

KARNATAKA LOKAYUKTA

No. Compt/Uplok/BCD-2352/2018/ARLO-1 M.S. Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru, dated 13/12/2019.

**REPORT UNDER SECTION 12(3) OF
KARNATAKA LOKAYUKTA ACT, 1984**

Sub: Proceedings initiated against - Smt. K.V. Manjula, Superintendent, Karnataka Nursing Council, Gandhinagar, Bengaluru about her misconduct as Public /Government servant- reg.,

An investigation was taken up under Section 9 of the Karnataka Lokayukta Act, 1984, on the basis of complaint filed by Sri. K. Nanjunda Prasad, No. 70, 9th main, Dwaraka Nagar, BSK 3rd stage, Bengaluru (hereinafter referred to as 'Complainant' for short) against Smt. K.V. Manjula, Superintendent, Karnataka Nursing Council, Gandhinagar, Bengaluru (hereinafter referred to as 'Respondent' for short).

2. The substance of the complaint is that the respondent was appointed as SDA/Typist at Karnataka State Nursing Council in the year 2001 and thereafter she has been promoted to the post of FDA and presently she is working as Office superintendent on promotion. There are illegalities in promoting the respondent. Upon the complaint of the complainant, Additional Chief Secretary has called for action taken report from the Director, Medical Education Directorate. But the Director, Medical Education vide his letter dt.

25/07/2018 has stated that disciplinary authority of the respondent is the Karnataka State Nursing Council and therefore has requested the Government to take disciplinary action against the respondent. The complainant has requested to take action against the respondent.

The complainant has produced the copy of the report of Director of Medical Education dt. 25/07/2018 addressed to the Additional Chief Secretary to the Government, Health and family welfare department (Medical Education) wherein, it is stated that no appointment order with respect to the appointment of the respondent is found in her service register. There are no records with respect to declaration of her probationary period. Except the order of promotion there are no other documents with respect to the promotion of the respondent.

Further it is stated that the respondent has visited foreign countries without permission from the higher authorities. Therefore has sought the Government to initiate departmental proceedings against the respondent by directing Disciplinary authority i.e., the Karnataka State Nursing Council.

3. The report of the Director, Medical education shows that there are no proper documents with respect to the appointment and promotion of the respondent. Prima-facie misconduct can be inferred with respect to

visiting of foreign countries without permission from the higher authorities.

4. Report was called from the Additional Chief Secretary to the Government, Health and Family Welfare Department (Medical Education) and also from the Registrar, Karnataka State Nursing Council, Bengaluru by forwarding the copy of the complainant and its enclosures. Further comments were called from the Respondent.
5. The Respondent has submitted comments dt. 19/11/2018 denying the allegations in the complaint. She has stated that she was appointed by the Competent Authority vide official memorandum dt. 24/07/2001 as Second Division Assistant and Typist. She was reported to duty at 10.30am on 01/08/2001. She was appointed through the Employment Exchange Office, Bengaluru as per KCSR and Karnataka State Nursing Council Byelaws. As per order dt. 30/06/2008, she was promoted as FDA and thereafter as per order dt. 03/10/2011, she was promoted as Office Superintendent. She has stated that her appointment and promotions are in accordance with KCSR and Karnataka State Nursing Council Byelaws. She has furnished the copies of Official Memorandum with respect to her promotion as FDA and thereafter as Office Superintendent. She has requested for closing the complaint.
6. Dr. Siddique M. Ahamed, Professor, Pathology and Ex-special officer for Karnataka Nursing and Paramedical

Authority, Bengaluru has submitted copy of the letter dt. 21/03/2019 addressed to the Director, Directorate of Medical Education wherein the enquiry report has been submitted stating that the respondent has visited foreign countries without permission from the Higher authorities and there are no documents showing declaration of her probationary period.

