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25/2/17



GOVERNMENT OF KERALA

Abstract

LSGD - Engineering Wing - Disciplinary action -Appeal petition submitted by Shri. Tomy.V.F , Overseer - Finalised - Orders issued.

LOCAL SELF GOVERNMENT (EW) DEPARTMENT

G.O. (Rt) No.383/2017/LSGD.

Dated, Thiruvananthapuram, 10-02-2017.

- Read:-
- 1 D.O Letter No.26298 A/FIW F1/2012/Fin Dated 11-12-2012 from Finance Inspection Wing.
 - 2 Letter no. 11774/D1/12/Vig. Dated 17/11/12 of the Vigilance Dept.
 - 3 G.O. (Rt) No.1841/2014/LSGD dated 17/07/2014.
 - 4 Order No.E10/10251/12/CE/LSGD dated 09/07/2015 of the CE,LSGD.
 - 5 Appeal Petition dated 20-07-2016 submitted by Shri. Tomy.V.F.
 - 6 Order of the Hon. KAT dated 10/08/2016 in OA(EKM)- 1113/2016.
 - 7 Letter No.E10/10251/12/CE/LSGD dated 05/11/2016 .

ORDER

Based on the irregularities found out during the inspection conducted at the office of the Executive Engineer, District Panchayat, Kozhikode regarding the Kallachi-Valayam Road work, the Finance (Inspection wing) Department had recommended to take disciplinary action against Sri. Tomy. V.F, Overseer, Sri. Anni Issac, Assistant Engineer, Sri. P.M. Gopinath, Assistant Executive Engineer and Smt. A.K. Vasanthi, Executive Engineer as per 1st paper above.

Before the Inspection of Finance (Inspection wing) Department, the Vigilance Department conducted a surprise check on the same issue and a report was furnished as per 2nd paper above. Based on their findings they recommended disciplinary action against all officers except Sri. Tomy, Overseer and the same was finalised by awarding the punishment of barring two increments without cumulative effect for a period of one year as per the order read as 3rd above.

Since the allegations raised by the Finance (Inspection wing) Department against Shri. Tomy.V.F , Overseer are serious , Government directed the Chief Engineer , Local Self Government Department to initiate disciplinary action against him. As part of this, MOC/SOA were served on him and the same was finalised by awarding the punishment of barring of 2 increments without cumulative effect for a period of 1 year vide order read as 4th paper above. Aggrieved by this, the Applicant

filed appeal read as 5th paper above. He also filed OA-EKM-1113/2016, before the Hon'KAT, seeking urgent consideration of the appeal petition. The Hon.KAT. in its judgement read as 5th paper above, ordered to consider and pass orders on the appeal petition in accordance with law after hearing the applicant within a period of two months from the date receipt of the copy of the order.

The main contentions put forth by the Appellant in his Appeal Petition are given below:-

1. Barring of increment without cumulative effect is a major penalty and hence the procedures were not followed.
2. He obeyed the orders of the superiors and never took any independent decision.
3. Preparation of estimate is exclusively within the jurisdiction of Assistant Engineer.

As ordered by the Hon. KAT, the petitioner was heard on 08/12/2016 by the Under Secretary, LSG (EW) Department. In order to examine the case in detail, the disposal leading to the issuance of the proceedings of the Chief Engineer was called for . A bare perusal of the said disposal shows that, based on the recommendation of the Finance (IW) Department, MOC /SoA was seen served . Following the receipt of the Written Statement of Defence, a show-cause notice was seen served and the disciplinary action was finalised by awarding the punishment of barring of two increments without cumulative effect for a period of one year. No procedural error/lapse was seen occurred. As regards the 1st contention in the Appeal, the MOC/SoA was seen served for minor penalty (from the format) and hence the contention that no procedures under major penalty were followed is baseless.

With regard to the 2nd & 3rd contentions, it is a fact that the preparation of estimate is within the domain of Assistant Engineer and no allegation of irregularity can be attributed. But, before preparing the estimate, the officials of LSGD should have enquired the matter regarding its ownership. During site inspection by the squad on 09/03/2012, the work was seen in progress from 4/700 to 8/000 and many chainage work had been completed. As the PWD had already started the work from 4/700 to 8/000, there is no point in arranging the work on the same road from the above chainage by LSGD. As pointed out by the Finance(IW) Department, if the officials of

LSGD had inspected the site for preparing the report accompanying estimate. they should not have done this irregularity. They failed to note that the road had already been taken from the LSGD. The Overseer is an official with a primary responsibility of field verification and report. In the above circumstances, there are no grounds to interfere in the Inspection Report by the Finance (Inp.Wing) Department and also in the decision tendered by the Chief Engineer, the disciplinary authority. The co-accused officers figured in the Finance Inspection Wing report were also awarded with a punishment of same magnitude as per Government Order read as 3rd paper above.

Government have examined the Appeal Petition in detail with the disposal leading to the issuance of the Order read as 4th paper above and the contentions put forth by the appeal petitioner. Since no ground has been made out warranting interference with the decision taken in the Order read as 4th paper above. Government decided to reject the Appeal Petition read as 5th paper above and orders issued accordingly. The order of the Hon. KAT read as 6th paper above is thus complied with.

(By Order of the Governor)
SREEJITH. V.P
Under Secretary to Government.

To

1. The Advocate General, Thiruvananthapuram. (with C/L)
2. Shri. Tomy.V.F , Overseer , Panthalayini B.P(Through CE, LSGD)
3. The Chief Engineer, LSGD, Thiruvananthapuram.
4. The Accountant General (A&E/Audit) Kerala, Thrissur.
5. The Finance (Inspection wing) Department. (Vide paper read as 1st above)
- ✓ 6. The Web & New Media, I & PRD.
7. The LSG (EW3) Department.
8. Stock File/Office Copy.

Forwarded/By Order



Section Officer