

Award by the Ombudsman MGNREGA in accordance with Instructions on Ombudsman para 13 of instructions (under section 27 of MGNREGA Act, 2005) District Kangra, Vikas Bhawan, DRDA, Dharamsala (H. P.)

Award No. MGNREGA/2010/3-546

Dated 29th December, 2010

1. Sh. Om Prakash Sharma S/o Sh. Hari Chand Sharma, Vill Basa, P.O. Chhatter Jogiyan , Teh. Nurpur, Distt. Kangra, Himachal Pradesh.

Complainants/ Applicants

Versus

1. Smt. Mamta Devi, Pradhan, Gram Panchayat Chhatter Jogiyan, Development Block Nurpur, Distt. Kangra, H.P.
2. Smt. Radha Devi, ward Panch ward no.1, Gram Panchayat Chhatter Jogiyan, Development Block Nurpur, Distt. Kangra, H.P.
- 3 The Secretary Gram Panchayat Chhattar Jogiyan,

Opposite Party/ Defendants

## **1 Facts:-**

In brief, the facts of the case are that Sh. Om Prakash Sharma S/o Sh. Hari Chand Sharma, Vill Basa, P.O. Chhatter Jogiyan , Teh. Nurpur, Distt. Kangra, Himachal Pradesh presented a complaint before the Ombudsman MGNREGA distt. Kangra which was received and registered in the office on 17-09-2010. The main allegations alleged in the complaint are that the Panchayat functionaries have marked fictitious attendance in the Mustroll and have committed financial irregularities and their action has thus caused financial loss to the Government.

The complaint was sent to the BDO-cum-PO (MGNREGA) Nurpur vide letter no. Ombudsman/ 134 dated 18-09-2010 for preliminary fact finding inquiry. The fact finding inquiry report was received from BDO-cum-PO (MGNREGA) on 16-10-2010 and after scrutiny of the report it was found that further proceedings in the matter are required to be taken up to provide justice to the complainant and accordingly notices of presence were issued to the complainant, Pradhan, panchayat secretary and BDOcum P.O,MGNREGA to appear before the Ombudsman MGNREGA on 26.10.2010 at 11 A M to substantiate their respective claims in support of their case.

## **2. Statements of Parties**

On 26-10-2010 the statement of Sh. Om Prakash (P-I) was recorded who has stated that for the” construction of path from the house of Sudama to Nala” two Mustrolls having no. 218 and 219 were issued. In these two mustrolls fictitious attendance of Smt. Satya Devi W/o Ratan Chand Vill. Basa, P.O.Chhattar Jogian had been marked. In mustroll no. 218 (26) attendance and in Mustroll no. 219 (11) attendance have been marked fictitiously payment drawn and misappropriated.Has prayed that necessary action may be taken against the Panchayat functionaries who have marked these fictitious attendance, drawn the payment and misappropriated the amount and thus caused loss to the Govt.

(D-I) Smt. Mamta Devi, Pradhan G.P. Chhattar Jogian has stated that Rs. 1.00 lacs. has been sanctioned for the “construction of path from the house of Sudama to Nala. Two

mustrolls having nos. 218 and 219 which were received from the BDO-cum-PO MGNREGA Nurpur office which were further issued to Smt. Radha Devi Ward Panch no.1 and her signatures were obtained in the mustroll issue register. she marked attendance in the mustrolls in respect of persons who worked against the above sanctioned work and supervised the day to day execution of MGNREGA work. The Pradhan has further stated the payment to the MGNREGA workers has been made through bearer cheques and these cheques were given to Smt. Radha Devi ward panch under whose supervision the work was being executed for getting the signatures of the concerned workers on the mustrolls. In accordance with Panchayat resolution the Pradhan and T.A. went to the KCC Bank Rehan and drawn the payment of 27 workers bearer cheques. The payment to 13 workers was made in the house of Smt. Radha Devi Ward Panch and the remaining amount on account of 27 bearer cheques was handed over to Smt. Radha Devi Ward Panch. She has further stated that the same procedure was adopted for making the payment of mustroll nos. 218 and 219. In her cross examination she has admitted that the payment to 13 workers in case of mustroll no. 218 was made by her and the remaining amount was given to Smt. Radha Devi for further payment to workers. Similarly in case of mustroll no. 219 the payment of 27 bearer cheques belonging to 27 MGNREGA workers was drawn by her from the bank but she did not make the payment her self because of some urgent work and the amount drawn was handed to the panchayat secretary for further distribution among the workers as per entries made in the mustrolls.

