



KARNATAKA LOKAYUKTA

No.Lok/INQ/14-A/130/2013/ARE-3

Multi-storeyed Building,
Dr.B.R. Ambedkar Veedhi,
Bengaluru, dt.4.1.2020.

RECOMMENDATION

Sub: Departmental Enquiry against Sri. D.V.Krishnegowda,
the then Additional Shirastedar, Taluk Office, Kolar
taluk, Kolar District-reg.

Ref: 1. Govt. Order No. ಕಂಇ 610 ಬಿಎಂಎಂ 2012, Bengaluru,
dated 13.2.2013 .

2. Nomination Order No. Lok/INQ/14-A/130/2013
of Hon'ble Upalokayukta-2, Bengaluru, dated 11.3.2013.

3. Report of ARE-3, KLA, Bengaluru, dated 31.12.2019.

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Government, by order dt. 13.2.2013, initiated the disciplinary proceedings against Sri. D.V.Krishnegowda, the then Additional Shirastedar, Taluk Office, Kolar taluk, Kolar District [hereinafter referred to as the Delinquent Government Official, for short 'DGO'] and entrusted the departmental inquiry to this Institution.

2. This Institution, by Nomination Order dated 11.3.2013 nominated Additional Registrar of Enquiries-4 Karnataka Lokayukta, Bengaluru, to conduct departmental inquiry against the DGO for the alleged misconduct said to have been committed by him. Subsequently by order No. Uplok-2/DE/2016, Bengaluru dated 3.8.2016 ARE-3 was re-nominated to continue the said enquiry.

3. The charge framed against the DGO, Sri. D.V.Krishnegowda, the then Additional Shirastedar, Taluk Office, Kolar taluk, Kolar District, is as follows;

"That, you Sri D.V.Krishnegowda-the DGO, while working as Additional Shirastedar in Kolar Taluka Office,

Kolar district, Sri N.Puneeth s/o M.Muniswamy r/o N.G.O. Layout in Kolar (herein after referred to as the 'complainant) approached you-DGO since his father working as Lecturer in Government Girls Junior College at Kolar has died on 24-06-2011, being in need of survival certificate, he had applied for that before about 25 days of 03-09-2011. So, his said application had gone to Taluka Office through R.I. after verification by V.A. As such, when he approached you-DGO on 02-09-2011 and asked about it, you-DGO asked to give Rs.500/- and come on the next day. Accordingly, when the complainant gave Rs.500/- demanded to you-DGO, you-DGO asked the complainant to come on the next day and to receive the survival certificate. Not only, that, accordingly when he approached you-DGO on 03-09-2011, you-DGO again demanded money telling that the amount paid earlier is not sufficient, as he has to give amount to others in the office and demanded to pay Rs.500/- and thus again insisted for bribe for the said work. On 03-09-2011, you-DGO demanded and accepted the tainted (bribe) amount of Rs.500/- from the complainant at your office at Kolar, thereby failing to maintain absolute integrity and devotion to duty, the act of which is un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3 (1) of Karnataka Civil Service (Conduct) Rules 1966”.

4. The Inquiry Officer (Additional Registrar of Enquiries-3) on proper appreciation of oral and documentary evidence has held that, 'the Disciplinary Authority has 'proved' the charge (demand and acceptance of bribe) levelled against the DGO Sri. D.V.Krishnegowda, the then Additional Shirastedar, Taluk Office, Kolar taluk, Kolar District.'

5. On re-consideration of report of inquiry and all the records, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement of DGO furnished by the Inquiry Officer, DGO -D.V.Krishnegowda retired from service on 31.7.2018.

7. Having regard to the nature of charge (demand and acceptance of bribe) 'proved' against DGO - Sri. Sri. D.V.Krishnegowda, the then Additional Shirastedar, Taluk Office, Kolar taluk, Kolar District and on consideration of the totality of circumstances-, 'it is hereby recommended to the Government to impose penalty of withholding of 50% of the pension payable to DGO - Sri.D.V.Krishnegowda, the then Additional Shirastedar, permanantly'.

8. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.

*B.S. Patil* 4-1-20  
**(JUSTICE B.S.PATIL)**  
Upalokayukta-2,  
State of Karnataka.



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/130/2013/ARE-3

M.S.Building,  
Dr. B.R.Ambedkar Veedhi,  
Bengaluru - 560001.

Date: 31.12.2019

**Enquiry report**Present: Sri.S. Renuka Prasad  
Additional Registrar Enquiries-3

Sub: Departmental Enquiry against Sri D.V. Krishnegowda, the then Additional Shireastedar, Taluk office, Kolar Taluk, Kolar District - reg

- Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/BD/2263/2012/ARE-7 dated 17.11.2012
2. Government Order No. RD 610 BMM 2012 Bengaluru dated 13.2.2013
3. Nomination Order No.LOK/INQ/14-A/130/2013 dated 11.3.2013 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

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1. One Sri M. Puneeth, S/o M. Muniswamy R/o 971/5, NGO Layout, Near Gokul College, Kolar (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Kolar on 3.9.2011 against D.V. Krishnegowda, the then Additional Shireastedar, Taluk office, Kolar Taluk, Kolar District (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO having demanded bribe from him, received Rs. 500/- and further insisting him to pay a further sum of Rs. 500/- by way of bribe, in order to issue him the required genealogical tree and survivors certificate of his family.

