

TWELFTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2008-2011)**

HUNDREDTH REPORT

(Presented on 29th June, 2009)



SECRETARIAT OF THE KERALA LEGISLATURE
THIRUVANANTHAPURAM
2009

TWELFTH KERALA LEGISLATIVE ASSEMBLY

**COMMITTEE
ON
PUBLIC ACCOUNTS
(2008-2011)**

HUNDREDTH REPORT

On

**Action taken by Government on the Recommendations
contained in the Sixty Seventh Report of the
Committee on Public Accounts
(1998-2000)**

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COMMITTEE ON PUBLIC ACCOUNTS (2008-2011)

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INTRODUCTION

I, the Chairman, Committee on Public Accounts, having been authorised by the Committee to present this Report on their behalf present the 100th Report on Action Taken by Government on the Recommendations contained in the 67th Report of the Committee on Public Accounts (1998-2000).

The Committee considered and finalised this Report at the meeting held on 10th June, 2009.

Thiruvananthapuram,
29th June, 2009.

ARYADAN MUHAMMED,
Chairman,
Committee on Public Accounts.

REPORT

This Report deals with the action taken by Government on the recommendations contained in the 67th Report of the Committee on Public Accounts (1998-2000).

The 67th Report of the Committee on Public Accounts (1998-2000) was presented to the House on 12th April 1999. This Report contained 15 recommendations relating to Public Works Department. Government were addressed on 4th May 1999 to furnish the statements of Action Taken on the recommendations contained in the Report and final replies were received on 16th February 2008.

The Committee examined the replies at its meetings held on 21-3-2002, 3-6-2003, 19-12-2007 and 18-11-2008. The Committee was not satisfied with the Action Taken by Government on recommendations Nos. 1,2,3,4,5 and 8 (Para Nos. 3,4,11,12,13 & 21) and decided to pursue them further. Such recommendations, replies thereon and further recommendations of the Committee are included in Chapter I of this Report.

The Committee decided not to pursue further action for the remaining recommendations Sl.Nos. 6,7,9,10,11,12,13,14&15 (Para Nos.19,20,22,23, 26,27,29,33 &34) in the light of replies furnished by Government. The recommendations of the Committee and the Action taken by Government are included in Chapter II of this Report.

CHAPTER I

Recommendations in respect of which action taken by Government are not satisfactory and which requires reiteration

PUBLIC WORKS DEPARTMENT

Recommendation

(Sl.Nos. 1&2 Para Nos. 3&4)

1.1. The Committee cannot understand the logic of tendering the work before demolishing the old structure and clearing all hurdles like disputes of approach roads with Co-operative Department. This was against the provisions of Public Works Department Code. The Committee recommend that responsibility should be fixed against the officials who had gone for tendering the work in advance even before settling the issues or hurdles in handing over the site.

1.2. The Committee opine that lack of proper planning and investigation led to another revision of the estimate resulting in avoidable extra expenditure of Rs. 2.59 lakhs. The Committee are not convinced at the stand taken by the department that the site was to be handed over by the Animal Husbandry Department to P.W.D. Therefore, the Committee recommend that in future no work shall be tendered/awarded before the site is made available to be handed over to contractor. The Committee also desire to check the recurrence of such violation of codal provisions in future.

Action Taken

1.3. Government have since decided to take disciplinary action against the then Executive Engineer who was responsible for the lapse. Strict directions have also been given to all concerned to ensure that while tendering the work, the work site should be ready for handing over to the contractor immediately after the execution of the agreement (copy enclosed as appendix II).

Further Recommendation

1.4. **The Committee find the reply not convincing and suggest to obtain a detailed report about recovery of the loss sustained to the Government.**

Recommendation

(Sl.Nos. 3,4,5 Para Nos. 11,12,13)

1.5. The Committee observe that the Chief Engineer who made an on the spot study on 5-3-1990 to examine the proposal put forward by the Superintending Engineer for a change in the foundation of piers P2 and P3 from

open foundation to well foundation with concrete casing had not recorded any reasons for rejection of the proposal. The Committee note that the scrutinising authority viz. the Chief Engineer and Superintending Engineer had failed in sorting out the differences of opinion among them. Had the matter been settled then and there the infructuous expenditure of such a huge amount could have been avoided. The deviations from the design as directed by the S.E. without prior approval by the Chief Engineer is the root cause for the subsequent development which ultimately resulted in extra expenditure of Rs. 1.89 lakhs.

1.6. The Committee note with serious concern that due to defective investigation and wrong estimation of sub soil strata the design of the Myladi Bridge across Chaliyar river on Nilambur-Valamthode road had to be revised during execution. The Committee are distressed to note that the Chief Engineer DRIQ Board had ruled out the change of design as proposed by the S.E., and the S.E. himself directed the Executive Engineer to carry out the work without proper sanction/approval from the C.E. concerned which resulted in an avoidable expenditure of Rs. 1.89 lakhs. The Committee recommend that responsibility should be fixed and appropriate action taken so as to check recurrence of such lapses in future.

1.7. The Committee find that the action of the S.E. in carrying out the work as per modifications proposed by himself was irregular and not covered by proper authority. It is distressing to note that the person responsible for extra expenditure ratified his own irregular action when he subsequently became the Chief Engineer blatantly violating the standards of financial propriety. The Committee also note that the Chief Engineer had failed in performing the duties by not settling the issues with proper interaction with the implementing officers at the time of site inspection and in dragging the issue before DRIQ Board. The Committee therefore recommend that the responsibility for the lapses should be shared equally among the Superintending Engineer and the Chief Engineer, for not conducting proper evaluation or study regarding the flow of water and site conditions.

