



HARYANA HOUSING BOARD
C-15, AWAS BHAWAN, SECTOR-6, PANCHKULA

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ORDER

That while Sh. Manoj Gupta, Junior Engineer was working on deputation in the Estate Office, HSVP, Hisar, he was entrusted additional charge of Estate Office, HSVP, Sirsa by the Administrator, HSVP, Hisar vide his office order No. EA/2018/2682 dated 16.02.2018. He was caught red handed on 16.03.2018 by the team of SVB (H) and registered a criminal case against Sh. Manoj Gupta, Junior Engineer vide FIR No. 06 dated 16.03.2018, U/S 7 & 13 of Prevention of Corruption Act, 1988. He was charge sheeted under Rule- 7/4(b) of the Haryana Civil Services (Punishment & Appeal) Rules, 2016 vide this office Memo No. HBH/Admn-1/2019/1262 dated 11.02.2019 and the following charges were leveled against him:-

1. **Violation of Rule 4(1) (i) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016:-** Whereas Rule 4(1) (i) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016 provides that – EVERY GOVERNMENT EMPLOYEE SHALL AT ALL TIMES MAINTAIN ABSOLUTE INTERRITY' but he failed to comply with the provision of said Rules. "ACCEPTANCE OF ILLEGAL GRATIFICATION REGLESTS UPON HIS INTERGRITY THUS, HE FAILED TO MAINTAIN ABSOLUTE INTERGRITY AND THEREBY HE VIOLATED AND IS RESPONSIBLE FOR NON COMPLIANCE OF Rule 4(1) (i) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016.
2. **Violation of Rule 4(1) (ii) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016:-** Whereas Rule 4(1) (ii) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016 provides that – EVERY GOVERNMENT EMPLOYEE SHALL AT ALL TIMES MAINTAIN DEVOTION TO DUTY' but he failed to comply with the provision of said Rule. He Delayed Completion file in respect of Booth No. 105, Shopping Complex, Sector-20, Part-II, HUDA, Sirsa as reported by Sh. Ajay Kumar Nanda S/o Ramesh Kumar Nanda, Resident Gali Ram Sawroop Bansal wali, Near Surkhab Chowk, Sirsa and demanded bribe of Rs.25,000/- for passing the said Completion File. The Completion File consisting of 27 pages was also taken into custody by the Raid Party. The alleged delay on his part reflects on his Devotion to Duty and thereby he violated provision of Rule-4(1) (ii) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016 and he is responsible for the same.
3. **Violation of Rule 4(1) (iii) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016:-** Whereas Rule 4(1) (iii) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016 provides that EVERY GOVERNMENT EMPLOYEE SHALL AT ALL TIMES DO NOTHING WHICH IS UNBECOMING OF A GOVERNMENT EMPLOYEE' but he failed to comply with the

provision of said Rule. He was caught Red handed by the Raid Party. Sh. Kuldeep Singh, Naib Tehsildar was the Duty Magistrate appointed by the D.C. Sirsa, who was head of the Raid Party. At that time, Sh. Anil Kumar, Driver, Office of Naib Tehsildar, Sirsa. Sh. Naresh Kumar, Accountant, office of Estate Officer, HSVP of Estate Officer, HSVP, Sirsa were also present. Sh. Bhupender, Inspector, State Vigilance Bureau, Sirsa Unit, Sirsa was member of Raid Party. After the said Raid, Sh. Manoj Kumar Gupta, J.E. was arrested on 16.03.2018 and he was released on bail on 18.04.2018. Thus, he remained under the Police/Judicial Custody for 34 days. Causing intentional delay and demanding bribe for passing the Completion File is act of unbecoming of a Govt. employee on his part and thereby he violated provision of Rule 4(1) (iii) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016 and he is responsible for the same.