2. On registering a case on the basis of the said complaint, a trap was held on 3.9.2011 in the Taluk office, Kolar wherein, the DGO having demanded bribe from the complainant, received Rs.500/- from the complainant. The tainted money of Rs. 500/- was recovered from the left side shirt pocket of the DGO. Since it was revealed during the investigation that, the DGO having demanded bribe from the complainant received the bribe amount of Rs. 500/-, in order to do an official act i.e., in order to issue him/Complainant the required genealogical tree and survivors certificate of his family, the Police Inspector, having conducted investigation, filed charge sheet against the DGO.
3. The ADGP, Karnataka Lokayukta, Bengaluru has forwarded the copy of the charge sheet to the Hon'ble Upalokayukta. On the basis of the materials collected during investigation and materials placed before this authority, an investigation was taken up under Section 7(2) of the Karnataka Lokayukta Act. An observation note was served on the DGO providing him an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating disciplinary proceedings against him. DGO has submitted his reply dated 25.10.2012 denying the allegations made against him contending that, he never demanded or received any money by way of bribe from the complainant, and he has been falsely implicated. According to him, the Complainant has filed the application to the Taluk office about 20 days prior to 3.9.2011 and he/DGO having attended the said application made a shara recommending to issue survivors certificate as such, no work of the Complainant was pending with him as on the date of the alleged trap as there was no occasion for him to demand any bribe from the Complainant. It is his further contention that, since he has been prosecuted by Lokayukta police and the prosecution so launched

against him is pending trial before the Principal session Judge, Kolar, the disciplinary proceedings by way of parallel proceedings cannot be initiated against him and requested this authority to drop the proceedings against him.

4. Since the explanation offered by the DGO was not satisfactory, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority, recommending to initiate disciplinary enquiry against the DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Disciplinary Authority, i.e., Governemtn of Karnataka, Revenue department by its order in No. RD 610 BMM 2012 Bengaluru dated 13.2.2013 initiated disciplinary proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against the DGO, the Hon'ble Upalokayukta issued a nomination order dated 11.3.2013 nominating ARE-4 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-4 against the DGO as under.

**“Charge:**

That, you Sri D.V.Krishnegowda-the DGO, while working as Additional Shirastedar in Kolar Taluka Office, Kolar district, Sri N.Puneeth s/o M.Muniswamy r/o N.G.O. Layout in Kolar (herein after referred to as the 'complainant) approached you-DGO since his father working as Lecturer in Government Girls Junior College at Kolar has died on 24-06-2011, being in need of survival certificate, he had applied for that before about 25 days of 03-09-2011. So, his said application had gone to Taluka Office through R.I, after verification by V.A. As such, when he approached you-

DGO on 02-09-2011 and asked about it, you-DGO asked to give Rs.500/- and come on the next day. Accordingly, when the complainant gave Rs.500/- demanded to you-DGO, you-DGO asked the complainant to come on the next day and to receive the survival certificate. Not only, that, accordingly when he approached you-DGO on 03-09-2011, you-DGO again demanded money telling that the amount paid earlier is not sufficient, as he has to give amount to others in the office and demanded to pay Rs.500/- and thus again insisted for bribe for the said work. On 03-09-2011, you-DGO demanded and accepted the tainted (bribe) amount of Rs.500/- from the complainant at your office at Kolar, thereby failing to maintain absolute integrity and devotion to duty, the act of which is un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3 (1) of Karnataka Civil Service (Conduct) Rules 1966.

#### STATEMENT OF IMPUTATIONS OF MISCONDUCT

The complainant approached the DGO since his father working as Lecturer in Government Girls Junior College at Kolar has died on 24-06-2011, being in need of survival certificate, he had applied for that before about 25 days of 03-09-2011. So, his said application had gone to Taluka Office through R.I. after verification by V.A. As such, when he approached the DGO on 02-09-2011 and asked about it, the DGO asked to give Rs.500/- and come on the next day. Accordingly, when the complainant gave Rs.500/- demanded to the DGO, the DGO asked the complainant to come on the next day and to receive the survival certificate. Not only that, accordingly when the complainant approached the DGO on 03-09-



2011, the DGO again demanded money telling that the amount paid earlier is not sufficient, as he has to give amount to others in the office and demanded to pay Rs.500/- and thus again insisted for bribe for the said work. The complainant was not willing to pay the bribe demanded by the DGO. Therefore, the complainant lodged a complaint before the Lokayukta Police inspector of Kolar (herein after referred to as the Investigating Officer, for short "the I.O.") The I.O. registered the complaint in Cr.No.14/2011 for the offences punishable U/S 7, 13(1)(d) R/W 13(2) of Prevention of Corruption Act 1988. The I.O. took up investigation, the complainant met the DGO on 03-09-2011, the DGO took the tainted (bribe) amount of Rs.500/- from the complainant in his office at Kolar. The I.O. seized the tainted (bribe) amount from the DGO under mahazar. The I.O. recorded statement of the complainant and panch witnesses. The record of investigation and materials collected by the IO showed that the DGO has committed mis-conduct failing to maintain absolute integrity and devotion to duty and acted in a manner un-becoming of Government servant. As the materials on record showed prima facie case about DGO receiving, bribe for discharging duty as Government Servant, a suo-motu investigation was taken up U/S 7(2) of the Karnataka Lokayukta Act against the DGO. An Observation Note was sent to the DGO calling for his explanation. The DGO gave his reply and the same has not been found convincing to drop the proceedings. As there is a prima facie case showing that the DGO has committed mis-conduct as per Rule 3(1) of Karnataka Civil Service (Conduct) Rules 1966, report U/S 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate the disciplinary proceedings against