Action Taken

1.8. Government have further considered the matter in the light of the recommendation of PAC. The Chief Engineer at the relevant times retired from service on superannuation on 31-5-1990. The concerned Superintending Engineer retired on superannuation on 31-8-1992. As no disciplinary action could be initiated against the Officers before their retirement, no action becomes possible against either of them.

Further Recommendation

1.9. **The Committee recommend that steps may be taken for levying the interest and Principal amount from the concerned officials of the department even after retirement.**

Recommendation

(Sl. No. 8 Para No. 21)

1.10. The Government informed that the liability of Rs. 20,22,210 regarding loss on re-arrangement of the work of improvements to Kattappana-Kumily Road has not been recovered from the first contractor who abandoned the work midway. The Committee understand that the Chief Engineer, Roads and Bridges had addressed the District Collector to recover the amount from the defaulting contractor. Details of the Revenue Recovery proceedings as well as the action against the officers responsible for the delay in determining the liability should be informed to the Committee.

Action Taken

1.11. The District Collector reported that the defaulted Contractor is an unmarried man and is a patient. He is living with his parents at Pindimana in Kothamangalam Taluk. At present he has no movable or immovable property.

1.12. In the meantime the said contractor submitted a representation to the Hon'ble Minister (Works) requesting to waive the Revenue Recovery against him. The Finance Department has rejected the above proposal. There was no official delay in fixing the liability of the contractor who abandoned the work.

Further Recommendation

1.13. **The Committee wants to know whether there is any provision to insist production of solvency certificate by the Contractor before execution of agreement for a work. If not, such a provision should be incorporated immediately. The Committee recommend that action should be taken against the officers responsible for execution of the agreement without the production of solvency certificate in this case.**

CHAPTER II

Recommendations in respect of which the committee do not desire to pursue action in the light of the replies furnished by Government

PUBLIC WORKS DEPARTMENT

Recommendation

(Sl. No. 6 Para No. 19)

2.1. From the evidence tendered before the Committee it is seen that the only tender which was received by the Executive Engineer and recommended by the Superintending Engineer was not accepted by the Tender Committee on the ground that the rate was quite high. Instead they invited fresh tenders in 1991 based on the revised schedule of rates and the work was awarded to the contractor whose quotation was rejected in 1989 and this resulted in an additional expenditure of Rs. 8.05 lakhs apart from the delay in execution of works. In the light of the above fact the Committee find no justification for the injudicious decision of the Department to reject the earlier offer of the same Contractor. The Committee therefore, recommend that action should be taken against the persons responsible for this irregular action, viz. the rejection of a quotation and the acceptance of a fresh tender by the same contractor after the revision of schedule of rates.

Action Taken

2.2. The intention of the tender committee all along was in the good interest of Government. But quite contrary to their expectation they failed to get a better offer subsequently. It may not be proper to question the integrity of the Committee Members.

Recommendation

(Sl. No. 7 Para No. 20)

2.3. The Committee notice that had adequate publicity been given more favourable and competitive tenders could have been obtained. The Committee recommend that the department should ensure maximum publicity in the prominent dailies with local importance about the tender calls in future.

Action Taken

Noted for future guidance.

Recommendation

(Sl. No. 9 Para No. 22)

2.4. The Committee take exception to the callous approach of the Public Works Department leading to inordinate delay in the completion of road and bridge works. The Committee notice that there has been a lot of delay in completion of road and bridge works and that in several instances the delay extends to more than a decade. Therefore, the Committee recommend that Government should evolve a system to review and monitor the progress of works of roads and bridges which were delayed for more than 10 years and that strict follow up action should be made for the completion of works in a time bound manner.

Action Taken

2.5. Noted for future guidance. There is no specific system to monitor the progress of works which were delayed more than 10 years. As per KPWD Manual 16.8.1, the programme of works should be discussed and decided between Contractor and Executive Engineer. The Superintending Engineer and Chief Engineer will conduct monthly review meeting and assess the progress of works regularly.

2.6. If adequate progress is not shown, the contractor will be notified and asked to speed up the work. If inordinate delay in the completion, further steps such as impose of fine, termination of Contractor will be done by Department.

2.7. If delay has been caused by Department side, steps will be taken for rectifying the same. Extension of time should be given based on the above factors. Due to several other reasons such as land acquisition during the course of execution, change of design by PWD due to such various reasons the progress of works is delayed for more than 10 years. But at present there is no separate system in PWD to monitor these works, Progress can be monitored as per above norms. However instructions are being issued to monitor the progress of all works in a specific manner separately taking into account the period of delay.

Recommendation

(Sl.No. 10, Para No.23)

2.8. The Committee are at a loss to understand what prompted the Tender Committee for rejecting the offer when there was only remote chance of getting

a better offer on retendering especially in view of the fact that the Superintending Engineer himself had stated that the retender is like a gamble and the contractors were not coming forward to take up the work due to high labour and material cost in high ranges. The Committee also fail to understand why the Tender Committee expected a better offer especially when the revision of schedule of rates was imminent. The Committee recommend that necessary action may be taken against the officers responsible for the imprudent decision and the resultant losses sustained by Government. Committee also recommend the Government to issue guidelines for the efficient and prudent working of the Tender Committee so that they should not gamble on the hypothesis of a better offer without sufficient reasons for taking that steps.

Action Taken

2.9. Considering the recommendation of the Committee a circular was issued to the effect that “while taking a decision on tenders/quotations in Government Tender Committee level, the committee should ensure that the recommendation of the PAC is scrupulously followed”. Copy of the circular No. 238/E3/06/PWD dated 9-1-2006 is attached. (Copy enclosed as appendix III)

Recommendation

(Sl.No. 11 Para No.26)

2.10. The Committee find that the work of widening and improving the carriage way from Lizzie junction to Edappally, Ernakulam resulted in the payment of Rs. 4.17 lakh towards conveyance charge for 9758 cubic meters of cut earth removed by the Contractor. The Committee also understand that the Executive Engineer did not respond to the demands of the GCDA and local school authorities or the proposal of the SE. The Committee also note that the seigniorage charges realised from the contractor itself show that the cut earth is not a waste in a place like Ernakulam and there have been serious lapses on the part of the Executive Engineer and no action has been taken against him. Therefore, the Committee recommend that responsibility should be fixed on the persons concerned.

