

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

Subject: - Simultaneous action of prosecution and initiation of department proceeding in Case FIR No.92/2006 P/S Nowshera against S. Balvinder Singh S/o Gurcharan Singh R/o Nowshera, the then Junior Engineer, PHE Sub Division Nowshera (now retired) - dropping of charges thereof.

Government Order No. 101 -JK(JSD) of 2025
Dated:- 21.04.2025

1. Whereas, the General Administration Department vide OM dated 13.03.2012 requested to initiate Simultaneous Departmental Action against Mr. Narayan Dutt S/o Krishan Chand Sharma R/o Sunderbani, the then AEE, PHE Division Nowshera and S. Balvinder Singh S/o Gurcharan Singh R/o Nowshera, the then JE Sub-Division Nowshera for misappropriation of government funds on account of restoration of water supply scheme at village Pukhrani, Nowshera in case FIR No. 92/2006 P/S Nowshera, whose prosecution was sanctioned vide Government Order No. 08-GAD(Vig) of 2012 dated 13.03.2012; and
2. Whereas, it was alleged that in response to the complaints of General Public of village Pukhrani in Lam Nowshera to the effect that officers/officials of PHE Division, Nowshera have committed a large scale of misappropriation/ embezzlement in the funds allotted for execution of water supply scheme Pukhrani during the year 2006, a Special Police Team was constituted and on the basis of preliminarily verification report and the docket written by the Incharge Special Team, the case under FIR No. 92/2006 was registered in police Station Nowshera; and
3. Whereas, during the course of investigation, it was found that Sh. Naryan Dutt, while posted as Assistant Executive Engineer (AEE), PHE Division Nowshera, and S. Balvinder Singh, posted as Junior Engineer (JE), Sub-Division PHE Nowshera, conspired to prepare a false report indicating extensive damage to the Water Supply Scheme (WSS) Pukhrani due to heavy rains and snowfall in February 2005. However, the said area falls within a hot zone where snowfall does not occur, thereby rendering the report fabricated; and
4. Whereas, it has been alleged that the accused further projected a separate estimate of ₹1.27 lakhs as damages to the gravity main from Thandikassi to Darooni Gala, claiming it was caused by road construction carried out by the GREF Department. This claim was false, as the damages were already covered under funds allocated for snow damage. Subsequently, out of ₹6.00 lakhs received from the Government for restoration of WSS Pukhrani, only 562 meters of pipes of various sizes were actually used on the ground. As per the records, the officials misappropriated funds by falsely recording the use of 1,550 meters of pipes and leaving exhumed materials unaccounted for. They forged documents and signatures, showing fake payments of ₹1,71,060 and ₹13,220 to individuals who were either non-existent or not paid, thereby causing substantial financial loss to the Government through fraudulent misuse of their official positions; and

5. Whereas, vide memorandum dated 07.04.2016, Article of Charges, Statement of Imputation were served to the charged Public Servants. They have submitted their replies which were examined in the department; and

6. Whereas, in the meanwhile, vide Government Order No. 1271-GAD of 2016 dated 21.11.2016 issued by the General Administration Department, Shri Narayan Dutt, the then AEE was prematurely retired from the Government Service; and

7. Whereas, vide Government Order No.74-PW(Hyd) of 2017 dated 06.03.2017, Shri K.K. Magotra, I/c Superintending Engineer, Hydraulic Circle Jammu was appointed as Inquiry Officer to enquire into the charges framed against Mr. Balvinder Singh, the then Junior Engineer. The Inquiry Officer vide letter No. SE/ Hyd/3480 dated 04.07.2017 submitted the enquiry report, the observations/ conclusion of which are reproduced as under:-