the DGO. Accordingly, the Competent Authority initiated Disciplinary Proceedings against the DGO and entrusted the enquiry to the Hon'ble Upalokayukta U/R 14-A of Karnataka Civil Service (Classification, Control and Appeal) Rules 1957. Hence, the charge."

5. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared before ARE-4 and First Oral Statement of the DGO was recorded. DGO has denied the charges framed against him. He has engaged the services of an Advocate, to appear on his behalf and to defend him, in this enquiry.
6. While the enquiry was pending before ARE-4, in pursuance of O.M. ಕಲೋ/ಸಿಬ್ಬಂದಿ-1/54/2013-14 ದಿ: 13.2014, this enquiry file was withdrawn from the file of ARE-4 and was assigned to ARE-10 by nominating ARE-10 to proceed with the enquiry.
7. DGO has filed his written statement on 5.7.2014 when the matter was pending before ARE-10, denying the charges and imputations made against him claiming that, he is innocent and he never demanded or received any bribe or illegal gratification from the complainant and he has been falsely implicated. He has reiterated all the contentions he has urged in his reply to the observation note claiming that, he has not committed any act of misconduct and he is facing trial in the prosecution case launched against him which is pending trial before the Spl.Court, Kolar. Reiterating his contention that, he has not committed any act of misconduct, he has requested this authority to absolve him from the charges levelled against him.

8. During enquiry, before ARE-10, Complainant was examined as PW1. When the enquiry was in progress before ARE-10, by virtue of order No.UPLOK-2/DE/2016, Bengaluru dated 3.8.2016 of Hon'ble Upalokayukta-2, this enquiry file was again withdrawn from the file of ARE-10 and was made over to ARE-3 to proceed with the enquiry and to submit report. Hence, further enquiry was taken up before ARE-3. The shadow witness and the Investigation Officer have been examined before ARE-3.
9. Totally, 3 witnesses have been examined as PW1 to PW3 and 12 documents came to be marked as Ex-P1 to Ex-P12 on behalf of the disciplinary authority in this enquiry,. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since DGO desired to lead defence evidence, permission was granted to him accordingly. DGO has examined himself as DW-1 and examined one Sri Dr.B.R. Dayanand who was working as Tahsildar at Taluk office, Kolar during the relevant period as DW-2, in support of his defence. 5 documents came to be marked as Ex-D1 and Ex-D5 in support of the defense of the DGO, during his defence evidence.
10. Thereafter, the learned Presenting Officer has filed written arguments. The counsel for the DGO having sought permission of this authority submitted his written arguments. Thereafter, this matter is taken up for consideration.
11. The points that would arise for my consideration are:
  - Point No.1:** Whether the charge framed against the DGO is proved by the Disciplinary Authority?
  - Point No.2:** What order?
12. The above points are answered as under:

**Point No.1:** In the 'Affirmative'

**Point No.2:** As per Conclusion.

### **REASONS**

**Point No.1:-**

13. DGO was working as Additional Shireastedar, Taluk office, Kolar Taluk and District during the relevant period.
14. The complainant in his complaint has narrated in detail the circumstances under which he has filed the said complaint against the DGO. According to him, his father Muniswamappa died on 24.6.2011 and in order to claim the death benefits and also other benefits payable to his deceased father from the government, the genealogical tree and survivors certificate are necessary and hence he has filed an application in the name of his mother to the Taluk office, Kolar requesting for issue of genealogical tree and survivors certificate of his family. In response to the said application, the Village Accountant visited his house and enquired the local people and submitted his report to the Revenue Inspector who inturn forwarded the same to the Tahsildar for issue of certificates as per the request made in the application. It is the further allegation of the Complainant that, on 2.9.2011 he approached the DGO and requested him for issue of the certificates as requested in the application and the DGO told him that, the order of the Tahsildar is to be obtained and asked him to pay him Rs. 500/- to put up the file before the Tahsildar, to obtain the orders of the Tahsildar in the file and having received Rs. 500/- from the Complainant, asked him to come on the next day, and he will keep the certificates ready. Accordingly the Complainant met the DGO on the next day i.e., on

3.9.2011 and enquired him as to whether the certificates are ready. It is the allegation of the Complainant that, the DGO demanded him to pay a further sum of Rs. 500/- telling him that, Rs. 500/- paid by him on the previous day is not sufficient as he has to pay money to other staff members also thereby, insisted the Complainant to pay another sum of Rs. 500/- in order to attend his work of issuing him the required certificates. The Complainant on telling the DGO that, he would meet him during evening for paying money and to receive certificates from him, went to Lokayukta Police Station and approached the Police Inspector, Karnataka Lokayukta, Kolar on 3.9.2011 and filed a written complaint as per Ex-P1.