Action Taken

2.11. Based on the audit objection the objected amount was recovered from the contractor vide CBR 145 DN of 3/94. The contractor filed OP No.15266/2000 against the recovery and the Hon’ble High Court disposed the OP on 28-9-2000 and admitted the recovery. Since the amount was recovered by the Executive Engineer, Roads Division, Ernakulam, no loss to the Government.

Recommendation

(Sl.No. 12 Para No.27)

2.12. The Committee could find no justification for the failure on the part of the Department for not providing Departmental dumpyard and for not providing the cut soil for departmental work within a radius of 5 km. as stipulated in the tender documents. The Committee desire that strict instruction should be given to all concerned to follow the agreements in the contract to avoid such losses to Government in future.

Action Taken

2.13. No land was available with the Government within 5 km. to stack the cut soil and hence seigniorage charges were recovered from contractor and the contractor conveyed the surplus earth to his own dumping yard by giving conveyance.

2.14. Strict instructions have been since issued by Chief Engineer (R&B) to all Executive Engineers to provide a clear and specific condition in the tender schedule and to act according to the agreement and to use the cut soil within 5 km. as far as possible, otherwise specified in the agreement the place where the cut soil is to be dumped.

Recommendation

(Sl. No. 13 Para No.29)

2.15. The Committee are convinced that the extra expenditure on rehandling of metal amounting to Rs. 1.04 lakh including tender excess incurred on the work of three roads under Roads Division, Ernakulam could have been avoided. The Committee are of the view that the Departmental officials have failed in implementing the work as per the conditions laid down in the agreement. The rehandling charges as extra cost was allowed which was outside the scope of contract. The Committee do not find any justification for this unauthorised payment to the contractor and recommend strict enforcement of rules to avoid the general tendency among the contractors to demand extra items or higher rates after executing the agreements.

Action Taken

2.16. The surplus earth was not fit for use, and the seigniorage was realized only to safeguard the interest of the Government. It is not possible or economical to acquire land for the purpose of dumping in places like Ernakulam due to the high cost of land. Directions have been given to the subordinate

officers to provide dumping space wherever possible to avoid such losses. Stacking of metal on roads for maintenance works in city areas and other Municipal towns will create difficulties for vehicles and pedestrians especially on busy roads. Also this may cause traffic blocks as well as accidents. So far road works in City/Municipal areas especially in Thiruvananthapuram/Ernakulam/Kozhikode, a separate stocking yard is required. Strict direction has been given to all the Executive Engineers to abide by the recommendations of the PAC in full spirit without any lapses.

Recommendation

(Sl. Nos. 14&15, Para Nos. 33,34)

2.17. The Committee are dissatisfied to note that the Secretary to Government, Public Work Department was not in a position to furnish the details called for by the Committee during the course of examination and within the time limit assured by the witness. The Committee urge that the details of action taken on the officers responsible for the failure to avail the cheaper mode of transport of cement directly from factory at Palakkad to the District Store at Palakkad and consequent avoidable expenditure of Rs. 2.36 lakhs should be furnished to the Committee. In case no action had been taken, reasons thereof also should be furnished.

2.18. The Committee find that the advantage in opting for transportation of cement direct to District store, Palakkad by road from M/s. Malabar Cements, Walayar has been willfully overlooked while arranging the supply in question. The Committee also opine that the action of the officers involved in this evidently shows the reprehensible laxity and lack of circumspection while dealing with such matters. Therefore, the Committee recommend that action should be taken against the officers responsible for unnecessary loss of Public money amounting to Rs. 2.36 lakhs.

Action Taken

2.19. During the year 1992-93 M/s. Malabar Cement Ltd., Walayar, Palakkad was selected for the supply of cement to various Public Works Department District Stores. As per the supply order placed with M/s. Malabar Cement Ltd., Walayar, the supply of cement was to be made by rail to the respective destination railway station of the various Public Works Department District Stores. The shortest route for transport of cement from the factory to District Store, Palakkad is by road. But while executing agreement this aspect was not taken care of and the departmental officers followed the General system of supply of cement to the nearest railway point at Palakkad. This caused

unnecessary additional expenditure to Government amounting to Rs. 2.36 lakhs which could have been avoided if the officers who executed the agreement had taken care to make necessary modifications in the agreement. The Chief Engineer (Admn.) has reported that this was not the result of any premeditated act with ulterior intention to cause any loss to the Government or to give any financial benefit to anyone. The lapse is quite unintentional and was never repeated. Though the charges have been proved in evidence giving due seriousness to the recommendations of the Committee it would be desirable to note that there is no reason to believe that the departmental officers have committed criminal breach of trust and they obtained any pecuniary advantage. The firm which supplied the cement was M/s. Malabar Cements Ltd. which is a public sector undertaking and as such occurrence of any conspiracy can also be ruled out. Therefore the reported loss of Rs. 2.36 lakhs need not be fastened on the departmental officers. As observed by the Committee the departmental officers ought to have been more prudent while processing the tender documents and therefore they are liable for this irregular action. The officers responsible for the lapses are the following:

1. Shri Koshy P. Mathew, Deputy Chief Engineer (Rtd.)
2. Smt. M. Yesoda, Assistant Executive Engineer, Office of the Deputy Chief Engineer, DRIQ Board.
3. Shri Hariharasudhan Nair, Assistant Engineer (Rtd.)
4. Shri C. P. Joseph, Assistant Executive Engineer, I&OC, Palakkad.
5. Shri K. Subramanian Nambiar, Assistant Executive Engineer (Rtd.).

