

Government of Jammu and Kashmir
Department of Law, Justice and Parliamentary Affairs
(Parliamentary Affairs Branch) Civil Secretariat
Jammu/Srinagar

Subject:- Dismissal of Mr. Fayaz Ahmad Bhat, Watch & Ward Assistant of the erstwhile J&K Legislative Council from Service in terms of Clause (viii) of Rule 30 of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956.

Government Order No.5332 -JK(LD) of 2024
Dated. 24-04-2024

Whereas, in terms of Memorandum bearing No. Law-PAB/26/2022-10 dated 06.03.2023, the following Articles of charge alongwith statement of imputations and allied documents were served upon Mr. Fayaz Ahmad Bhat, Watch & Ward Assistant of the erstwhile J&K Legislative Council (delinquent official) for submitting his Statement of defence within 15 days from the date of receipt of the said memorandum:

"That Mr. Fayaz Ahmad Bhat, Watch & Ward Assistant of the erstwhile J&K Legislative Council received an amount of Rs.5.00 lacs illegally from one Mr. Dilawar Manzoor S/O Manzoor Ahmad Bhat R/O Berthipora Shopian on the pretext of managing a Government Job for him, so much so the a part of the said amount has been deposited in his bank account and rest has been paid by cash, for which an FIR has been already registered. This illegal act of swindling money from an educated youth has tarnished and maligned the image and reputation of the institution and thereby, he has failed to maintain the absolute integrity and honesty as an employee and this unbecoming conduct is in contravention of the Rule-3 of the Jammu and Kashmir Government Employees (Conduct) Rules, 1971 and renders him liable for action under Rule-33 of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956."

Whereas, the above said delinquent official submitted his response to the charge sheet and upon examination of the response/reply, the same was found to be unsatisfactory and accordingly, in terms of Government Order No. 4067-JK(LD) of 2023 dated 24.04.2023, inquiry proceedings were initiated against the said delinquent official by appointing an Inquiry Officer to conduct an inquiry in respect of the aforesaid Articles of Charge;

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Whereas, the Inquiry Officer appointed vide aforesaid Government Order on the basis of the totality of the circumstances and upon evaluation of the evidence that has come on record during the Inquiry proceedings vis-a-vis the draft Articles of Charge submitted Inquiry Report to the Government and found that the charges have been established against the delinquent official and accordingly, arrived at the following findings:-

1. *The Inquiry in the matter brought to fore many facts, though some may be based on surmises, but beyond any reasonable doubt were found explicit. The revelations during oral hearings, answers to questions during personal hearing, filing of replies by the Charged Official, witness (a government servant), complainant, bank statements and other documents pertaining to the case were sufficient to construe and extract the truth in the matter. In this backdrop the appreciation of available and produced evidence in all forms was undertaken minutely to compile legitimate, genuine and maintainable findings in the matter.*
2. *The allegation that Mr. Fayaz Ahmad Bhat, Watch and Ward Assistant accepted and received an amount of Rs.5,00,000/- (five lakh) from the Complainant (Mr. Dilawar Manzoor Bhat) and Rs. 16.30 lacs from Mr. Nisar Ahmad and his nephews through bank deposits and in cash mode has been found true beyond any reasonable doubt. The accusations become sustainable by unambiguous and straight admission and confession of the Charged Official during oral hearing that financial transactions have taken place. The finding gains more essence and sustainability by virtue of alluding written replies filed by the Charged Official wherein he (charged official) acknowledges transactions made through bank medium but rebutted cash receipts. The depositions, circumstances revealed by the Complainants are in no way imaginary and there seems no reason for them to implicate the Charged Official in any fabricated case. It has been proved during the course of inquiry that the amounts have not been received in account of fruit crop.*
3. *The refutation of the Charged Official in respect of exact transacted amount is nothing but only an option available to him to lessen his burden in respect of returning monetary considerations prima facie received by him in an illegal manner that too for illegitimate purpose. Cropping up dispute on the total transacted amount is directly related to Charged*

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Official's intention to explore a possible route to escape the responsibility of liquidating the full amount to the Complainant and his insistence on Bank Transaction Statement signifies his mens rea in the matter. The derived observation solidifies when written submissions/accusations of the Charged Official's accomplice i.e., Mr. Abdul Razaq, Master is taken into contemplation. The harassment and ordeal confronted by the Complainant for the period spread over near about four years in pursuit of recovering money also establishes hard core mentality of Mr. Fayaz Ahmad Bhat (accused official) in tandem with his greed for money no matter at any cost.

