

Government of Jammu and Kashmir
Jal Shakti Department
Civil Secretariat, Jammu/Srinagar

Subject:- Financial irregularities committed by Shri Nikhil Gandral, Senior Assistant (the then Cashier), PHE City Division-Ist, Jammu - Dismissal from the service under Article-311(2) of the Constitution of India.

Government Order No. 215-JK(JSD) of 2023
Dated: - 09.09.2023

Whereas, Executive Engineer, PHE City Division-Ist, Jammu noticed certain variations in the revenue receipts of the Division and vide Order No. PHECD/1/2019-20 dated 30.11.2019 constituted a four-members Committee to verify and compile the revenue details/figures for the period 01.04.2019 to 31.10.2019 pertaining to financial irregularities done by the Officers/Officials of PHE City Division-Ist, Jammu.

2. Whereas, on verification by the four-member committee, it was revealed that the then cashier of the office has embezzled funds to the tune of Rs.164.20 lacs.

3. Whereas, taking cognizance of the matter, vide order No. PHEJ/GE/12463-68 dated 06.12.2019, issued by the Chief Engineer, PHE Jammu, Shri Nikhil Gandral, the then I/c Senior Assistant/Cashier, PHE City Division-Ist, Jammu was placed under suspension and the Chief Engineer vide Order No. PHEJ/Accts/2019-20/844-48 dated 07.12.2019 had also constituted a committee with the following terms & reference: -

- i. To enquire into the details of revenue remitted by Sub-Divisions in the account of PHE City Division-Ist w.e.f. 01.04.2019 to 30.11.2019.
- ii. Detail of amount remitted into the Treasury and reconciliation thereof challan wise.
- iii. Reconciliation of Divisional account with the Sub-Divisional account as per record.
- iv. To ascertain the quantum of amount misappropriated/not remitted in the Treasury.

4. Whereas, aforesaid committee vide No. PHEJ/Accts/Rev/1239-41 dated 25.12.2019 submitted the fact finding report and concluded asunder:-

"However, no proper internal control over the management of cash has been exercised and no relevant entries in the records have been ensured. The lackadaisical and casual approach has been observed in the maintenance of divisional accounts and Sub-Divisional office as well. There is complete lack of adequate internal check and control and continuous neglect and dereliction of duties in non-reconciliation of accounts with sub-divisional and divisional offices and likewise with concerned Treasury has given an opportunity to the Cashier to misuse the government money. Had all the AEEs of the sub-divisions insisted for the issue of GRs against the amount deposited from time to time and the DDO might have exercised the strict internal control over his subordinates, the Government money amounting to Rs. 16360143/- (Rs. one

crore sixty three lakh sixty thousand on hundred and forty three only) might be saved from the loss."

5. Whereas, vide letter No. PHE,I&FC/HRM/740/2019 dated 31.12.2019, the Department requested Senior Superintendent of Police, Crime Branch, Jammu to lodge an FIR against the accused official namely Shri Nikhil Gandral, Senior Assistant (working as Cashier in PHE City Division-Ist, Jammu) for embezzlement of government revenue; and

6. Whereas, vide Government Order No. 20-JK-GAD(Vig) of 2020 dated 13.03.2020, issued by the General Administration Department, prosecution was sanctioned against Shri Nikhil Gandral S/o Late Shri Ravinder Kumar Gandral R/o H.No. 24, Lane No. 7, Greater Kailash, Jammu, the then Senior Assistant/Cashier, PHE City Division-IstJammu. General Administration Department vide O.M No. GAD(Vig)05-SP/2020-CBJ dated 16.03.2020 has also recommended initiation of RDA against Shri Nikhil Gandral in case FIR No. 02/2020 P/S Crime Branch, Jammu; and

7. Whereas, vide Memorandum dated 29.09.2020, Article of Charges, Statement of Imputation were served to the following charged officers/officials:

S.No.	Name of the officers/officials	Designation/Division/Sub-Division
1.	Harbinder Singh Behl	The then I/c XEN PHE City Division-I st , Jammu
2.	Surinder Abrol	The then I/c XEN PHE City Division-I st , Jammu
3.	Vijay Sharma	The then I/c XEN PHE City Division-I st , Jammu
4.	Chander Shekhar Khajuria	The then I/c AEE PHE Sub Division, Dhounthly
5.	Rajneesh Kohli	The then I/c AEE PHE Sub Division, Dhounthly
6.	Chander Shekhar Khajuria	The then I/c AEE PHE Sub Division, Muthi
7.	Rajesh Sethi	The then I/c AEE PHE Sub Division, Bakshi Nagar
8.	Sudhir Singh	The then I/c AEE PHE Sub Division, Sitlee
9.	Nikhil Gandral	The then I/c Senior Assistant/Cashier PHE City Division-I st Jammu

8. Whereas, all the officers/officials submitted their respective replies, however, Shri Nikhil Gandral did not submit his reply on the plea that the Memorandum has not been received by him; and