2.20. Disciplinary action initiated against the above mentioned officers have been finalised. Disciplinary action initiated against Shri C.P. Joseph, Assistant Executive Engineer was finalised as per G.O. (Rt.) No.863/2000/PWD, dated, 2-9-2000 (copy enclosed as appendix IV). In the G.O. it was ordered that Shri C.P. Joseph was not responsible for the loss sustained by Government as he had not worked in the Office of the Deputy Chief Engineer, Store & Purchase, Thiruvananthapuram and not involved in the case. Hence he was absolved from the charges levelled against him. Disciplinary action initiated against Smt. M. Yesoda, Assistant Executive Engineer was finalised as per G.O.(Rt.) No. 150/2001/PWD, dated, 9-2-2001 (copy enclosed as appendix V) by ordering to bar one increment for one year without cumulative effect. As the punishment could not be given effect as she was due to retire on 31-12-2001 it was ordered that the monetary value equivalent to the amount of increment ordered to be withheld be recovered from her DCRG under Rule II(i)(iii) of Kerala Civil Service

(Classification, Control & Appeal) Rules, 1960 read with Rules 3 B, Part III, Kerala Service Rules. The disciplinary action initiated against Shri K Subramanian Nambiar, Assistant Executive Engineer (Rtd.) and Shri V. Hariharasudhan Nair, Assistant Engineer (Rtd.) were finalised as per G.O. (Rt.) No. 696/02/PWD, dated, 26-7-2002 (copy enclosed as appendix as VI). In the said G.O., it was ordered to reduce the monthly pension of Shri V. Hariharasudhan Nair, Assistant Engineer (Rtd.) by Rs. 10 under Rule 59 (b), Part III, Kerala Service Rules. As Shri K. Subramanian Nambiar, Assistant Executive Engineer (Rtd.) was not involved in the case Government ordered to drop the disciplinary action initiated against him. The disciplinary action initiated against Shri Koshy P. Mathew, Deputy Chief Engineer (Rtd.) was finalised as per G.O. (Rt.) No. 874/02/PWD dated, 23-9-2002 (copy enclosed as appendix VII) by ordering to recover Rs. 10 per month from his pension under Rule 59(b) Part III, Kerala Service Rules. Thus the recommendation of the PAC 1998-2000 in its 67th report on para 33-34 has been implemented.

Thiruvananthapuram,
29th June, 2009.

ARYADAN MUHAMMED,
Chairman,
Committee on Public Accounts.

APPENDIX I

Summary of Main Conclusion/Recommendation

<i>Sl.No.</i>	<i>Para No.</i>	<i>Department</i>	<i>Conclusion/Recommendation</i>
1	1.4	Public Works Department	The Committee find the reply not convincing and suggest to obtain a detailed report about recovery of the loss sustained by the Government.
2	1.9	„	The Committee recommend that steps may be taken for levying the interest and Principal amount from the concerned officials of the department even after retirement.
3	1.12	„	The Committee want to know whether there is any provision to insist production of solvency certificate by the Contractor before execution of agreement for a work. If not, such a provision should be incorporated immediately. The Committee recommends that action should be taken against the officers responsible for execution of the agreement without the production of solvency certificate in this case.

APPENDIX II

GOVERNMENT OF KERALA

Public Works&Transport (E) Department

No. 6737/E3/96/PW&T. *Thiruvananthapuram, Dated 27th November1996.*

From
The Secretary to Government

To
The Chief Engineer,
Buildings & Local Works.

Sir,

Sub :—Comptroller and Auditor General's report for the year ended 31-3-1994 No. 2 (Civil)—loss due to delay in handing over the site and consequent termination of contract—statement of action—Reg.

Ref :— 1. Govt. letter of even No. dt. 6737/E3/96/PW&T. dtd, 23-2-1996.
2. Your letter No. FGB—5.47266/93 dt.13-11-1996.

I am directed to invite your attention to the letter cited and to inform you that infuture, while tendering works, the worksite should be ready to hand over to the contractor immediately after the execution of formal agreement with the contractor. I am also request you to issue necessary directions to all concerned to the effect that the vacant possession of worksite should be a condition president for tendering all work.

Yours faithfully,
K. N. PRASANNA,
Under Secretary,
For *Secretary to Government.*

APPENDIX III

GOVERNMENT OF KERALA

Public Works (E) Department

No. 238/E3/06/PWD.

*Govt. Secretariat, Thiruvananthapuram 1,
Dated, 9th January 2006.*

CIRCULAR

*Sub :—Govt. Tender Committee—Guide lines for accepting tenders/
quotations—Reg.*

Ref :—Committee on Public Accounts (1998-2000) 67th report.

Committee on Public Accounts (1998-2000), in its 67th report, made following observations and recommendations regarding the functioning of Government Tender Committee.

The Committee are at loss to understand what prompted the Tender Committee for rejecting the offer when there was only remote chance of getting a better offer on re-tendering especially in view of the fact that the Superintending Engineer himself had stated that the re-tender is like a gamble and the contractors were not coming forward to take up the work due to high labour and material cost in high ranges. The Committee also fail to understand why the Tender Committee expected better offer especially when the revision of schedule of Rates was imminent. The committee recommend that necessary action may be taken against the officers responsible for the imprudent decision and the resultant losses sustained by Government. They also recommend the Government to issue guidelines for the efficient and prudent working of the Tender Committee so that they should not gamble on the hypothesis of a better offer without sufficient reasons for taking that step.

Considering the above recommendation of PAC, the following instruction is issued.