15. On the basis of the complaint so filed by the complainant on 3.9.2011 the Police Inspector, Karnataka Lokayukta, Kolar, has registered a case in Cr. No. 14/2011 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
16. An entrustment proceedings was conducted in the Lokayukta Police Station, Kolar on 3.9.2011 in the presence of two panch witnesses viz., Sri V. Lakshman, SDA, O/o Assistant Executive Engineer, Minor Irrigation Sub-Division, Kolar and Sri K. Raju, FDA, O/o Deputy Director of Horticulture, (Zilla Panchayath) Kolar and in the said proceedings, the bait money of Rs. 500/- consisting of 1 currency note of Rs.500/- denomination given by the Complainant, was smeared with phenolphthalein powder making it as tainted money, and the said tainted note was entrusted to the Complainant asking him to give that money to the DGO when he meets him and only in case if the DGO demands for bribe. Panch witness Sri V. Lakshman was entrusted with the task of a shadow witness. The Complainant was entrusted with a voice recorder asking him to

switch on the same when he meets the DGO and to record the conversation with him while paying money to him.

17. The complainant and shadow witness were taken to the Taluk office, Kolar and sent them to meet the DGO to enquire him about his work of issue of certificates. When the complainant accompanied with the shadow witness met the DGO at about 5.30pm. and enquired him about issue of certificates, DGO enquired him as to whether he has brought money as demanded by him. When the Complainant gave him the tainted note of Rs. 500/-, DGO having received the said note with his right hand kept that note in the left side pocket of his shirt. Thereafter, the Complainant came out of the Taluk office and gave pre-arranged signal to the Police Inspector.
18. On receiving the signal from the complainant, Police Inspector and his staff and another panch witness approached the complainant. The complainant took them inside the office of the DGO and showed the DGO stating that, he is the concerned Shirestedar and he has received money from him.
19. The Police Inspector introduced himself to the DGO and informed him/DGO about the registration of a case against him. On enquiry, DGO disclosed his name as D.V. Krishnegowda, working as Additional Shirestedar, Taluk office, Kolar Taluk, Kolar District.
20. Thereafter, the Police Inspector got prepared Sodium carbonate solution in a bowl and asked DGO to wash his right hand fingers in the said bowl containing sodium carbonate solution. When DGO dipped his right hand fingers in the bowl containing sodium carbonate solution, the colorless solution in the said bowl turned into pink color. The said pink coloured solution of the right hand

- wash of the DGO was collected in a separate bottle and sealed the same.
21. The Police Inspector asked the DGO about the money he has received from the complainant. DGO told the Police Inspector that, the money is available in his left side shirt pocket. As per the instructions of the Police inspector, panch witness Sri Lakshman having searched the left side shirt pocket of the DGO took out the currency note from the left side shirt pocket of the DGO and produced the same before the Police Inspector. The serial number of the said note when cross-checked, since confirmed with that of the sl.no. of the note which was entrusted to the complainant during entrustment proceedings, the said note was kept in a separate cover and sealed the same.
  22. On providing an alternate shirt, the shirt worn by DGO was got removed and the left side pocket portion of the shirt, was dipped in a separate bowl containing sodium carbonate solution and on such dipping, the colourless solution turned into pink colour. The said pink colored solution was collected separately in a separate bottle and sealed the same and seized along with the shirt of DGO.
  23. DGO was asked to give his written explanation regarding recovery of tainted note from his possession. DGO gave his explanation in writing as per Ex P4. The complainant and shadow witness have denied the correctness of the version of the explanation given by the DGO claiming it as false and incorrect.
  24. DGO was asked to produce the relevant file pertaining to the issue of certificates, to the complainant. DGO has produced the relevant file on taking it from his table, since was found kept on his table and

the copies of the documents from the said file have been seized as per Ex-P5. The digital voice recorder which was entrusted to the Complainant was taken back from him and it was played in the presence of DGO and panch witnesses. The conversation took place between the Complainant and the DGO was found recorded in it. The said conversation was transferred into CDs and the transcription of the relevant portion of the said conversation have been incorporated in the mahazar itself.

25. A detailed mahazar was got prepared as per Ex-P3 incorporating all the details of the trap proceedings. Photographs of these proceedings conducted in the Taluk office were obtained as per Ex-P9(1&2).
26. During enquiry, the complainant has been examined as PW-1 and the shadow witness as PW2 and the investigation officer has been examined as PW3.
27. The complainant who is examined as PW1 has stated in detail explaining the circumstances under which he has filed the complaint against the DGO as per Ex-P1. He deposed regarding conducting of entrustment proceedings in the Lokayukta Police Station and entrustment of tainted note of Rs. 500/- to him in the said proceedings. He further deposed regarding the happenings taken place in the Taluk office, Kolar when he along with the shadow witness, met the DGO in the Taluk office. According to him, when he met the DGO in the Taluk office and enquired him about issue of required certificate, DGO asked him whether he has brought money and in response to the enquiry made by the DGO, he gave the tainted note of Rs. 500/- to him and the DGO having received the said money from him, kept that money in his shirt



pocket and thereafter, he/PW1 came out of taluk office and gave pre-arranged signal to the Police Inspector.