9. Whereas, vide Government Order No. 225-JK(JSD) of 2020 dated 16.12.2020, a Committee of the Officers of Jal Shakti Department (JSD) was constituted to give an opportunity of hearing to the above named officers/officials of the PHE City Division-Ist, Jammu in connection with financial irregularities; and

10. Whereas, while examining the case, it has been observed that in the record note of the Committee constituted vide Government Order No. 225-JK(JSD) of 2020 dated 16.12.2020, for the purposes among other things, recorded that:-

"Sh. Nikhil Gandral, the then Senior Assistant provided a copy of application dated 23.10.2020 submitted to Chief Engineer, PHE Department, Jammu wherein, he has requested to provide the copies of all the documents/including statement of witness, if any on which charges against him or based upon and are proposed to be relied upon at

the enquiry. He has also mentioned in the said application that the charges against him are very serious nature and a FIR has been lodged against him and charge sheet has been filed in the court of law and trial has commenced. Parallel Departmental Inquiry at this stage will compel him to disclose his defense at that stage causing him serious prejudice at the trial. He has requested that the Departmental Inquiry against him may be deferred till final disposal of the criminal case. He has also requested in the said application that in case Departmental Inquiry is not deferred, time for filling reply to charges may kindly be extended for ten more days. Reply to the charges of article is still awaited".

11. Whereas, the said Committee recommended that an Inquiry Officer may be appointed to conduct an in-depth enquiry and also recommend specific finding by fixing responsibilities of the delinquent employees; and

12. Where, on the recommendations of the Committee, vide Government Order No. 48-JK(JSD) of 2021 dated 24.02.2021, Shri Hamesh Manchanda, the then I/c Chief Engineer, I&FC, Jammu was appointed as Inquiry Officer to enquire into the matter pertaining to financial bungling committed by Shri Nikhil Gandral, the then Senior Assistant/Cashier, PHE City Division-Ist, Jammu and to investigate the charges framed against other Engineers involved in the case. Besides, Shri Riyaz Hussain, the then Chief Accounts Officer, PHE Department Jammu was appointed as Presenting Officer of the case. The Inquiry Officer was asked to conduct an exhaustive enquiry and submit his report/findings alongwith specific recommendations/fixing responsibilities of the delinquent Officers/ officials; and

13. Whereas, the Inquiry Officer vide letter No.IFCJ/PS/689 dated 19.04.2021 submitted the enquiry report in the department, the operative para of which is reproduced as under:

"The Inquiry Officer is of the firm view that the then cashier Sh. Nikhil Gandral has committed the misappropriation of Government money with malafide intentions by abusing his official position. It seems that the then Assistant Executive Engineers of the Sub Divisions kept complaining to the then Executive Engineer for non issuance of G.R's verbally as well as in writing. The then Assistant Executive Engineers of different sub divisions followed the prevalent practice of depositing Revenue/cash with the divisional cashier. So the then Executive Engineer Sh. Surinder Abrol and then, Assistants Executive Engineer namely Sh. Vijay Sharma, Sh. Chander Shekhar Khajuria, Sh. Rajnish Kohli, Sh. Rajesh Sethi and Sh. Sudhir Singh be exonerated from the charges leveled against them. However, there is negligence on the part of then Executive Engineer Sh. Harbinder Singh Behl for not closing the cash book for the months of 02/2019 and 03/2019."

14. Whereas, on the recommendations of the Inquiry Officer, vide Government Order No. 99-JK(JSD) of 2021 dated 30.04.2021, the charges leveled against the following Officers of PHE Department were dropped; and

- i. Shri Surinder Abrol, the then I/c Executive Engineer, PHE City Division-Ist, Jammu.
- ii. Shri Vijay Sharma, the then I/c Assistant Executive Engineer PHE Sub-Division, Dhounthly.

- iii. Shri Chander Shekhar Khajuria, the then I/c AEE PHE Sub-Division, Dhounthly and Muthi.
- iv. Shri Rajneesh Kohli, the then I/c AEE PHE Sub-Division, Dhounthly.
- v. Shri Rajesh Sethi, the then I/c AEE PHE Sub-Division, Bakshi Nagar.
- vi. Shri Sudhir Singh, the then I/c AEE PHE Sub-Division, Sitlee.

15. Whereas, the case was again been examined in the department and accordingly vide this department's O.M dated 07.03.2022 a detailed report was submitted to General Administration Department. Besides, vide this department's O.M dated 13.05.2022 followed by reminder dated 17.02.2023, General Administration Department was requested to advise regarding initiating any further action against the accused official namely Shri Nikhil Gandral the then I/c Senior Assistant (Cashier) in terms of Rule-30 of J&K Civil Services (Classification, Control and Appeal) Rules, 1956 in view of the fact that the case was sub-judice and the Inquiry Officer has clearly recommended that Sh. Nikhil Gandral has committed misappropriation of Government money with malafide intention by abusing his official position; and

16. Whereas, the General Administration Department vide O.M No. GAD-VIGORDA/108/2022-02-GAD (203822) dated 20.02.2023 has conveyed that on consideration of the matter in the General Administration Department the Competent Authority has observed/directed as under:-

"The charges of grave official misconduct have been clearly established against the delinquent public servant during the departmental enquiry (RDA) conducted by the Jal Shakti Department.