(D-II) Smt. Radha Devi Ward Panch No. 1 has stated that she was given the responsibility to execute the work of construction of path from the house of Sudhama to Nala being ward Panch but Mustroll no. 218 and 219 were never given to her. She used to mark the attendance of the workers present on the site of work in the copy. She has further stated that she has signed the mustroll register where entries of Mustroll no. 218 and 219 have been made but she did not marked attendance in the mustrolls. She has only verified these attendance in the mustrolls. She has further stated that Satya Devi w/o of Rattan Chand has never worked in the mustrolls. Nos 218 and 219. and she has not been paid wages in her presence. She has further stated that Pradhan never handed over her the amount of wages drawn by the Pradhan after making payment to 13 workers for distribution among the remaining workers.

(D-III) Sh. Sukh Dev Singh Up Pradhan has stated that he accompanied the Pradhan Smt. Mamta Devi to KCC Bank at Rehan to draw payment of 27 bearer Cheques pertaining to Mustroll no. 219. After withdrawal, the amount remained with the Pradhan.

(D-IV) Sh. Rashpal Sharma the then Panchayat Secretary, G.P. Chhattar Jogian has stated that when the inquiry in the case of Sataya devi was conducted by SEBPO, Smt. Satya Devi has stated in my presence that she has never worked in the work construction of path from the house of Sudhama to Nala. He has further stated that resolution no. 23 dt. 23-02-2008 regarding withdrawal of amount under MGNREGA for Rs. 50,000/- and 49,000/- had been passed by the Panchayat which is per Panchayat record. In his statement he has admitted that the bearer cheques concerning two mustrolls 218-219 have been signed by him and the Pradhan. But these bearer cheques have been drawn from the bank by the Pradhan. He has further stated that he never handed over mustroll and cheques to Radha Devi for getting the signatures of MGNREGA workers. Further stated that the Pradhan never handed over to him amount of mustroll no 219 pertaining to 27 bearer cheques which was drawn from the bank, as has been alleged by the Pradhan in her statement. In his cross examination he has admitted that at Goluan he handed over the cheques and the cheque book to the husband of Radha Devi.

(D-V) Sh. Baldev Singh SEBPO Nurpur has stated that in the inquiry conducted by BDO-cum-PO MGNREGA, Satya Devi W/o Ratan Chand has stated that she never worked in the construction of path from the House of Sudama to Nala and has not received any payment and not signed the mustroll against her name.

### **3. Issues for consideration**

On the basis of statements of the parties and evidence produced, documents placed on record, the following issues are hereby framed :-

- (a) Issue-1 whether 26 fictitious attendances in the name of Smt. Satya Devi W/o Ratan Chand Vill Basa, P.O. Chhatter Jogiyan have been marked in mustroll no. 218 by the Panchayat functionaries as alleged in the complaint ?
- (b) Issue-II whether 11 attendances in the name of Smt. Satya Devi W/o Ratan Chand Vill Basa, P.O. Chhatter Jogiyan have marked in the mustroll no. 219 by the Panchayat functionaries as alleged in the complaint ?
- (c) Issue-III whether the payments of attendances as marked in mustroll no. 218 and 219 have been made to Smt. Satya Devi w/o Sh. Ratan Chand ?
- (d) Issue whether the Pradhan, smt Radha Devi and secretary panchayat have committed and financial material irregularity.?

Before issue-wise findings are discussed, it is essential to discuss the prelim fact finding inquiry report of the BDO-cum-PO (MGNREGA) Nurpur who has described in his report that mustroll nos. 218 and 219 received for the **construction of path from the house of sudhama to Nala** were received from the office of BDO-cum-PO MGNREGA Nurpur and these mustrolls were further issued to Smt. Radha Devi ward panch after obtaining her signature in the mustroll issue register. BDO –cum-PO has further sated that Smt. Radha Devi ward panch has verified the attendance of MGNREGA workers daily as entered in the mustroll nos 218 and 219. The report also reveals that bearer cheques were issued to the MGNREGA workers engaged in the above two mustrolld. The amount on account of payment to workers was drawn by the Pradhan for making payment to the workers.