28. The complainant gave further evidence regarding various procedures conducted by the Police Inspector on his arrival, and deposed in detail regarding obtaining of right hand wash of the DGO which gave positive result regarding presence of phenolphthalein and further stated that, the money he gave to the DGO was recovered from his left side shirt pocket. He has further deposed regarding subjecting the left side pocket portion of the shirt of the DGO to phenolphthalein test which gave positive result regarding presence of phenolphthalein, giving of explanation by DGO as per Ex-P4, seizure of the documents pertaining to him/Complainant which was found kept in a file on the table of the DGO and DGO himself when asked to produce the relevant file, took that file from his table and produced the same before the Police Inspector, obtaining of photographs, preparation of trap mahazar and other details of the trap proceedings.

29. The learned counsel for the DGO cross examined the complainant at length. He/PW1 has reiterated his allegation made against the DGO even during his cross examination stating that, when he accompanied with the shadow witness met the DGO, DGO enquired him for money and demanded him for money and he gave the tainted note of Rs. 500/- to the DGO who on receiving it from him, kept that note in his shirt pocket. A suggestion was put to him during his cross examination that, he did not give the money to the hands of the DGO but he kept the money on the table of the DGO. A further suggestion was put to him that, he/Complainant himself kept the money into the right side pocket of the shirt of the DGO. But both these suggestions have been categorically denied by the

Complainant. On considering the nature of the defence taken on behalf of the DGO during the cross examination of the Complainant, the recovery of tainted note from the shirt pocket of the DGO is not seriously disputed or denied on behalf of the DGO.

30. PW2 is the shadow witness and he has not fully supported the case of the disciplinary authority and turned partly hostile witness. During his chief examination he has stated about conducting of entrustment proceedings in the Lokayukta Police Station, Kolar and entrustment of tainted note of Rs. 500/- to the complainant in the said proceedings. He has further stated that, he accompanied the complainant and went along with him to Taluk office, Kolar and when the complainant met the DGO in the Taluk office and talked to him, he/shadow witness claimed that, he was sitting in one side of the hall at a distance of 30 to 35 feet as such, he could not hear the conversation taken place between the Complainant and the DGO. It is his further evidence that, the Complainant after talking with the DGO went out of the hall and gave signal and on receiving the signal the Police Inspector and his staff came inside the hall of the taluk office and the Complainant showed the DGO to the Police Inspector and told him that, he/DGO has received money from him.
31. He further gave details regarding various procedures conducted by the Police Inspector in the office of the DGO including obtaining of right hand wash of the DGO which gave positive result regarding presence of phenolphthalein, recovery of tainted notes of Rs. 500/- from the left side shirt pocket of DGO, giving of explanation by the DGO as per Ex-P4 and preparation of trap mahazar as per Ex-P3 and other details of trap proceedings.

32. Since PW2/shadow witness did not support the case of the disciplinary authority with reference to certain material particulars of the trap proceedings, he has been treated as partly hostile witness and the learned PO on obtaining the permission of this authority cross examined him on various aspects of the trap proceedings. Even during his cross examination he claimed that, since he was sitting at a place in the hall which is far away from the place where the Complainant was talking with the DGO, he could not hear the conversation took place between them. He has further reiterated his contention that, he has not seen the Complainant giving money to the DGO and the DGO having received the money from the Complainant, kept that money in his shirt pocket. Even he has not supported the case of the disciplinary authority with regard to subjecting the pocket portion of the shirt to Phenolphthalein test and also the voice recorder which was entrusted to the Complainant taken back from him and played in his presence, which was found to contain the conversation took place between the Complainant and the DGO recorded in it. He further denied for having given statement before the Police Inspector as per Ex-P10 (1 to 4).
33. The Learned Counsel for DGO though put only a few suggestions while cross examining PW2, has not disputed or denied the portion of the evidence given by him/PW2 in his chief examination. When the counsel for the DGO cross examined him, he has reiterated his contention that, he has not personally seen the payment of money by the Complainant to the DGO and DGO receiving money from the Complainant.
34. The evidence given by PW2/shadow witness when considered with reference to his omission to give positive evidence regarding certain materials particulars of the trap proceedings, it appears that, he has

been won over by the DGO. PW2/shadow witness was summoned on 6.3.2017 and when he was subjected to chief examination, he refused to give evidence by saying that, he could not recollect the events as the event was taken place in the year 2011 and requested for time to recollect and give evidence. At his request time was granted to him by adjourning his evidence to a subsequent date. Subsequently, he was summoned on 5.6.2017 and when examined, he avoided giving evidence with regard to certain materials particulars of the trap proceedings and claimed that, he could not hear the conversation took place between the Complainant and the DGO as he was sitting at a far away distance from them and further claimed that, he has not seen the fact of receiving money by the DGO from the Complainant. Considering the nature of the evidence given by PW2 and his deliberate refusal to give positive evidence with regard to certain material particulars of the trap proceedings, the possibility of he being won over by the DGO cannot be ruled out.

