

**Government of Jammu and Kashmir
Mining Department
Civil Secretariat, J&K**

Subject: Original Application No. 221/2022 titled Ajaz Mir V/s Union Territory of J&K & others.

**Government Order No: 35-JK(MNG) of 2023
Dated: 14.08.2023**

Whereas, Shri Ajaz Ahmad Mir, Drilling Engineer, Geology and Mining Department, was exercising the powers of Drawing and Disbursing Officer (DDO-I) Jammu in terms of order issued by Director, Geology and Mining, J&K under endorsement No. 401/C/Adm/DCM/Office order/114-112 dated 17.01.2015; and

Whereas, a complaint was filed by Shri Shiban Lal Bhat, Drill Operator Grade-II, Shri Ratan Lal Sharma, Drilling Assistant and Shri Raj Kumar, Helper, regarding illegal withdrawal of their GP Fund to the tune of Rs. 17.00 lacs, Rs. 5.00 lacs and Rs. 7.00 lacs respectively and it's non disbursement thereof; and

Whereas, in terms of GP Fund rules, amount sanctioned by the competent authority is required to be directly transferred/credited into the accounts of actual subscribers and holding the said amount for unreasonable period and its non-disbursement to them immediately tantamount to be serious irregularities; and

Whereas, taking cognizance of the aforementioned complaints, a committee was constituted by Director Geology and Mining, J&K under endorsement No. 438-S/C-Adm/DGM/Complaint/20-21/1773-77 dated 17.07.2022 to enquire illegal withdrawal of GP Fund amount of officials of Geology and Mining Department; and

Whereas, the said committee observed that an amount of Rs. 33,03,447/- pertaining to GP Fund of employees has been illegally withdrawn and has not been disbursed to the actual subscribers, which is a clear case of embezzlement and violation of financial canons; and

Whereas, the said committee after holding series of meetings and deliberations recommended as under:-

- a. Major Penalty as per the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956 be imposed upon the concerned delinquent officer/officials (Shri Ajaz Mir, Drilling Engineer and Shri Rohin Nanda, Sr. Asstt.). Pre-mature retirement on proportionate pension may be considered and also recovery from the pensioner may be through other manner under rules.
- b. In the meanwhile, Shri Ajaz Mir, Drilling Engineer the then DDO concerned, who has been attached by the Director, Geology and Mining be placed under suspension.
- c. For thorough investigation, as recommended by the committee and in view of the role of external agencies like Treasury and Bank also, the case may be referred to Crime Branch/ Anti-Corruption Bureau.

Whereas, the aforementioned recommendation of Inquiry Committee were reiterated by Director, Geology and Mining, J&K vide letter dated 07.09.2020; and

Whereas, the case was examined in the Department and vide Government Order No. 173- IND of 2020 dated 01.12.2020, Mr Ajaz Ahmad Mir, Drilling Engineer (DDO-I) Jammu was placed under suspension and the matter was forwarded to Crime Branch, Jammu for thorough investigation in view of role of external agencies like Treasury and Bank and accordingly an FIR No. 04/2021 under section 409,420,120-B of IPC read with section 13 of P.C Act was lodged against Shri Ajaz Ahmad Mir, Drilling Engineer, the then Drawing and Disbursing Officer in connection with withdrawal of illegal GP Fund, however, the matter is still under investigation with the Crime Branch, Jammu (investigating agency); and

Whereas, the matter was also taken up with the Finance Department for their opinion with regard to advise this Department to give a way out to recover illegally drawn GP Fund amounting to Rs. 33,03,447/- which was credited into the DDO's account instead into the accounts of actual subscribers. The Finance Department vide U.O dated 03.12.2021 conveyed as under:-

"The case was examined and the meeting to discuss the issue was held on 29.11.2021, it was decided that the department shall recover the amount from the then DDO Mr. Ajaz Ahmad, Drilling Engineer and also process his case under Article 226(2) on the basis of the enquiry report submitted by the Enquiry Officer."

Whereas, in the meantime Shri Ajaz Ahmad Mir, Drilling Engineer (Suspendee) approached Central Administrative Tribunal, Jammu and filed O.A No.61/221/2022, seeking direction to initiate Departmental Inquiry against him as per the provisions of J&K Civil Service (CCA) Rules, 1956 and also seek the directions to consider revocation of his suspension order; and

Whereas, Hon'ble Central Administrative Tribunal, Jammu disposed of the said O.A without expressing any opinion of the merit of the case on the request of applicant's counsel to issue directions to respondents, which reads as under:-

"Directing respondents No. 1& 2 i.e Principal Secretary to the Government Mining Department and Director, Geology and Mining Department to consider the pending representation of applicant dated. 24.06.2021 as per relevant provision under J&K Civil Services (CCA) Rules 1956 and decide it with a reasoned and speaking order with in a period of four weeks. The respondents are also directed to conduct and complete the departmental enquiry envisaged against the applicant under the above Rules till the departmental enquiry finalized not to take any penal action against the applicant."