“While taking a decision on tenders/quotations in Government Tender Committee level, the Committee should ensure that the above recommendation of PAC is scrupulously followed”.

This issues with the approval of Minister (Works).

GYANESH KUMAR,
Secretary, (PWD).

To

All Chief Engineers.
Finance Department
Stock file/Office Copy.
Copy to All Sections in Public Works Department.

APPENDIX IV

GOVERNMENT OF KERALA

Abstract

PUBLIC WORKS DEPARTMENT—SUPPLY OF CEMENT TO VARIOUS DISTRICT STORES FOR THE YEAR 1992-93 NON—INCLUSION OF SPECIFIC CONDITIONS IN THE AGREEMENT DOCUMENT WHICH RESULTED LOSS TO GOVERNMENT—DISCIPLINARY ACTION AGAINST SHRI C.P. JOSEPH, ASSISTANT EXECUTIVE ENGINEER—FINALISED—ORDERS ISSUED

 PUBLIC WORKS (F) DEPARTMENT

G. O. (Rt.) No.863/2000/PWD. *Dated, Thiruvananthapuram, 2nd September 2000.*

- Read :—*
1. Letter No.P8.259/96 dated 6-7-1999 from the Chief Engineer (Administration), PWD, Thiruvananthapuram.
 2. Memo of charges/Statement of allegations No.19994/F2/99/PWD dated, 14-3-2000 served on Shri C. P. Joseph, Assistant Executive Engineer.
 3. Written statement of defence dated 5-6-2000 filed by Shri C. P. Joseph, Assistant Executive Engineer, Investigation and Quality Control Sub Division, Palakkad.
 4. Letter No.Vig./7/35228/99 dated, 25-8-2000 from the Chief Engineer, (Administration) PWD, Thiruvananthapuram.

ORDER

During the year 1992-93, M/s. Malabar Cement Factory, Walayar, Palakkad was selected for the supply of cement to various PWD District stores. As per the supply order placed with M/s. Malabar Cement Ltd., Walayar the supply of cement was to be made by rail to the respective destination railway station of the various PWD District Stores. The shortest route for transport of cement from the factory to the District Store, Palakkad is by road. But while executing agreement, this aspect was not taken care of and the departmental officers followed the general system of supplying cement to the nearest railway point at Palakkad. This caused unnecessary additional expenditure to Government amounting to Rs. 2.36 lakhs which could have been avoided if the officers who executed the agreement had taken care to make necessary modification in the

agreement. The Committee on Public Accounts 1998-2000 in its 67th Report has recommended to initiate action against the officers responsible for the unnecessary loss of public money amounting to Rs. 2.36 lakhs.

As reported by the Chief Engineer (Administration) in his letter read as 1st paper above Shri C. P. Joseph, Assistant Executive Engineer was charge sheeted as per Memo of charges/Statement of allegations read as 2nd paper above.

Shri C. P. Joseph, Assistant Executive Engineer in his written statement of defence read as 3rd paper above has contended that he had no occasion to work as Assistant Executive Engineer, Store and Purchase, Office of the Chief Engineer, Trivandrum. He had worked as Assistant Executive Engineer, PWD District Stores, Palkkad during the period 11-6-1988 to 6-11-1992. He had in no way connected with the process of calling of tender, further negotiations, acceptance or execution of agreement etc. and as such he is not responsible for the non-violence of the conditions in the agreement document making liable M/s. Malabar Cement Factory, Walayar to supply Cement from the factory to the District Store, Palakkad. He has further stated that the tender for the supply of cement was called for by the Deputy Chief Engineer, Stores and Purchase, PWD, Thiruvananthapuram and the company (Malabar Cements, Walayar) offered their tenders to the 'Tendering Authority' and not to him. Before accepting the agreement, it was the duty and responsibility of the Agreement Accepting Authority to analyse the various aspects of the rates quoted, conveyance, etc. It was not part of his duty to suggest any modification in the agreement executed and accepted by the higher authorities. He has therefore argued that he is no way responsible for the loss sustained by Government in this case.

Government have examined the matter in detail in consultation with Chief Engineer (Administration) PWD. The Chief Engineer has since reported that Shri C.P. Joseph had not worked in the Office of the Deputy Engineer, Stores & Purchase, Thiruvananthapuram and he is not involved in this case. As Shri C. P. Joseph, Assistant Executive Engineer is not responsible for the loss sustained by Government, government order that disciplinary action initiated against him in this case be dropped.

By order of the Governor,

T. K. GOMATHY,

Joint Secretary to Government.

To

The Chief Engineer (Administration) PWD, Thiruvananthapuram.

Shri C. P. Joseph, Assistant Executive Engineer, Investigation and Quality Control Sub Division, Palakkad.

The Accountant General (A&E) (Audit) Kerala, Thiruvananthapuram/
Thrissur.

The Public Works (A) (B) Department.

Stock File/OC.

APPENDIX V

GOVERNMENT OF KERALA

Abstract

PUBLIC WORKS DEPARTMENT—SUPPLY OF CEMENT TO VARIOUS DISTRICT STORES FOR THE YEAR 1992-93—NON INCLUSIVE OF SPECIFIC CONDITIONS IN THE AGREEMENT DOCUMENT WHICH RESULTED LOSS TO GOVERNMENT—DISCIPLINARY ACTION AGAINST SMT. M. YESODHA, ASSISTANT EXECUTIVE ENGINEER—FINALISED—ORDERS ISSUED

PUBLIC WORKS (F) DEPARTMENT

G.O. (Rt.) No.150/2001/PWD. *Dated, Thiruvananthapuram, 9th February 2001.*

- Read :—*
1. Letter No.P8/259/96 dated 6-7-1999 from the Chief Engineer (Administration), Public Works Department, Thiruvananthapuram.
 2. Memo of charges/Statement of allegation No.19994/F2/99/PWD dated, 14-3-2000 served on Smt. M. Yesodha, Assistant Executive Engineer.
 3. Written statement of defence dated 6-6-2000 filed by Smt. M. Yesodha, Deputy Director, Buildings-I (Design) DRIQ board, Public Works Department, Thiruvananthapuram.
 4. Letter No.Vig.7/35228/99 dated, 14-11-2000 from the Chief Engineer, (Administration) Public Works Department, Thiruvananthapuram.

