Hussain Zargar, I/c Superintending Engineer, PW(R&B) Circle Doda and Er.M.K Vikram, I/c Executive Engineer, PW(R&B) Special Sub Division Gandoh were appointed as Inquiry Officer and Presenting Officer respectively.

Whereas, the Inquiry officer vide communication No.SED/R&B/13647 dated 08.03.2021 reported " the road that is being referred to as "Cherhar to Banjwar road" is a link road between village Chirhar and Banjwar situated in District Kishtwar under the jurisdiction of R&B Division, Kishtwar .The alignment of a stretch of this road in Km 2nd/3rd RD (325-625) mts passes through a very rocky and precipitous strata that had previously been left unexecuted/half executed by the contractors to whom the road stretches were allotted in the past. This is the road stretch balance work of which is observed to have been put to tenders repeatedly more than 9 times during the years 2009, 2010 and 2011 without invoking fair or no response. The available record on scrutiny revealed further that the matter was referred to higher authority viz-a-viz Superintending Engineer R&B Circle Doda, for seeking advice and a written communication to this effect is observed to have been made by Executive Engineer, R&B Division Kishtwar vide his No.EE/R&B/K/11/ 2250 -57 dated 16.03.20089, 5805 -06 dated: 17.08.2011. and No. 2248 dated 17.08.2011. The approval consequently is found to have been granted by the office of DSE R&B Circle Doda vide No.DSED/R&B 6509-10 dated:27-8-2011 to take up the work on departmental basis on approved rates.The allegation as are contained in Article Of Charges against accused engineer have been exhaustively gone into with reference to available records and the enclosed statement of facts submitted by the accused and ground facts and what solid facts / conclusions emerged out are briefly summed up as under:

"That the accused Engineer Er M. A Gilkar held the charge of office of Executive Engineer R&B Division Kishtwar between the period as mentioned in his reply to Administrative Department. The charge regarding adoption of mode of execution of work as on departmental basis doesn't appear to be self willed decision of Engineer in charge but is observed to be backed by the authority higher to the Engineer in charge i.e. Superintending Engineer .The document conveying approval for course of action adopted by the accused Engineer bearing No:DSED/R&B/6S09-10, dated:27-06-2011 has been enclosed in record. The



document appears embodied with authoritative facts that the balance work has been made to go through repeated tendering processes during the years 2009 to 2011 without any response. The document further contains authoritative assertion that the work was of extreme urgent nature that had stalled the completion of link road for very long time for the which there was tremendous public and political concern.

As regards the charge that work has been taken up without accord of AA, it is to mention that accused Engineer simply continued the execution process in 2011 as the major quantum of work on the road stand already executed more than a decade back.

As regards the charge that tender was not publicized in national media, in this connection it is mention that magnitude and volume of work didn't entail national publicity. However, wide publicity is observed to have been given to the tender suiting to the volume of work through leading papers of erstwhile state. Therefore, action of accused Engineer in this behalf is quite justified and in consonance with code of practice.

As regards payments having been authorized by the accused beyond his financial Power, the same doesn't sound justified as that payments amounting to Rs. 17,21,575/- are observed to have been authorized on muster rolls in instalments. Therefore, the charge that officer has acted contrary to rules/codes by overstepping his delegated financial limit sound irrational and ought to be dropped out rightly.

Whereas, the Inquiry officer concluded that as verified from records, observations made by ACB in context to the fact that measurements of work recorded in M.Book measurements of work recorded in M.Book tallied with work existing on ground during investigation process and replies submitted by the accused Engineer concluded that just proceedings do not seem to have been undertaken for fixing charges against the accused Engineer for proceeding to act on the issue that had been handled and dealt with as per codal norms and procedure and the issue that had generated immense public cry due to abandonment/non-completion of execution of road and recommended that all charges, whether the charge is of initiating construction on ground in the absence of AA, execution of work on departmental basis on muster sheets, non-national publicity to the tender or having over stepped financial delegated limits levelled against the accused Engineer Er. M.A Gilkar be dropped and be considered acquitted honorably.

Whereas, the instant case was referred to the DCW for comments, in turn, the DCW has recorded his comments as:-

"From the perusal of available records, it is observed that balance works in Km2nd / 3rd of Cheriha - Banjar Road were taken up for execution in 2011 by the then Executive Engineers of PW (R&B) Division, Kishtwar, departmentally, due to no response to the NIT's floated for the work for as many as 9 times. Thereafter, the works were executed on approved rates after authorization from next higher authority, i.e., Superintending Engineer, communicated vide his No. DSED/ R&B/ 6509-10, Dated: 27-08-2011.

As reported by Inquiry Officer, the delinquent officer has continued execution of left-over works, without Administrative Approval, due to the tremendous public pressure



for completion of the link road. Pertinently, substantial expenditure and maximum quantum of work had already been executed on the scheme prior to posting of the delinquent officer. The revised DPR for the said scheme amounting to Rs. 287.35 lacs was submitted by Executive Engineer, PW (R&B) Division, Kishtwar vide No. 5957-60, Dated: 10-01-2011 to the District Superintending Engineer for processing of Administrative Approval.

Since, the works have been executed departmentally, and not against work order as alleged in vigilance report, the officer has authorized payments in instalments on muster rolls/vouchers in consonance with the Book of Financial Powers 2011, Chapter 5.13, S.No.36. Further, the Inquiry Officer has stated that magnitude and quantum of instant work did not require National publicity, although wide publicity was given to the tenders through leading newspapers in the erstwhile state, as per the code of practice. No loss to state exchequer has been established in the instant case and recommended that the charges against the then Executive Engineer, PW (R&B) Division, Kishtwar, Er. M.A. Gilkar may be dropped.

Now, therefore, in view of the above given position and by upholding the recommendation of Inquiry Officer and Development Commissioner (Works), with the approval of Competent Authority, the allegations levelled against Er. M.A Gilkar, the then Executive Engineer, PW(R&B) Division, Kishtwar are dropped and case is hereby closed.

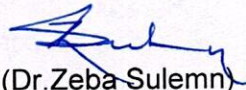
By order of the Government of Jammu and Kashmir.

Sd/-  
(Shailendra Kumar) IAS  
Principal Secretary to the Government

No: PWD-HRM1/24/2022-05-PWD R&B DEPARTMENT (C.N.128025) Dated: 9 03.2022  
Copy to the:-

1. Principal Secretary to the Government, General Administration Department. This is with the reference to his No.GAD(Vig) 26- RDA/ 2018 dated 23.04.2018.
2. Director, Anti Corruption Bureau, J&K, Jammu.
3. Director Archaeology & Archives, J&K Jammu.
4. Chief Engineer, R&B, Jammu/Kashmir.
5. Concerned.
6. Private Secretary to Principal Secretary to the Government, Public Works(R&B) Department.

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

  
(Dr.Zeba Sulemn)  
Under Secretary to the Government