### **4. Issue-wise Findings**

On in-depth examination of contents of the complaint, statements of the parties, the prelim fact finding inquiry report of the BDO-cum-PO (MGNREGA) Nurpur, evidence produced by the parties, issue wise findings with reasons are discussed and concluded as under:-

Issue-I On the basis of statements of the complainant, Smt. Mamta Devi Pradhan, Smt. Radha Devi Ward panch ward-1, Sh. Sukh Dev Up Pradhan, and Sh. Rashpal the then Panchayat Secretary G.P. Chhattar Jogian and perusal of entries made in the mustroll nos. 218-219 issued for the **construction of path from the house of sudhama to Nala** , it is found that the in mustroll no. 218 at Sr. no. 27 the name of Smt. Satya Devi W/o Ratan Chand has been entered and she has been marked present for 26 days and paid Rs. 1950/- @ Rs. 75/- per day. Daily attendances marked have been verified by Smt. Radha Devi ward panch and mustroll passed for Rs. 50,925/- by the Pradhan and Secretary. As per statements of Pradhan and Secretary 27 bearer cheques have been issued in the name of workers who were engaged in the **construction of path from the house of sudhama to Nala** under MGNREGA scheme. The payment of these bearer cheques has been drawn by the Pradhan from KCC Bank Branch at Rehan, after getting cheques endorsed by the workers, as per entries made in the mustroll. The payment to 13 MGNREGA workers has been

by the Pradhan and the remaining amount has been reported handed over to Smt Radha Devi ward panch ward No 1 who has denied receiving of amount for payment to workers rather has asserted that Pradhan has never handed over amount to her as has been claimed by the Pradhan in her statement, but she has failed to produce receipt for the amount handed over to Smt Radha Devi which establishes that the amount remained with the Pradhan. Since the amount of 27 bearer cheques was drawn by the Pradhan it was her responsibility to ensure that the payment is made to the concerned MGNREGA workers as per entries in the Mustrolls. Thus it has been clearly proved that the attendance in the mustrolls no. 218-219 have been marked by Smt. Radha Devi Ward Panch and payment of MGNREGA wages which has been made through bearer cheques drawn by the Pradhan after getting the same endorsed from the concerned MGNREGA workers. Since the amount was drawn by the Pradhan on the basis of Panchyat Resolution, it was her duty to ensure that the amount is properly accounted for and payment made to the concerned person.. It has also been found that 26 attendance have been marked fictitiously in mustroll No 218 in the name of Smt. Satya Devi w/o Ratan Chand at serial No 27 who as per her recorded statement by the BDO Nurpur neither physically worked at the site of work nor received the payment of Rs 1950.for 27 days. This proves that amount of Rs 1950 has been misappropriated by the panchayat functionaries. Accordingly, issue No 1 is decided in favour of the complainant and against the defendants.

Issue-II Similarly it has also been clearly found that the attendance of 11 days of Smt. Satya Devi w/o Rattan Chand has been marked fictitiously and amount Rs 825/ drawn against her name in mustroll no. 219 appears to be misappropriated by the Panchayat functionaries..

Issue -III It has been found on the basis of statement of Smt. Satya Devi w/o Ratan Chand recorded by the BDO-cum-PO MGNREGA Nurpur while conducting fact finding inquiry on 01-10-2010 in which Smt. Satya Devi has stated that she neither worked against the work construction of path from the house of Sudama to Nala nor she signed/put thumb impression in the mustroll against her name and never received the wages of Rs. 1950/- for 26 days mustroll no. 218 and Rs. 825/- for 11 days mustroll no. 219 which means that Rs 2775/- have been misappropriated by the Panchayat functionaries. Issue No2 is also decided in favour of complainant .