ORDER

During the year 1992-93, M/s. Malabar Cement Factory, Walayar, Palakkad was selected for the supply of cement to various PWD District stores. As per the supply order placed with M/s. Malabar Cement Ltd., Walayar the supply of cement was to be made by rail to the respective destination railway station of the various PWD District Stores. The shortest route for transport of cement from the factory, to the District Store, Palakkad is by road. But while executing agreement the aspect was not taken care of and the departmental officers followed the general system of supplying cement to the nearest railway point at Palakkad. This caused unnecessary additional expenditure to Government amounting to Rs. 2.36 lakhs which could have been avoided if the officers who

executed the agreement had taken care to make necessary modification in agreement. The committee on Public Accounts 1998-2000 in its 67th Report has recommended to initiate action against the officers responsible for the unnecessary loss of public money amounting to Rs. 2.36 lakhs.

Smt. M. Yesodha, Assistant Executive Engineer who was found responsible for the above irregularity was charge sheeted as per Memo of Charges/Statement of Allegations read as 2nd paper above.

Smt. M. Yesodha, Assistant Executive Engineer in his written statement of Defence read as 3rd paper above has contended that Department Purchase, Committee held on 18-8-1989 as interalia decided that the transportation of cement to the various District Stores may be made by rail so that the chance of adulteration and malpractice in transit would be comparatively less. The companies quoted only one rate for the supply of cement to PWD Stores without any break-up and while processing the tender documents the officers were not able to assess the actual amount due to the company towards transportation charges of the material from the factory. As the general system of supplying the cement from the factory to the various district stores was to the nearest rail point and in this case also they have followed the general system. She has therefore requested that she may be absolved of the charges levelled against her.

Government have examined the matter in detail. The argument that they have acted in accordance with the decision of the Department Purchase Committee held on 18-8-1989 ie. Transportation of cement by rail preferred cannot be admitted. The committee had agreed to this mode of transportation only for the year 1989 and hence before executing agreement specific provision of supply of cement to the District Stores, Public Works Department, Palakkad should have been incorporated in the agreement. Another argument that the company had not quoted the break-up of the rates and therefore she was not able to assess the actual amount due towards transportation is also not tenable. While processing the tender documents and decision taken it is obligatory on the part of the departmental officers to assess the actual expense towards transportation of materials to the District Stores at Palakkad and should have opted to the cheaper mode of transport. But the Department Officer have failed to take care of this aspect and had followed the general system of supplying cement to the nearest railway point at Palakkad which had resulted additional expenditure to Government amounting to Rs.2.36 lakhs. The charges levelled

against Smt. Yesodha, Assistant Executive Engineer, have been fully proved in evidence. In the above circumstances Government order that one increment of Smt. Yesodha, Assistant Executive Engineer be barred for one year without cumulative effect.

As the punishment cannot be given effect to as she is due to retire on 31-12-2001, monetary value equivalent to the amount of increment ordered to be withheld may be recovered from her DCRG under Rule 11 (1) (iii) of KCS (CC&A) Rules 1960 read with Rule 3B Part III KSRs.

By order of the Governor,

T. K. GOMATHY,

Joint Secretary to Government.

To

The Chief Engineer (Administration), Public Works Department
Thiruvananthapuram.

Smt. M. Yesodha, Assistant Executive Engineer, Deputy Director, DRIQ
Board, PWD, Thiruvananthapuram.

The Accountant General (A&E) Kerala, Thiruvananthapuram/Thrissur.

The District Treasury Officer, Thiruvananthapuram.

The Public Works (A) Department.

Stock File/OC.

APPENDIX VI

GOVERNMENT OF KERALA

Abstract

PWD—SUPPLY OF CEMENT TO VARIOUS DISTRICT STORES FOR THE YEAR 1992-93—NON-INCLUSIVE OF SPECIFIC CONDITIONS IN THE AGREEMENT DOCUMENT CAUSING LOSS TO GOVERNMENT—DISCIPLINARY ACTION AGAINST SHRI K. SUBRAMANIAN NAMBIAR, ASSISTANT EXECUTIVE ENGINEER (RTD.) AND SHRI V. HARIHARASUTHAN NAIR, ASSISTANT ENGINEER (RTD.)—FINALISED—ORDERS ISSUED

 PUBLIC WORKS (F) DEPARTMENT

G.O. (Rt.) No.696/2002/PWD. *Dated, Thiruvananthapuram, 26th July 2002.*

- Read :—*
1. Letter No.P8/259/96 dated 6-7-1999 from the Chief Engineer (Admn.), PWD, Thiruvananthapuram.
 2. Show Cause Notice No.19994/F2/99/PWD., dated, 14-3-2000 served on to Shri K. Subramanian Nambiar, Assistant Executive Engineer (Rtd.) and Shri V. Hariharasuthan Nair, Assistant Engineer (Rtd.).
 3. Written statement of defence dated 21-4-2001 and 9-4-2001 from Shri K. Subramanian Nambiar, Assistant Executive Engineer (Rtd.) and Shri V. Hariharasuthan Nair, Assistant Engineer (Rtd).
 4. Letter No.Vig.7/35228/99 dated, 3-5-2002 from the Chief Engineer (Admn.), Public Works Department, Thiruvananthapuram.