35. PW3 is the IO who gave evidence in detail regarding the various stages of investigation he has conducted, right from registration of the case against DGO on the basis of the complaint filed by the complainant and took up investigation. He narrated in detail regarding conducting of entrustment proceedings and entrustment of tainted notes of Rs.500/- to the complainant, in the said proceedings.
36. He further gave details regarding the trap proceedings he has conducted in the Taluk office claiming that, he sent both the complainant and shadow witness, to meet the DGO in the Taluk office, Kolar. He has further stated that, the complainant came out of the Taluk office and gave him pre-arranged signal and on receiving pre-arranged signal from the complainant, he and his staff

went inside the Taluk office and the complainant showed him the DGO claiming that, he/DGO is the concerned Shirastedar who has demanded bribe from him and received money from him.

37. PW3 has further narrated in detail regarding the various procedures he has conducted including obtaining of right hand wash of the DGO which gave positive result regarding presence of phenolphthalein, recovery of tainted notes of Rs.500/- from the shirt pocket of the DGO with the help of panch witness/PW2, giving of explanation by DGO as per Ex-P4, recovery of documents pertaining to the complainant as per Ex-P5 which was produced by the DGO on taking out the file from his table, and also seizure of extract of attendance register as per Ex-P6. He also gave evidence regarding conducting of voice identification proceedings and one official by name Bhaskar who is working as SDA in the Taluk office, identified the voice of the DGO in the conversation recorded and entrusted to the Complainant and further claimed that, the transcription of the relevant portion of the conversation have been incorporated in the mahazar Ex-P3 itself. He also gave evidence regarding the details of the investigation he has conducted including sending of seized articles for chemical examination and receipt of FSL report as per Ex-P12 etc.,

38. The Learned Counsel for DGO has cross examined PW3/IO at length. He has admitted in his cross examination that, the conversation recorded during the trap proceedings in the voice recorder entrusted to the Complainant does not contain any specific amount of demand by the DGO. He has further admitted that, after recovery of tainted note from the DGO, he has brought the DGO to Lokayukta Police Station to conduct further proceedings and the further proceedings including obtaining of written explanation by

the DGO, conducting of voice identification proceedings were conducted in the Police Station. A suggestion was put to him that, when he went inside the chamber of the DGO, the currency note of Rs.500/- was lying on the table and he directed the DGO to take that note with his hand and keep that note in his shirt pocket and the DGO having obliged his direction, took the note which was found lying on the table and kept that note in his shirt pocket and thereafter, the hand wash of the DGO was obtained and recovery of the tainted note from the shirt pocket of the DGO was conducted with the help of panch witness Lakshman. All these suggestions have been categorically denied by PW3/IO.

39. DGO has adduced his defence evidence by examining himself as DW-1 and except denying the trap proceedings, obtaining of his right hand wash and recovery of tainted note from his shirt pocket claiming that, no such proceedings were conducted and his hand wash was not obtained and no money was recovered from his possession, he has not taken up any specific defence contention, in order to prove his innocence.
40. He has produced the copy of the judgment dated 27.5.2016 in PCACC No. 15/2012 on the file of Principal Sessions Judge, Kolar in order to show that, he has been acquitted by the trial court and also produced the copy of the letter written by first additional solicitor to ADGP dated 29.9.2016 informing the decision taken at the level of the government not to challenge the said judgment of acquittal, and except producing the copy of the deposition of the shadow witness and investigation officer, no other documents or records are produced by him/DGO in support of his defence.

41. In addition to examining himself he has also examined one Dr.B.R. Dayanand who was working as Tahsildar as DW-2 during the relevant period of trap of the DGO. He deposed before this authority that, DGO was working as Additional Shirestedar on the day of trap as the regular Shirestedar Smt. Amudha was on leave. When the extract of the attendance register was confronted to him, he admitted that, on 3.9.2011 since regular Shirestedar Smt.Amudha was on OOD, DGO being the Additional Shirestedar was incharge of regular Shirestedar. During his re-examination DW-2 has admitted that, no documents are produced before Lokayukta Police to show that, DGO was placed incharge of the post of Shirestedar held by Smt. Amudha.

42. On considering the evidence adduced on behalf of the disciplinary authority both oral and documentary, the fact of filing of the complaint by the Complainant and on that basis registration of a case against the DGO are not seriously disputed or denied on behalf of the DGO. On perusing the complaint, there is a clear allegation against the DGO that, on 2.9.2011 DGO having received Rs. 500/- from the Complainant on demanding bribe from him, further put forth demand for a further sum of Rs. 500/- when the Complainant met him/DGO on 3.9.2011. So far as the manner in which DGO has demanded and received bribe money from him is concerned, the Complainant has categorically stated that, when he met the DGO in his office on 3.9.2011 and enquired him about the issue of survivor certificate, DGO enquired him about the money and received Rs. 500/- from him by way of bribe. The right hand wash of the DGO obtained during the trap proceedings and recovery of tainted note of Rs. 500/- from the shirt pocket of the DGO and the pocket portion of the shirt of the DGO when subjected to phenolphthalein test gave positive result regarding presence of phenolphthalein, are

established since PWs 1 to 3 have narrated these details in their evidence. The right hand wash of the DGO giving positive result and recovery of tainted note from the shirt pocket of the DGO are not seriously disputed since, by way of suggestion to the Complainant a defence contention was taken that, he/Complainant kept the money on the table of the DGO and thereafter, suggesting him that, he/Complainant himself kept the money into the shirt pocket of the DGO. Considering the nature of the defence taken on behalf of the DGO, and on considering the evidence of PWs 1 to 3 and the trap mahazar, photographs etc., I have no hesitation to conclude that, the tainted note of Rs. 500/- was received by the DGO from the Complainant with his right hand as a result of which, the right hand wash of the DGO obtained during the trap proceedings gave positive result regarding presence of phenolphthalein. Even the chemical examiner's report Ex-P12 confirms the presence of phenolphthalein detected in the right hand finger wash of the DGO and also the pocket portion of the shirt of the DGO. Hence recovery of tainted note from the shirt pocket of the DGO has been established.

