



Government of Jammu & Kashmir
Housing & Urban Development Department
Civil Secretariat Srinagar/Jammu.

Subject: Initiation of Regular Departmental action against the then Sh. Habibullah Darzi, Executive Officer Municipal Committee, Handwara (ACB-JSC-BKBG-04/2018)

Government Order No. 30 -JK(HUD) of 2024

Dated: 14 .02.2024

Whereas the General Administration Department has forwarded a report of J&K Anti Corruption Bureau vide No. ACB-JSC-BKBG-04/2018-10905-06 dated 04.09.2019 for initiation of Regular Departmental Action against Sh. Habibullah Darzi, then Executive Officer, Municipal Committee, Handwara, in terms of J&K Civil Services (Classification, Control & Appeal) Rules, 1956; and,

Whereas the matter was taken up with Director Urban Local Bodies Kashmir (ULBK) for initiation of Regular Departmental Action against the aforementioned delinquent public servant in terms of J&K CS(CCA) Rules, 1956, who expressed inability to proceed against the officer in view of the fact that the accused officer had already retired on 31.08.2019; and,

Whereas, the delinquent public servant retired on superannuation on 31.08.2019 and departmental proceedings could not be initiated against the accused within a year from the date on which he was last on duty in view of the lock down restrictions imposed to contain spread of COVID- 19 breakup; and

Whereas, the Hon'ble Apex Court in Union of India Vs K.V. Jankiraman AIR 1991 S.C 2020, observed that it is only when a charge-memo in a disciplinary proceedings or a charge sheet in a criminal prosecution is issued to the employee, it can be said that the departmental proceedings/criminal prosecution is initiated against the employee; and,

Whereas, the Hon'ble High Court of Jammu, Kashmir & Ladakh in WP(C) 1218/2021 titled Mukhtar Ahmad Bhat Vs Union Territory of J&K and Another, inter alia directed as under:-

"that under Article 168-A of the Regulations of 1956, the Government is well within its right to conduct departmental proceedings against a Government Officer or

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government employee (serving or retired) to find out and determine the amount of loss caused to the Government by negligence or fraud of such employee and recover the same from his pension. Such departmental inquiry shall, however, be restricted only to the determination of financial loss caused to the Government by the delinquent government employee and would not be applied or made use of for the purposes of imposing the punishment(s) prescribed under Rule 30 of the Rules of 1956".

Whereas, Article 168-AA of the J&K Civil Services Regulations, 1956 provide that:-

168-AA (1) It shall be the duty of every retiring Government servant to clear all Government dues before the date of his retirement.

(2) Where a retiring Government servant does not clear the Government dues and such dues are ascertainable;

(a) an equivalent cash deposit may be taken from him; or

(b) Out of the gratuity payable to him an amount equal to that recoverable on account of ascertainable Government dues shall be deducted therefrom.

Explanation,-The expression "ascertainable Government dues" includes balance of house building advance (other than loan under Low/Middle Income Group/Housing Schemes) or conveyance advance such as Motor Car/Scooter/Motor Cycle/Bicycle etc. or short term advances like festival advance, advance pay/To A. and similar other advances, recovery as a punitive measure in order to make good the loss caused to Government as a result of negligence or fraud on the part of the Government servant while he was in service, recovery on account of over issues of pay, allowances, or leave salary, arrears of rent and other charges pertaining deductible at source to occupation of Government accommodation, arrears of income tax.

Whereas, since the departmental proceeding could not be initiated against the accused public servant in terms of Article 168-A of the J&K Civil Services Regulations, 1956, the Director Urban Local Bodies Kashmir was requested to ascertain/assess the quantum of loss caused to Government as a result of negligence or fraud on the part of the delinquent public servant while he was in service enabling this department to proceed against the delinquent public servant in terms of Article 168-AA of J&K Civil Services Regulations, 1956 for recovery of ascertainable government dues which includes recovery as a punitive measure in order to make good the loss caused to the Government as a result of negligence or fraud on part of the Government servant while he was in service; and, Whereas the Director, Urban Local Bodies Kashmir intimated that the Executive Officer, Municipal Committee Handwara vide his No. MC/11/Estt/23.-24/1848 dated 02.11.2023 has furnished the quantum of loss for an amount of Rs. 45,600/- caused to public exchequer as a

result of negligence or fraud on part of the delinquent public servant while he was in service; and,

Whereas, the Disciplinary Authority has agreed to proceed against the accused public servant Sh. Habibullah Darzi, the then I/c Executive Officer, Municipal Committee, Handwara in terms of Article 168-AA of the J&K CSRs for recovery of ascertainable Government dues to the tune of Rs 45,600/-.

Now therefore, in terms of Article 168-AA of the J&K Civil Services Regulations 1956, the instant Regular Departmental Action case against Sh. Habibullah Darzi, the then I/c Executive Officer, Municipal Committee, Handwara is concluded by way of recovery of ascertainable Government dues to the tune of Rs. 45,600/-.

By Order of Government of Jammu & Kashmir.


Sd/
(Mandeep Kaur) IAS
Commissioner/Secretary to the Government

No: HUD-LSG0UI.BK/17/2021 (CN. 7253290)

Dated: 14.02.2024

Copy to the:-

1. Principal Secretary to the Hon'ble Lieutenant Governor, J&K.
2. Joint Secretary (JKI), Ministry of Home Affairs, Government of India.
3. Commissioner/Secretary to the Government, General Administration Department.
4. Director, Urban Local Bodies, Kashmir.
5. Director Archives, Archaeology & Museums, J&K.
6. Private Secretary to Commissioner/Secretary to Government, Housing & Urban Development Department.
7. Sh. Habibullah Darzi, the then I/c Executive Officer, Municipal Committee, Handwara.
8. I/C Website, Housing & Urban Development Department.
9. Government Order File (w.2.s.c)/Stock file.


(Abdul Qayum) JKAS
Deputy Secretary to the Government
14.2.24.