ORDER

During the year 1992-93, M/s. Malabar Cement Factory, Walayar, Palakkad was selected for the supply of cement to various PWD District stores. As per the supply order placed with M/s. Malabar Cement Ltd., Walayar the supply of cement was to be made by rail to the respective destination railway station of the various PWD District Stores. The shortest route for transport of cement from the factory to the District Store, Palakkad is by road. But while executing agreement, this aspect was not taken care of and the departmental officers followed the general system of supplying cement to the nearest railway point at Palakkad.

This caused unnecessary additional expenditure to Government amounting to Rs. 2.36 lakhs which could have been avoided if the officers who executed the agreement had taken care to make necessary modification in agreement. The committee on Public Accounts 1998-2000 in its 67th Report has recommended to initiate disciplinary action against the officers responsible for the unnecessary loss to public money amounting to Rs. 2.36 lakhs.

2. As reported by the Chief Engineer (Admn.) in his letter read as 1st paper above Show Cause Notice have been issued to Shri K. Subramanian Nambiar, Assistant Executive Engineer (Rtd.) and Shri V. Hariharasuthan Nair, Assistant Engineer (Rtd.) as per the letter read as 2nd paper above.

3. Shri K. Subramanian Nambiar in his defence statement read as 3rd paper above has contended that he has not worked as Assistant Engineer (Stores & Purchase) during 1992-93 and in the office of the Deputy Chief Engineer (Stores & Purchase) or elsewhere in the Thiruvananthapuram city in any capacity during the entire period of his service. Therefore he argued that he is in no way connected with the settlement of contract done in Deputy Chief Engineer's office from calling of tender, its acceptance and execution of agreement, etc.

4. In his defence statement Shri V. Hariharasuthan Nair, Assistant Engineer (Rtd.) has contended that the Deputy Chief Engineer and Chief Engineer alone will have to be held responsible for the observation made by the PAC. He also contended that as touring officers they were well aware of the distance from the factory to store by road. But ignoring the shortest distance and savings in conveyance charges, they have decided got the cement supplied from the factory to railway station by rail and then to the store by road prevent adulteration. He asserted that if the officers who executed the agreement had taken care to make necessary modification in the agreement the loss could have been avoided. He has also stated that it is not known to him why Government wish to punish the office staff of the Deputy Chief Engineer like him in this context.

5. The Chief Engineer (Admn.), Thiruvananthapuram in his letter read as 4th paper above has reported that Shri K. Subramanian Nambiar is in no way connected with the execution of agreement as he was not working in the office of the Deputy Chief Engineer Stores and Purchase. The Chief Engineer (Admn.) further reported that Shri K. Subramanian Nambiar took the charge in the District Store, Palakkad only on 6-11-1992, ie. after the execution of the agreement for which a copy of CTC has been produced in Government as a

proof. As a subordinate officer working in the office of the Deputy Chief Engineer it is the duty of Shri V. Hariharasuthan Nair to bring the facts to the notice of the Deputy Chief Engineer if there is any irregularity on the preparation of tender schedules, as the interest of Government should be the most concern of all officers. Hence Chief Engineer is of the opinion that the Retired Assistant Engineer cannot evade from the responsibilities putting the blame on the other officers who carried out the work based on the agreement executed in the office.

6. Government have examined the matter in detail. While processing the tender documents and decision taken it is obligatory on the part of the departmental officers to assess the actual expense towards transportation of materials to the district stores at Palakkad and should have opted to the cheaper modern of transport. But the officers failed to take care of this aspect and had followed the general system of supplying cement to the nearest railway point at Palakkad which had resulted additional expenditure to Government amounting to Rs. 2.36 lakhs. As observed by the Committee the Departmental officers ought to have been more prudent while processing the tender documents and therefore they are liable for their irregular action. As observed by the Chief Engineer (Admn.) Shri Hariharasuthan Nair, Assistant Engineer (Rtd.) cannot evade from the responsibilities. As a Subordinate officer working in the office of the Deputy Chief Engineer, it is his duty to bring the facts to the notice of the Deputy Chief Engineer if there is any irregularity in the preparation of tender schedules as the interest of Government should be the most concern of all officers.

7. The charges levelled against Shri Hariharasuthan Nair, Assistant Engineer, (Rtd.) are fully proved in evidence. Government therefore, confirming their earlier provisional decision, order that reduction of his pension by Rs. 10 per month by made under rule 59 (b) Part III Kerala Service Rules. As Shri K. Subramanian Nambiar, Assistant Executive Engineer is not involved in the case Government order that the disciplinary action initiated against him be dropped.

By order of the Governor,

P. M. SATHI DEVI,

Joint Secretary to Government.

To

Shri. K. V. Hariharasuthan Nair, Assistant
Engineer (Rtd.)

Shri K. Subramanian Nambiar, Assistant
Executive Engineer (Rtd.)

} [through Chief
Engineer (Admn.)
PWD.]

The Chief Engineer (Administration), PWD,
Thiruvananthapuram.

The Accountant General (A&E) (Audit),
Kerala, Thiruvananthapuram/Thrissur.

Stock File/OC.

APPENDIX VII

GOVERNMENT OF KERALA

Abstract

PWD—SUPPLY OF CEMENT TO VARIOUS DISTRICT STORES FOR THE YEAR 1992-93—NON-INCLUSION OF SPECIFIC CONDITIONS IN THE AGREEMENT DOCUMENT CAUSING LOSS TO GOVERNMENT—DISCIPLINARY ACTION AGAINST SHRI KOSHY P. MATHEW, DEPUTY CHIEF ENGINEER (RTD.), PUBLIC WORKS DEPARTMENT—FINALISED—ORDERS ISSUED

 PUBLIC WORKS (F) DEPARTMENT

G.O. (Rt.) No. 874/2002/PWD. *Dated, Thiruvananthapuram, 23rd September 2002.*

- Read :—*
1. Letter No.P8/259/96 dated 6-7-1999 from the Chief Engineer (Admn), PWD, Thiruvananthapuram.
 2. Show Cause Notice No.19994/F2/99/PWD., dated, 3-3-2001
 3. Written statement of Defence dated 28-3-2001 and 9-4-2001 from Shri Koshy P. Mathew, Deputy Chief Engineer (Rtd).
 4. Letter No.Vig.7/35228/99 dated, 3-5-2002 from the Chief Engineer, (Admn.)Public Works Department, Thiruvananthapuram.