4. The Charged Official's denial that transacted amount was never ever accepted or received by him in lieu of the promise of providing a government job to the complainants proved to be weak and feeble defence pleaded by the accused official with an intention to tackle the possible consequences attached to such unlawful and illegal actions."

Whereas, the inquiry report submitted by the Inquiry Officer was examined and placed before the Competent Authority alongwith all the relevant records for his final decision/consideration and the GAD vide its U.O No.GAD-VIGORDA/118/2023-02-GAD(7311198) dated 09.11.2023 conveyed the following observations of the Competent Authority:-

"Returned: The proposal of Department of Law, Justice and Parliamentary Affairs, after examination in the General Administration Department, was placed before the Competent Authority (the Chief Secretary), who observed as under:-

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"Inquiry Officer has established charges against the charged official. On perusal of the case and inquiry report, I arrive at a provisional conclusion that imposition of the penalty of "Dismissal from the service of the State which ordinarily disqualifies from future employment" upon the delinquent official under Rule 30(viii) of the J&K CS(CCA) Rules, 1956 is commensurate to the misconduct of the official. The official be put to notice under Rule-34 of the J&K CS(CCA) Rules, 1956 as to why the proposed penalty be not imposed upon him."

The above observations of the Competent Authority are conveyed to the Department for taking further necessary action in the matter, accordingly."

Whereas, the proposed show cause notice could not be served upon the delinquent official owing to the fact that he was arrested by the Crime Branch, Jammu in connection with case FIR No. 33/2022 P/S EOW, Crime Branch, Jammu and was facing trial before the Hon'ble Sub Judge, Special Railways Magistrate, Jammu. However, upon his release on bail by the Court of Competent Jurisdiction, the show cause notice duly approved by the Competent Authority was served upon the delinquent official vide No. LAW-PAB/26/2022-10 dated 11.03.2024 asking him to show cause within a period of 15 (fifteen) days from the date of receipt of the instant notice as to why the proposed penalty of removal from service as warranted under rules shall not be imposed upon him;

Whereas, the matter was again placed before the Competent Authority alongwith the response furnished by the delinquent official to the aforementioned show cause notice and the Competent Authority decided not to change the decision regarding imposition of penalty, as the misconduct proved against the charged official is grave in nature and warrants imposition of major penalty i.e, dismissal from Services;

Now therefore, in terms of Clause (viii) of the Rule 30 of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956, Mr. Fayaz Ahmad Bhat, Watch & Ward Assistant of the erstwhile J&K Legislative Council is hereby dismissed from service with immediate effect, which ordinarily disqualifies him from future employment.

By Order of the Government of Jammu and Kashmir.

Achal Sethi
(Achal Sethi) 24.04.2024

Secretary to the Government
Department of Law, Justice and P.A.

NO: Law-PAB/26/2022-10

Dated: 24-04.2024

Copy to the:-

1. Principal Secretary to Hon'ble Lieutenant Governor for information.
2. Joint Secretary (JK), Department of Jammu, Kashmir and Ladakh Affairs, Ministry of Home Affairs, Government of India, New Delhi.
3. Special Director General of Police, Crime, J&K, Jammu / Srinagar.

4. Commissioner/Secretary to Government, General Administration Department.
5. Private Secretary to Chief Secretary for information of the Chief Secretary.
6. Incharge, Cell of Records of the erstwhile J&K Legislative Council.
7. Government Order file.
8. File concerned