- a. "That mild snowfall might have taken place as the paper cutting speaks of it and supported by the local Panchs/Sarpanchs of the area and the Govt. organization like India Meteorological Department has neither accepted nor denied this fact. The mention of snowfall in the report of TS needs not to be given any importance and cause of damage as mentioned in the damage report has much significance in this regard. Pertinent to mention here that Sh. Balvinder Singh has **not** framed the damage report of 02/2005 in respect of the works for restorations of WSS Pukjani which have been claimed for.
- b. That the subject in question Sh. Balvinder Singh has not projected a separate estimate of Rs. 1.27 Lacs which was already projected by the then J.E and reported by the then AEE PHE Sub Div. Nowshera vide his letter no. SDN/63 dated 09-07-2005 and submitted to Ex. Engineer PHE Div. Nowshera for arranging the requisite funds from GREF Department who had reportedly damaged the pipe line in that area.
- c. The record available indicate usage of 300m new pipe (50mm dia) and 1265m pipe obtained from dismantling and 1420m pipe retrieved from debris were used for restoration and balance quantity of pipes have also been consumed afterwards as per the documents furnished by the Executive Engineer, PHE Division, Nowshera/Sh. Balvinder Singh, JE.
- d. Regarding the forged Signature of Surjit Kumar and Kuldeep Singh, none were available for their comments as Surjit Kumar did not come forward after being informed through two speed post letters. The presenting officer also tried to contact him personally and every time he eluded him.
- e. The documents as received and checked also indicate that Surjit Kumar S/o Yograj R/o Rajal has signed differently on different documents at different occasion and the possibility of having signed differently on the CLR/HRs cannot be ruled out.
- f. Regarding Kuldeep Singh, as per the statement of the Sarpanch, happened to be a non local and was working there as a labour supplier for Resin Contractor at that time and usually used to supply the labourers to other agencies executing work in the area and not seen afterwards.

"Sum up, the undersigned did not find anything adverse against the subject in question Shri Balvinder Singh as mentioned in the article of charges framed against him and the allegation levelled seem to be baseless."

8. Whereas, the enquiry report submitted by the Inquiry Officer was examined in the department and vide U.O. No. PW/PHE/HRM/Vig/18/2012 dated 24.10.2017 the matter was taken up with the General Administration Department. In turn, the GAD vide U.O. No. GAD (Vig) 40-SP/2010 dated 12.09.2018 has returned the departmental file with the following opinion:-

“Departmental proceedings and the trial for criminal offence do not stand on a same footing. In the criminal case, the prosecution is required to prove the charges against the accused beyond reasonable doubt whereas in departmental enquiry, the department has to prove only preponderance of probabilities and the action can be taken on the provisions of the Evidence Act, but complies with the principles of natural justice. It is settled position of Law that exoneration in departmental proceedings shall have no bearing or relevance to the facts of the criminal case as the standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are entirely distinct and different. The exoneration in departmental proceedings does not lead to termination of criminal proceedings in each and every case or would not result in acquittal of accused in the criminal proceedings. Every case has to be dealt according to its own peculiar facts and circumstances. If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case. However, the above factors cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the facts that the departmental proceedings cannot be unduly delayed. However, staying of the disciplinary proceedings pending criminal proceedings, to repeat, should not be a matter of course but a considered decision. Even if stayed at one stage, the decision may require reconsideration if the criminal case gets unduly delayed”.

9. Whereas, vide O.M. dated 26.11.2018 and 23.04.2019, General Administration Department with copy to the DGP, J&K Jammu were requested to intimate the present status of case FIR No. 92/2006, which was replied by the Police Headquarters vide letter dated 15.03.2019 wherein it was intimated that the investigation of the said case has been closed as challaned and produced before the Hon'ble Court of Anti Corruption, Jammu on 24.09.2012; and

10. Whereas, General Administration Department vide O.M. No. GAD-VIG0SP/184/2021-09-GAD dated 07.11.2022 forwarded the copies of O.M. No. Home-PRO/22/2022-10(226565) dated 07.09.2022 & letter No. 35/Home-Misc/CMC/CR/22/3831-32 dated 02.09.2022 of Home Department for information and appropriate action in the matter. In its letter dated 02.09.2022, PHQ, J&K has intimated that as per the report of SSP Rajouri, trial of case FIR No.92/2006 u/s 471, 477-A, 467,468,409, 420, 120-B IPC 5(2) PC Act of P/S Nowshera is at Prosecution Evidence Stage - out of 32 prosecution witnesses, 18 have been examined and 14 are yet to be examined and process for their examination is still going on in the Court of Addl. Sessions Court Rajouri. However, the Next date of hearing was fixed by the Hon'ble Court on 23.08.2022; and