7. Director, Directorate of Medical Education, Ananda rao Circle, Bengaluru has submitted letter dt. 01/04/2019 stating that Dr.Siddiq M.Ahamed, Professor, Pathology and Ex-special officer for Karnataka Nursing and Paramedical Authority, Bengaluru has conducted enquiry and submitted report to Directorate and on the basis of Preliminary Enquiry report, the respondent has been suspended on 07/12/2018. Further it is stated that Departmental Enquiry will be initiated against the respondent under CCA rules. Along with letter, enquiry report has been submitted stating that respondent has visited foreign countries without permission and there are no documents showing declaration of her Probationary Period.
8. Thus in view of the above, it appears that the documents showing the declaration of probationary period of the Respondent are not available and the question arises as to without proper documents showing declaration of probation, how the Respondent could have been promoted. However u/s 8(1)(a) of the Karnataka Lokayukta Act, 1984 investigation with respect to matters specified in Second Schedule cannot

be made and the questions pertaining to the declaration of probation, promotion etc., of the Respondent falls within the domain of action taken in respect of appointments, removals, pay, discipline, superannuation or other matters relating to the condition of service of public servants specified in clause (d) of the said schedule. Therefore it is for the competent authority to examine the matter and take needful action.

However with respect to the question of the Respondent having visited the foreign countries without permission of the higher authorities/competent authorities, it is trite that casual leave and other leaves have to be applied and granted to a government servant as per the rules regulating the grant of casual leave in respect of Karnataka Government Servants with effect from 1st January 1959 or, as the case may be, the applicable rules as per the Karnataka Civil Services Rules. A government servant cannot remain absent to work or leave the headquarters without prior permission.


Official Memorandum bearing no. DPAR 108 KMM 83 Bangalore dt. 08/07/1983 deals with the guidelines regarding issue of 'No Objection Certificate' to Government servants who go abroad (the copy of the said Official memorandum is placed on record). Considering the guidelines in the said Official Memorandum, it is clear that a Government Servant, who wishes to go abroad has to seek prior

permission/No Objection Certificate from the Government/ Competent Authority. Upon application seeking no objection certificate, the Competent Authority has to verify whether the person is employed in a strategic post involving security of State, whether the person has drawn huge advances where security of such Government money is involved, whether they have rendered the security insufficient, whether there is indication of settling down abroad or proceeding for seeking employment, whether civil or criminal cases or departmental enquiries are pending or are contemplated and whether no objection certificate for issue of passports have been obtained from Secretary to Government in the respective Department, in case of Gazetted Officers and Head of the Department concerned, in case of Non Gazetted Officers. Further such no objection has to be issued by making it clear that under those circumstances their over stay abroad, without leave or extended leave will be condoned or resignation while abroad will be accepted. As the issuance of no objection certificate involves all the above aspects, it is clear that it is an important and serious matter that cannot be neglected or omitted. In the present case, the report of Dr. Siddiq M.Ahmed, Professor Pathology and Ex-Special Officer, Karnataka Nursing and Para Medical Authority, Bengaluru prima-facie shows that the Respondent has often travelled to foreign countries without necessary prior permission/ No Objection Certificate from the higher/competent authorities. The respondent has not offered any

satisfactory explanation in her comments in this regard. Thus there is prima-facie material to infer misconduct on the part of the Respondent.

9. The facts and materials on record prima-facie show that the Respondent has committed misconduct as per Rule 3 (i) to (iii) of KCS (Conduct) Rules, 1966. Accordingly, now, acting under Section 12(3) of the Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against **Respondent - Smt. K.V. Manjula**, Superintendent, Karnataka Nursing Council, Gandhinagar, Bengaluru (Date of Retirement is 31/12/2028) and to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.
10. Further, as per Section 12(4) of Karnataka Lokayukta Act, 1984, the Competent Authority shall intimate to this Authority within one month from the date of receipt of this report, as to the action taken or proposed to be taken on the basis of this report.

Connected records are enclosed.


(Justice N. ANANDA), 13/12
Upalokayukta-1,
State of Karnataka.