43. But the DGO has not come out with any explanation by way of his defence as to how his right hand came in contact with the tainted note and how the tainted note of Rs. 500/- came to be kept in his shirt pocket. An attempt was made while cross examining PW3/IO that, he directed the DGO to take out the note from the table and to keep that money in his shirt pocket and DGO has obliged the direction of the Police Inspector. But PW3/IO has denied this suggestion. Even DGO has not taken any such defence contention while furnishing his reply to the observation note or even in his written statement. Even no such suggestion was put to the Complainant, but such a suggestion was put to PW3/IO during his



cross examination. Therefore, such a defence contention taken on behalf of DGO while cross examining PW3, cannot be believed.

44. DGO while giving his written explanation as per Ex-P4 has taken up a contention that, the Complainant tried to forcibly give him money but, he refused to receive the money and pushed the hand of the Complainant and by that time, the Lokayukta Police caught hold of him and made false allegations against him. The relevant portion of his explanation Ex-P4 reads as follows:

“ದಿನಾಂಕ 3.9.2011ರಂದು ಸಂಜೆ 5.30 ಗಂಟೆಗೆ ಪುನೀತ್ ಎಂಬ ವ್ಯಕ್ತಿ ಬಂದು ಅವರ ಕುಟುಂಬ ಸದಸ್ಯರ ಪ್ರಮಾಣ ಪತ್ರ ನೀಡುವಿಕೆಗಾಗಿ ಬಂದು ಅವರ ಕೈಯಿಂದ ಎಷ್ಟು ಹಣ ಇತ್ತೋ ಗೊತ್ತಿಲ್ಲ ನನಗೆ ಹಣ ಕೊಡಲು ಬಂದರು. ನಾನು ಆ ಹಣವನ್ನು ಸ್ವೀಕರಿಸಲಿಲ್ಲ. ಅವರು ಬಲವಂತವಾಗಿ ನನ್ನ ಕೈಗೆ ಕೊಡಲು ಬಂದಾಗ ನಾನು ಅವರ ಕೈಯನ್ನು ನೂಕಿದೆ. ನಂತರ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಬಂದು ನನ್ನ ಕೈಗಳನ್ನು ಹಿಡಿದರು.”

45. Since DGO has not denied giving of such an explanation as per Ex-P4 during the trap proceedings, the fact of the Complainant approached him in order to enquire him about issue of Survivor Certificate has been admitted by him. The further incident of trap of the DGO, his right hand wash giving positive result regarding presence of phenolphthalein and recovery of tainted notes from his shirt pocket, when considered with reference to the admitted fact in this case, I have no hesitation to conclude that, DGO having demanded bribe from the Complainant received Rs. 500/- by way of bribe in order to do an official act of processing the file in respect of issuing survivor certificate to the Complainant.

46. So far as the pendency of the work of issue of Survivor certificate to the Complainant is concerned, on perusing the seized documents

Ex-P5, it is to be noted that, the file containing these documents was available on the table of the DGO and DGO himself on taking out the said file from his table, produced the same before the Police Inspector. On perusing Ex-P5 (1<sup>st</sup> page), it is the office note wherein, DGO vide his note dated 3.8.2011 has recommended issue of survivor certificate to the applicant in view of the report of the Revenue Inspector. It is not in dispute that, the application for issue of Survivor certificate has been made in the name of the mother of the Complainant Smt. Manjula and the said application is at page no. 94 of Ex-P5. All the supporting documents have been produced along with the application. But the order was not obtained from the Tahsildar and the file was in the custody of the DGO. Admittedly, this file was seized on 3.9.2011. Hence, it is for the DGO to explain the circumstance that, though he has put a note on 3.8.2011 recommending to issue Survivor certificate as per the report of the Revenue Inspector, why he has not obtained the orders from the Tahsildar by placing the file before the Tahsildar. He has kept the file with him for about one month and no explanation has been offered by the DGO as to why he kept the file with him for a period of one month. The possession of the file with the DGO on the day of trap and deliberate omission on his part in not obtaining the orders of the Tahsildar in the file, are sufficient to conclude that, DGO has deliberately retained the file with him without obtaining the orders of the Tahsildar and the deliberate retention of the file with him was with an intention to extract bribe from the applicant/Complainant. Therefore, I have no hesitation to conclude that, the DGO having demanded bribe from the Complainant received Rs. 500/- by way of bribe from the Complainant to do an official act of placing the file before the Tahsildar to obtain his orders for issue of Survivor certificate to the family of the Complainant, the DGO has committed

an act of misconduct by demanding and accepting bribe from the Complainant.