Whereas, the matter was taken up with the General Administration Department, who vide O.M dated 04.01.2023, conveyed as under:

"On consideration of the matter in GAD, the authorities have desired that Mining Department be advised to institute Regular Departmental Action against the delinquent officer, under J&K CS (CCA) Rules, 1956, so that recovery can be made by way of imposition of penalty and the illegally drawn GPF can be remitted back to the concerned officials, whatever due to them. The recovery proceedings in the RDA can continue even after the delinquent is prematurely retired in terms of Article 226 (2) of J&K CSRs."

Whereas, in order to comply the Hon'ble CAT order and advise of General Administration Department conveyed vide OM dated 04.01.2023, the Article of Charges and Statement of Imputations were served to delinquent officer with the direction to submit written statement of defense to the Department within a period of 15 days. The delinquent officer submitted his written statement on 05.04.2023; and

Whereas, the reply furnished by delinquent officer was examined in the department and pursuant to sub-rule (4) of Rule 33 of J&K Civil Services (Classification, Control and Appeal) Rules, 1956, the competent authority decided to appoint an Inquiry Officer to enquire into the charges framed viz-a-viz reply furnished by the delinquent officer; and

Whereas, vide Government Order No.12-JK(MNG) of 2023 dated 13.04.2023, Shri H.L Langeh, Joint Director, Geology and Mining, Jammu was appointed as Inquiry Officer to enquire into the charges leveled against Shri Ajaz Ahmad Mir, Drilling Engineer (supendee), the then DDO-I with the directions to submit his report along-with specific recommendation/findings to the Government within a period of 15 days after giving opportunity to the delinquent officer to defend himself in person; and

Whereas, the delinquent Officer again approached the Hon'ble Central Administrative Tribunal and filed O.A No.499/2023 challenging the Departmental Enquiry initiated against him. The Hon'ble CAT vide its order dated 16.05.2023 has passed the following directions: -

"Further proceedings pursuant to order dated 13.04.2023 shall remain stayed till the next date of hearing."

Whereas, the revocation of suspension order of the delinquent officer cannot be considered at this point of time as the matter is still under investigation with the investigating agency (i.e Crime Branch, Jammu) and due to pending Regular Departmental Action initiated by this department vide Government Order No.12-JK(MNG) of 2023 dated



13.04.2023 as per the advice of GAD vide OM dated 04.01.2023, has been stayed by Hon'ble Central Administrative Tribunal vide Order dated 16.05.2023.

Now therefore, in view of the above stated facts, the representation dated 24.06.2021, filed by Shri Ajaz Ahmad Mir, Drilling Engineer (suspendee), the then DDO-I Geology and Mining, Jammu, followed by Hon'ble Central Administrative Tribunal's Order dated 09.03.2022 has been examined in the department and cannot be considered at this stage as the investigating agency has not submitted its findings and the RDA initiated vide Government Order No.12-JK(MNG) of 2023 dated 13.04.2023, against the delinquent officer has been stayed by the Hon'ble Central Administrative Tribunal, Jammu in O.A 499/2023 vide Order dated 16.05.2023. Accordingly, the claim of the applicant cannot be considered at this stage and hence rejected.

By Order of the Government of Jammu and Kashmir

Sd/-
(Rashmi Singh) IAS
Administrative Secretary
Dated: 14.08.2023

No: GM-LEG/35/2022-07

Copy to the:-

1. Joint Secretary (Jammu, Kashmir and Ladakh), Ministry of Home Affairs, GoI.
2. Director Archives, Archeology and Museums, J&K.
3. Director, Geology and Mining, J&K.
4. Shri. H.L Langeh, Joint Director, Geology and Mining
5. Shri. Ajaz Ahmad Mir, Drilling Engineer (Suspendee), the then DDO-I, Geology and Mining Department.
6. Private Secretary to Commissioner/Secretary to the Government, General Administration Department.
7. Private Secretary to Administrative Secretary, Mining Department.
8. Government Order file (w.3.s.c).



(Aamir Ayaiz Rather) JKAS 14.08
Under Secretary to the Government