Issue-IV Smt. Radha Devi has denied in her statement vehemently that though she has verified the attendance of the MGNREGA workers in mustroll no. 218-219 yet attendances have not been marked by her but she has failed to explain the name of Panchayat functionary who has marked the attendance. Therefore, her claim denying the marking of attendance in the mustroll cannot be accepted, moreover, she has verified the attendance daily of workers engaged in the mustrolls which clearly establishes that she has marked the attendance in the mustrolls and verified the same. Similarly, Smt. Mamta Devi Pradhan who has admitted in her statement that the payment of mustroll no. 218-comprising 27 bearer cheques was drawn by her from KCC Bank Rehan as per resolution of Panchayat and payment made to 13 workers only by her and the remaining amount was handed over to Smt Radha Devi Ward panch, but she has failed to produce any receipt of the amount handed to Smt Radha Devi ward panch, which also establishes that the undisbursed amount remained with her and she is individually responsible for the lapse. In case of mustroll no. 219 the Pradhan has stated that after drawing the payment of 27 persons, she

did not make the payment herself and handed over the amount to the then panchayat secretary Sh Rashpal, but has failed to produce receipt of the amount so handedover to sh Raspal Secretary, in the absence of production of receipt it is not possible to fix the responsible of the secretary and she is individually responsible for this financial irregularity. The Pradhan has also failed to explain as to what compelled her to draw the amount of 54 bearer cheques of two mustroll 218-219, these bearer cheques could have been given to concerned MGNREGA workers for depositing the same in their account. In any case, if the Pradhan has drawn the amount of 54 bearer cheques, it was obligatory on her part to ensure that the amount is disbursed to the concerned worker immediately as per entries made in the mustroll. Thus it has been found clearly that the amount drawn against mustroll no. 218-219 in the name of Smt. Satya Devi w/o Ratan Chand viz Rs. 1950 + 825 = Rs. 2775/- appears to be misappropriated as it has not been paid to Smt. Satya Devi w/o Ratan Chand. Since the bearer cheques have been signed by the Pradhan and the then Sceretary Sh Rashpal and payment drawn on the basis of entries made in the mustrolls. It is thus established that the fictitious attendance in two mustrolls have been marked by Smt Radha Devi ward panch and payment in the name of Smt Satya Devi w/o Ratan Chand has been drawn and misappropriated by the Pradhan Smt Mamta Devi. There has been loss of Rs 2775 of MGNREGA funds to the Govt for which secretary is also responsible to some extent. Issue No IV is also proved in favour of the complainant.

## **5. General Observations**

As per record the Panchayat has purchased 35 Bags of Cement @ Rs.226/- for Rs. 7910/- vide bill no. 146 dated 10-10-2007 and bajri 8 cum @ 500/- per cum amount Rs. 4000/- , Sand 4 cum 500 amount Rs. 2000/- , Stone 2cum @ 250/- per cum amount Rs. 500/- . The payment account of above purchased construction material has been made vide voucher no. 15 for Rs. 7910/- and Rs. 6500/- to the suppliers but before making payment necessary entries have not been made by the Panchayat in the stock register which also appears to be a serious material irregularity may be because of lack of procedural knowledge. The Panchayat functionaries need to be imparted training in this regard.

## **6. Conclusion**

In view of foregoing reasons and findings, the allegations alleged in the present complaint stands established against the Gram Panchayat Chatter Jogian, as per observations made against each issue. It has been established that there is misappropriation of Government funds on account of marking of fictitious attendance on the muster rolls no. 218 and 219 in respect of Smt. Satya Devi W/o Shri. Ratan Chand.

Copy of the award be sent to the complainant, Smt. Mamta Devi Pradhan, Shri. Rashpal the then Secretary, Smt. Radha Devi (Ward Panch Ward No. 1), Gram Panchayat, Chatter Jogian, BDO-cum-PO (MGNREGA) Nurpur, Deputy Commissioner-cum-District Coordinator (MGNREGA) for information and further necessary action.

Copy of the award may also be sent to the Secretary (Rural Development) to the Government of Himachal Pradesh for information and further necessary action.

Announced

*Sharma* 29/12/2010  
Ombudsman(MGNREGA)  
Vikas Bhawan, DRDA,  
District Kangra,  
Dharamshala (H. P.)