ORDER

During the year 1992-93, M/s. Malabar Cement Factory, Walayar, Palakkad was selected for the supply of cement to various PWD District stores. As per the supply order placed with M/s. Malabar Cement Ltd., Walayar the supply of cement was to be made by rail to the respective destination railway station of the various PWD District Stores. The shortest route for transport of cement from the factory to the District Store, Palakkad is by road. But while executing agreement, this aspect was not taken care of and the departmental officers followed the general system of supplying cement to the nearest railway point at Palakkad. This caused unnecessary additional expenditure to Government amounting to Rs. 2.36 lakhs which could have been avoided if the officers who executed the agreement had taken care to make necessary modification in the agreement. The Committee on Public Accounts 1998-2000 in the 67th Report has recommended to initiate disciplinary Action against the officers responsible for the unnecessary loss of public money amounting to Rs. 2.36 lakhs.

2. As reported by the Chief Engineer (Administration) in his letter read as 1st paper above Show Cause Notice has been issued to Shri Koshy P. Mathew, Deputy Chief Engineer (Rtd.) as per the letter read as 2nd paper above.

3. Shri Koshy P. Mathew, Deputy Chief Engineer (Rtd.) in his Defence statement of read as 3rd paper above has contended that he was the Deputy Chief Engineer, Stores at the time of execution of agreement on 28-9-1992 and has retired from service on 30-9-1992. He argued that as no work was executed in those 2 days the allegation in the show cause notice could not have been directed against him but on someone else. He has also contended that the Department Purchase Committee held on 18-8-1989 has decided that the transportation of cement to the various District stores may be made by rail; so that the chance of adulteration and malpractice in transit would be comparatively less. The companies quoted only one rate for the supply of cement to Public Works Department stores without any break-up and while processing the tender documents the officers were not able to assess the actual amount due to the company towards transportation charges of the material from the factory. As the general system of supplying cement from the factory to the various district stores was to the nearest railway point, they have followed the general system in this case also. He has therefore requested that he may be absolved of the charges levelled against him.

4. The Chief Engineer (Admn.) in his letter read as 4th paper above, has reported that there was no supply of cement during the interim period of 2 days as the agreement was executed on 28-9-1992 and Shri Koshy P. Mathew retired on 30-9-1992. The Chief Engineer has recommended that he may be given an opportunity of personal hearing before finalising the case. Accordingly Shri Koshy P. Mathew, Retired Deputy Chief Engineer was heard in person on 14-8-2002 by the Joint Secretary (PWD). At the time of personal hearing also he has not put forward any valid argument, warranting disciplinary action against him.

5. Government have examined the matter in detail with reference to the relevant records connected with the case. The argument of the Accused Officer that he acted in accordance with the decision of the Department Purchase Committee held on 18-8-1989 ie. Transportation of cement by rail is preferable cannot be admitted. The Committee had agreed to the mode of transportation

only for the year 1989 and hence before executing agreement specific provision for supply of cement to the District Store, Public Works Department, Palakkad should have been incorporated in the agreement. Another argument that the company had not quoted the break-up of the rates and therefore he was not able to assess the actual amount due towards transportation is also not tenable. While processing the tender documents and decision taken it is obligatory on the part of the departmental officers to assess the actual expense towards transportation of materials to the District Stores at Palakkad and should have opted to the cheaper mode of transport. But he has failed to take care of this aspect and had followed, the general system of supplying cement to the nearest railway point at Palakkad which had resulted in additional expenditure to Government amounting to Rs. 2.36 lakhs. His contention that he was the incumbent as Deputy Chief Engineer, Stores for just 2 days after the execution of the agreement on 28-9-1992 and he has retired on 30-9-1992 and no work was executed in those two days is also not tenable. At the time of execution of agreement on 28-9-1992 he was the Deputy Chief Engineer, Stores and Purchase, Thiruvananthapuram and therefore he cannot evade from the responsibilities connected with settlement of contract done in Deputy Chief Engineer's office from calling of tenders, its acceptance and execution of agreement etc. While processing the tender documents and decision taken, it is obligatory on his part to assess the actual expenses towards transportation of materials to the district stores at Palakkad and should have opted the cheaper mode of transport. But he failed to take care of the aspect which had resulted in additional expenditure to Government amounting to Rs. 2.36 lakhs.

6. The charges levelled against Shri Koshy P. Mathew, Deputy Chief Engineer (Rtd.) is fully proved in evidence. Government therefore, confirming their earlier provisional decision, order that reduction of his pension by Rs. 10 per month be made under rule 59 (b) Part III Kerala Service Rules and the disciplinary action initiated against him is finalised accordingly.

By order of the Governor,

P. M. SATHI DEVI,

Joint Secretary to Government.

To

The Shri Koshy P. Mathew, Deputy Chief
Engineer (Rtd.) "Anush", Zachariah Bazar
Alappuzha-688 001. } [through Chief
Engineer (Admn.)
PWD.]

The Chief Engineer (Administration), PWD,
Thiruvananthapuram.

The Accountant General (A&E) (Audit),
Kerala, Thiruvananthapuram/Thrissur.

Stock File/OC.