4. **Violation of Rule 4(1) (iv) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016:-** Whereas Rule 4(1) (iv) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016 provides that- EVERY GOVERNMENT EMPLOYEE SHALL ACT IN ACCORDANCE WITH THE GOVERNMENT'S POLICIES', but he failed to comply with the provision of said Rule. It is the policy of Haryana Government that there shall be zero tolerance for corruption. Sh. Manoj Kumar Gupta, J.E. had demanded bribe of Rs.25,000/- for passing Completion File of Booth No. 105, Shopping Complex, Sector-20, Part-II, HUDA, Sirsa from Sh. Ajay Kumar Nanda R/o Gali Ram Sawroop Bansal wali, Near Surkhab Chowk, Sirsa. He made complaint to Inspector, State Vigilance Bureau, wherein he had stated that his Completion file in respect of Booth No.105, Shopping Complex, Sector-20, Part-II, HUDA, Sirsa is lying with gratification for passing the said file. Sh. Bhupinder Singh, Inspector, State Vigilance Bureau, Unit Sirsa reported the matter to the higher authorities through email. FIR No.06 dated 16.03.2018 was registered under section 7 & 13 of Prevention of Corruption Act, 1988. The case is pending before Hon'ble Court of Additional Sessions Judge, Sirsa and is pending 16.11.2018. It is obvious that the charges have been framed by the Hon'ble Court against Sh. Manoj Kumar Gupta, J.E. who is now under suspension and is on bail. In the present case, he failed to work in accordance with the Government Policies and thereby he violated provision of Rule 4(1) (iv) of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016 and he is responsible for the same.
5. **Violation of Rule 5 of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016:-** Whereas Rule 5 of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016 contains LIST OF ACT AND CONDUCT WHICH AMOUNT TO MISCONDUCT. IT IS PROVIDED THEREIN THAT IF THE ACT AND CONDUCT OF A GOVT. EMPLOYEE IS PREJUDICIAL TO THE REPUTATION OF THE EMPLOYER/DEPARTMENT, IT SHALL AMOUNT TO BE THE ACT OF MISCONDUCT ON THE PART OF CONCERNED EMPLOYEE. The Hon'ble Court has framed the charge under section 7& 13 of the Corruption Act, 1988 and it has been observed by the Hon'ble Court that prima facie case is made out against him. Acceptance of bribe, demand of illegal gratification from a public person for doing the government work, for which he is duty bound to do, is clear but case of misconduct on his part. The reputation of the HSVP has

been effected on this account. Thus, he failed to work in accordance with the Rules & Regulations and has caused loss to the reputation of Employer/Department, thereby he violated provision of Rule-5 of Haryana Civil Services (Govt. Employees Conduct) Rules, 2016 and he is responsible for the same.

Sh. Manoj Gupta, Junior Engineer submitted his reply on 14.05.2019 to the charges leveled against him and the reply was found unsatisfactory.

A regular departmental enquiry was entrusted to Sh. R. P. Bhasin, District and Sessions Judge (Retd.) vide this office order dated 24.12.2020 who has submitted the enquiry report vide memo dated 21.05.2021 proving all the charges against the delinquent.

Accordingly, the copy of enquiry report was sent to the delinquent vide this office No. HBH/Admn-1/2021/4541 dated 07.06.2021 with the direction to submit representation, if any, in writing to the undersigned within 15 days from the receipt of this communication by him.

He submitted his representation on 18.06.2021 stating that he joined the Estate Office, HSVP, Sirsa on 16.02.2018. Smt. Sangeeta Nanda owner of booth no. 105, Sector-20, (P-II), Sirsa and applied for occupation certificate on 29.12.2016 which was rejected by the office. She applied on 29.12.2017 for occupation certificate which was again rejected. Later on, she applied for occupation certificate and the file of booth No. 105 was put up before him on 01.03.2018 upon which he inspected the site thereby imposing penalty of Rs.64,529/- upon the site in question. The said file was cleared on 13.03.2018 and sent to the Record Keeper on the same day. Moreover, the Inquiry Officer did not consider the fact that complainant Ajay Kumar was not owner of the Booth No. 105 and Smt. Sangeeta Nanda had concealed the fact of construction of basement. Thus, her application for regularization of basement was rejected by his predecessors. The Inquiry Officer did not consider the facts on record whereas he has sent the relevant file to the record room. In this way, the raiding team could not recover the file from his possession. The sole witness Sh. Ajay Kumar Nanda stated before the Hon'ble Court that Sh. Manoj Gupta, Junior Engineer never demanded bribe from him. Moreover, no recovery of tainted money was made from anybody else in his presence. Furthermore, the Duty Magistrate Sh. Kuldeep Singh, Naib Tehsildar stated in his evidence before the Hon'ble Court that office of Sh. Manoj Gupta was at ground floor whereas the same was shown at 1st floor as per final report of FIR. Therefore, recovery

from drawer of table at ground floor can not be blamed upon him as he was sitting on 1st floor. The Inquiry Officer can not give different findings at this stage in the departmental enquiry when criminal proceedings are pending before the Hon'ble Court. The delinquent has also submitted the citation of the Hon'ble Apex Court as well as Hon'ble High Courts whereby demanded bribe money recovered from the accused but demand and acceptance not proved and conviction was set aside by the Apex Court in criminal appeal no. 1839 of 2012 (arising out of SLP CrI. no 23 of 2012). The delinquent submitted that the enquiry report dated 21.05.2021 is against the facts and principle of natural justice which is liable to be set aside being contrary to the facts of the case. *

The representation dated 18.06.2021 of Sh. Manoj Gupta, Junior Engineer was considered at length and it was felt that the delinquent official may be given an opportunity of personal hearing. Accordingly, he was called for personal hearing before the undersigned on 30.06.2021 at 4:00 PM vide this office memo No. HBH/Admn-1/2021/5100 dated 28.06.2021.