47. The DGO by producing the copy of the judgment of his acquittal, has tried to take up a contention that, in view of his acquittal by the trial court and since his acquittal has not been challenged on behalf of the State, the charges against him in this enquiry has to be dropped by absolving him from the charges leveled against him.
48. Such a contention of the DGO cannot be considered since, the Hon'ble Supreme Court in a decision reported in 2005(7) SCC 764, Ajit Kumar Nag V/s. General Manager,

"The two proceedings, criminal and departmental are entirely different fields and have different objectives whereas the object of criminal trial is to inflict appropriate punishment on the offender the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service Rules.

Termination/quashing of criminal case against an applicant does not ipso facto absolve him from the liability arising under the disciplinary jurisdiction as per service Rules. Hence, there is no illegality in continuation of enquiry against the applicant notwithstanding quashing of the criminal proceedings against the applicant."

49. The Hon'ble Supreme Court in the decision of State of Rajasthan V/s. B.K. Meena.

"The approach and the objectives in the criminal proceedings and the disciplinary proceedings is altogether distinct and

different. In the disciplinary proceedings the question is whether the respondent is guilty of such misconduct as would merit his removal from service or a lesser punishment as the case may be, whereas in the criminal proceedings the question is whether the offences referred against him under PC Act (and with IPC if any) are established and if established what sentence should be imposed upon him. The standard of proof, the mode of enquiry and the rules governing the enquiry and trial in both the cases are entirely distinct and different.”

50. The prayer made on behalf of the DGO when considered in the context with the two decisions of the Hon'ble Supreme Court referred to above, the Hon'ble Supreme have held that, the approach and the objectives in the criminal proceedings and the disciplinary proceedings are all together distinct and different and the standard of proof, the mode of enquiry and the rules governing the enquiry and trial before the Court are entirely distinct and different. Therefore, the order of acquittal passed by the Special Court will not come in the way of this authority, in appreciating the evidence independently, adduced in this enquiry and come to an independent conclusion, regarding the charges framed against the DGO.
51. Having regard to the discussion made above, I am of the considered opinion that, the disciplinary authority has proved the allegations against the DGO and accordingly, I hold that charge framed against the DGO, has been established. Hence I answer Point No.1 in the Affirmative.

**Point No.2**

52. Having regard to the discussion made above, and in view of my findings on point no.1 as above, my conclusion is as follows:

**CONCLUSION**

i) The Disciplinary Authority has proved the charge as framed against the DGO Sri D.V. Krishnegowda, the then Additional Shirestedar, Taluk office, Kolar Taluk, Kolar District.

ii) As per the first oral statement of DGO, the date of birth of the DGO is 08.07.1958 and he has already retired from service on 31.7.2018.

  
(S. Renuka Prasad)

Additional Registrar of Enquiries-3  
Karnataka Lokayukta, Bengaluru.

**ANNEXURES****I. Witnesses examined on behalf of the Disciplinary Authority:**

|      |                                                     |
|------|-----------------------------------------------------|
| PW-1 | Sri Punith ( complainant) (original)                |
| PW-2 | Sri Lakshman (shadow witness) (original)            |
| PW-3 | Sri S. Manjunath (investigation officer) (original) |

**II. Witnesses examined on behalf of the DGO:**

|      |                                        |
|------|----------------------------------------|
| DW-1 | Sri D.V. Krishnegowda (DGO) (Original) |
| DW-2 | Dr.B.R. Dayanand (Original)            |

**III Documents marked on behalf of D.A.**

|           |                                                                   |
|-----------|-------------------------------------------------------------------|
| Ex.P-1    | Certified copy of complaint                                       |
| Ex.P-2    | Certified copy of entrustment mahazar                             |
| Ex.P-3    | Certified copy of trap mahazar                                    |
| Ex.P-4    | Certified copy of written explanation of DGO records seized by IO |
| Ex.P-5    | Certified copy of records seized by IO                            |
| Ex.P-6    | Certified copy of extract of attendance register                  |
| Ex.P-7    | Certified copy of sheet containing snos. of currency notes        |
| Ex.P-8 &9 | Certified copy of Photographs                                     |
| Ex.P-10   | Certified copy of statement of shadow witness                     |
| Ex.P-11   | Certified copy of sketch of scene of occurrence                   |
| Ex.P-12   | Certified copy of FSL report                                      |

**IV. Documents marked on behalf of DGO:**

|       |                                                                                                  |
|-------|--------------------------------------------------------------------------------------------------|
| Ex-D1 | Certified copy of judgment dated 27.5.2016 in PCA CC 15/2012                                     |
| Ex-D2 | Certified copy of deposition of laxman in in PCA CC 15/2012                                      |
| Ex-D3 | Certified copy of deposition of investigation officer in in PCA CC 15/2012                       |
| Ex-D4 | Certified copy of charge framed against DGO by the Sessions Court                                |
| Ex-D5 | Certified copy of letter dated 29.9.2016 of the Home Dept addressed to ADGP, Karnataka Lokayukta |

**V. Material Objects marked on behalf of the D.A: Nil**

  
31/12/19.

(S. Renuka Prasad)  
Additional Registrar of Enquiries-3,  
Karnataka Lokayukta, Bengaluru.