11. Whereas, after examination, vide this department's OM dated 10.01.2023, the GAD/ DGP, J&K were again requested to update this department as and when the case will be

finalized/ disposed off by the Hon'ble Court so that the departmental inquiry is disposed off, however, no update was received from the GAD/DGP at that time; and

12. Whereas, thereafter, vide O.M No. JSD-HRM04/26/2021-A (C.No.81858) Dated 14.08.2023 followed by reminder dated 08.04.2024 & 04.07.2024, General Administration Department was requested to furnish the update/latest status of the Case FIR No. 92/2006 P/S Nowshera enabling this department to proceed further in the matter; and

13. Whereas, General Administration Department vide O.M No. GAD-VIG0SP/184/2021-09-GAD (C. No. 91026) dated 05.08.2024 has also sought the latest status of the case FIR No. 92/2006 P/S Nowshera, copy of which was endorsed to this department from the Home Department. However, reply is still awaited; and

14. Whereas, the case was examined and vide this departments letter dated 14.11.2024, some clarifications were sought from the Chief engineer, Jal Shakti (PHE) Jammu. The Chief Engineer, Jal Shakti (PHE) Jammu vide his letter No. PHEJ/GE/13762 dated 22.11.2024 has submitted the reply; and

15. Whereas, the report of the Inquiry Officer, appointed for the purpose, vide Government Order No. 74-PW(Hyd) of 2017 dated 06.03.2017, alongwith clarifications received from the Chief Engineer, Jal Shakti (PHE), Jammu, were placed before the Competent Authority (Hon'ble Minister, Jal Shakti Department) for acceptance/ otherwise. The Competent Authority has accepted the report of the Inquiry officer and decided to close the departmental proceeding against Mr. Balvinder Singh, the then Junior Engineer, Sub Division Nowshera (now retired) by dropping the charges at the departmental level.

Now, therefore, the charges leveled against the S. Balvinder Singh, the then Junior Engineer, Sub Division Nowshera (now retired) are hereby dropped and the instant case is closed at the departmental level.

By Order of the Government of Jammu and Kashmir.

Sd/-

(Shaleen Kabra) IAS

**Financial Commissioner/Additional Chief Secretary,
Jal Shakti Department**

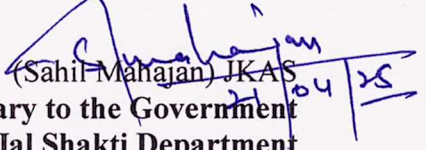
No. JSD-HRM04/26/2021-A-JSD (C. No.81858)

Dated: - 21.04.2025

Copy to the:-

1. Additional Chief Secretary to Hon'ble Chief Minister, J&K.
2. Principal Secretary to Hon'ble Lieutenant Governor, J&K.
3. Joint Secretary (J&K), Ministry of Home Affairs, Government of India, New Delhi.
4. Commissioner/Secretary to the Government, General Administration Department, J&K.
5. Director, Anti Corruption Bureau, J&K.
6. Director Finance, Jal Shakti Department, J&K.
7. Chief Engineer, Jal Shakti (PHE) Jammu.
8. Director, Archives, Archaeology and Museums, J&K.

9. OSD to the Hon'ble Minister, Jal Shakti Department, J&K.
10. Pvt. Secretary to the Financial Commissioner/ Additional Chief Secretary, Jal Shakti Department, J&K.
11. Concerned.
12. I/c Website.
13. Government Order file (w.2.s.cs)


(Sahil Mahajan) JKAS
21/04/25
Under Secretary to the Government
Jal Shakti Department