During hearing on 30.06.2021, Sh. Manoj Gupta stated similar version as taken in representation dated 18.06.2021. Beside above, he stated that complainant turned hostile during the evidence in the Hon'ble Court and no recovery of tainted currency made from him. Therefore, he requested to exonerate him from the charges leveled as well as proved against him by the Inquiry Officer.

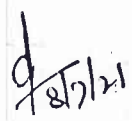
d I have gone through the report of Administrator, HSVP, Hisar dated 13.06.2018, charge sheet dated 11.02.2019, reply dated 14.05.2021, enquiry report dated 21.05.2021, representation dated 18.06.2021 and other documents placed on file, it is established that complainant was not the real owner of the booth no. 105, Sector-20 (Part II), Sirsa. Moreover, on the date of complaint i.e. 16.03.2018, no work was pending with Shri Manoj Gupta, Junior Engineer regarding completion certificate of said booth. Further, it was highlighted in the report of the Administrator, HSVP, Hisar that tainted money was not recovered from the possession of Junior Engineer Shri Manoj Gupta and file of booth no. 105 was not recovered from his table rather the same was handed over by Shri Shiv Shanker, Record Keeper of Estate Office, HSVP, Sirsa. While giving prosecution sanction, the comments of the Administrator, HSVP, Hisar were obtained in this matter vide Memo dated 13.06.2018. The detailed comments received from HSVP Hisar whereby nothing

adverse reported against the delinquent rather Sh. Manoj Kumar, J.E. has compounded the case after spot inspection and imposed an amount of Rs.64,529/- as compounded fee. It shows that nothing undue was given to the owner Smt. Sangeeta Nanda and violations on the spot were assessed and compounded as per HUDA Policy. Hence, the Administrator, HSVP, Hisar recommended that Sh. Manoj Gupta, J.E. was not at fault in this case. The Inquiry Officer failed to take cognizance of material facts on record and proved all the charges without going into depth of the case. The Inquiry Officer did not consider the report dated 13.06.2018 of the Administrator, HSVP, Hisar whereby he was not held guilty in this case. As per final report of FIR wherein recovery of tainted money was shown from different place and thus the delinquent did not violate the provision of Service Rules, Haryana Civil Services (EMPLOYEES' CONDUCT) Rules, 2016. On the other hand, the Inquiry Officer has proved all the charges against the delinquent without any evidence on record. Therefore, the enquiry report is not well reasoned and thus, I find no merit in the findings concluded by the Inquiry Officer as the can not be accepted containing several infirmities and contrary to the facts of the case. The official has discharged his official duties sincerely, honestly and diligently without any contravention of Rules & Regulations. In these circumstances, I do not find anything adverse on the part of the delinquent and thus, he can not be held guilty in this matter thereby findings of the Inquiry Officer are declined being devoid of merit.

In view of above, I am of the considered view that the official is not at fault in this case and the charges leveled against Sh. Manoj Gupta, Junior Engineer are dropped to meet the ends of justice.

I order accordingly.

**PANCHKULA DATED
THE 8TH JULY, 2021**

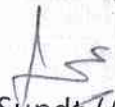

**(DR. ANSHAJ SINGH) IAS
CHIEF ADMINISTRATOR.**


Endst.No.HBH./Admn-1/2021/8348-8354

Dated: 12-7-2021

A copy is forwarded to the following for information and necessary action:-

1. The CE/CAO, Housing Board Haryana, Panchkula.
2. The Executive Engineer, Housing Board Haryana, Gurugram.
3. The PS/Chief Administrator and PA to Secretary, Housing Board Haryana Panchkula
4. Sh. Manoj Kumar Gupta, ASDE, Housing Board Haryana, Gurugram.
- ✓ 5. IT In charge, Housing Board Haryana, Panchkula for uploading the orders on official website.


Supdt.(Admn)
For Chief Administrator