Conduct of simultaneous RDA and Criminal proceedings is a well settled law and no advise is required in such cases.

GAD may ask the Department to conclude RDA within a stipulated time period against the main accused."

17. Whereas, on further examination of the case, it was observed that the Inquiry officer had given opportunity of being heard to all the charged officers but Shri Nikhil Gandral (the main accused) did not give any reply to the charges against him. Accordingly, vide this department's letter dated 26.06.2023, the Inquiry Officer was requested to give yet another opportunity to Shri Nikhil Gandral, then I/c Senior Assistant/Cashier, PHE City Division-Ist, Jammu (now suspended) for being heard regarding Article of charges already served to him; and

18. Whereas, the Inquiry Officer vide his letter No. PHEJ/GE/5711-14 dated 03.07.2023 has directed Shri Nikhil Gandral to attend his office on 06.07.2023 at 11.00 AM and upon attending the office, Shri Nikhil Gandral was again asked to furnish reply within 05 days to proceed further in the matter. In response, Shri Nikhil Gandral sought copies of all the related documents and 68 leaves of documents were handed over to him vide communication No. C/JSD/PHEJ/PS/2183-85 dated 24.08.2023 on 25.08.2023. Shri Nikhil Gandral has submitted his reply on 29.08.2023 as under:-

"That I am facing criminal proceedings for the same case before the Hon'ble Court, therefore I am not in a position to submit any reply at the stage, as it may hamper my chances before the Hon'ble Court to succeed in the case".



19. Whereas, taking note that Shri Nikhil Gandral has failed to submit the reply to the charges framed against him i.e. of misappropriation of Government Money with malafide intentions by abusing his official position, the case was placed before the Competent Authority who, holding the charges to be proved against him, has decided to impose the following penalties against the charged official in terms of Article-311 of Constitution of India:

- i. **dismissal from the service of the State which ordinarily disqualifies from future employment.**
- ii. **recovery of the whole of the pecuniary loss caused to Government i.e. the embezzled amount, and, for this purpose, confiscation of any money due to him and the rest as arrears of land revenue;**

20. Now, therefore, it is hereby ordered that:-

- i. in terms of Article-311(2) of the Constitution of India, Shri Nikhil Gandral S/o Late Shri Ravinder Kumar Gandral R/o H.No. 24, Lane No. 07, Greater Kalish Jammu, I/c Senior Assistant (the then Cashier), PHE City Division-Ist, Jammu is hereby dismissed from Service, with immediate effect. He is also disqualified from any future employment with the government.
- ii. recovery of pecuniary loss caused to the Government exchequer, amounting to Rs. 1,63,60,143/- (Rs. One Crore Sixty-Three Lakh Sixty Thousand, One Hundred and Forty-Three only) from Shri Nikhil Gandral I/c Senior Assistant (the then Cashier), PHE City Division-Ist, Jammu, in terms of Rule 30 (v) of J&K Civil Services (Classification, Control and Appeal) Rules, 1956.
- iii. Chief Engineer PHE, Jammu shall recover the amount to the tune of Rs. 1,63,60,143/- (Rs. One Crore Sixty-Three Lakh Sixty Thousand, One Hundred and Forty-Three only) from Shri Nikhil Gandral I/c Senior Assistant (the then Cashier), PHE City Division-Ist, Jammu and remit the same into the Government Treasury in relevant Major Head under an intimation to this department, in terms of Rule 33 (4) of GFR, 2017.
- iv. Chief Engineer PHE, Jammu shall make a reference to the Collector Jammu for recovery of any balance amount as arrears of land revenue.

By Order of the Government of Jammu and Kashmir.

Sd/-
(Shaleen Kabra) IAS
Financial Commissioner (Additional Chief Secretary)
Jal Shakti Department


No: JSD-HRM05/2/2021-NGJ (CC. No. 91768)

Dated: 09.09.2023

Copy to the:-

1. Principal Secretary to Hon'ble Lieutenant Governor, J&K
2. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
3. Commissioner/Secretary to the Government, General Administration Department.
4. Director, Anti Corruption Bureau, J&K.

5. Director Archives, Archaeology and Museums, J&K.
6. Chief Engineer, Jal Shakti (PHE) Department, Jammu.
7. All Chief Engineer, Jal Shakti Department.
8. Senior Superintendent of Police, Crime Branch, Jammu.
9. OSD to Advisor (B) to the Hon'ble Lieutenant Governor, J&K.
10. Senior Law Officer, Jal Shakti Department.
11. Pvt. Secretary to the Financial Commissioner (ACS), Jal Shakti Department.
12. Shri Nikhil Gandral S/o Late Shri Ravinder Kumar Gandral R/o H.No. 24, Lane No. 07, Greater Kailash Jammu.
13. I/c Website.
14. Government Order file (w.2.s.cs).


(Sahil Mahajan) IAS
09/09/23
Under Secretary to the Government
Jal Shakti Department