

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO: LOK/INQ/14-A/135/2013/ARE-3

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 9/10/2017

RECOMMENDATION

Sub:- Departmental inquiry against Sri Pyare Mohammed
Kutubuddin, Executive Officer, Taluk Panchayath,
Surapura Taluk, Yadgir District - Reg.

Ref:- 1) Government Order No. ೧೨೨೨ ೨೨೯ ಎಚ್‌ಬಿ ೨೦೧೨, Bengaluru,
dated 25/2/2013

2) Nomination order No.LOK/INQ/14-A/135/2013,
Bengaluru Dated 14/3/2013

3) Inquiry Report dated 6/10/2017 of Additional
Registrar of Enquiries-3, Karnataka Lokayukta,
Bengaluru.

The Government by its Order dated 25/2/2013, initiated the disciplinary proceedings against Sri Pyare Mohammed Kutubuddin, the then Executive Officer, Taluk Panchayath, Surapura, Yadgir District (hereinafter referred to as Delinquent Government Official, for short as '**DGO**') and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/135/2013 dated 14/3/2013, nominated Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO Sri Pyare Mohammed Kutubuddin, was tried for the following charge:-

“That you the DGO Sri Pyare Mohammed Kutubuddin, (hereinafter referred to as Delinquent Government Official, in short DGO) while working as Executive Officer, Taluk Panchayathi, Surapura, Yadagiri District failed to submit the report on or before 03/03/2012 in respect of misappropriation of funds of Rs.3,00,000/- of Yaktaapur Gram Panchayath under ‘Bharath Nirman Scheme’ by the then incharge Secretary Sri Sharana Gowda G. Vanakyal, failed to submit the report before 5/4/2012 to the first reminder dated 22/3/2012, failed to submit the report on or before 5/5/2012 to the second reminder dated 13/4/2012, failed to submit the report on or before 4/7/2012 to the third reminder which is in your personal name, failed to submit reply to the show cause notice dated 8/8/2012 and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (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 above charge against DGO Sri Pyare Mohammed Kutubuddin.


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

6. As per the First Oral Statement submitted by DGO, he has retired from service on 28/2/2015 (during the pendency of inquiry).

7. Having regard to the nature of charge proved against DGO Sri Pyare Mohammed Kutubuddin, it is hereby recommended to the Government to impose penalty of withholding 10% of pension payable to DGO Sri Pyare Mohammed Kutubuddin for a period of 5 years.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1,
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/135/2013/ARE-3

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

Date: 06.10.2017

Enquiry report

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

Sub: Departmental Enquiry against Sri Pyare Mohammed
Kutubuddin, the then Executive Officer, Taluk
Panchayath, Surapura, Yadagir District - reg.

- Ref:
1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/GLB/272/2008/ARE-6 dated 05.12.2012
 2. Government Order No. ಗ್ರಾಅಪ 229 ವಿಸೇಬಿ 2012 ಬೆಂಗಳೂರು ದಿ: 25.2.2013
 3. Nomination Order No.LOK/INQ/14-A/135/2013 dated 14.03.2013 of Hon'ble Upalokayukta-1, Karnataka State, Bengaluru.

1. This enquiry has been initiated against Sri Pyare Mohammed Kutubuddin, the then Executive Officer, Taluk Panchayath, Surapura, Yadagir District (hereinafter referred to as 'DGO' for short) in pursuance of the suo-moto report forwarded to the Competent Authority under Section 12(3) of the Karnataka Lokayukta Act in complaint file No. Compt/Uplok/GLB-272/2008/ARE-6.
2. The complainant by name Sri Ramanagowda S. Patil, R/o Wondaganoor village, Surpur Hobli, Chincholi Taluk had filed a complaint to this institution against Sri Sharanagowda G. Vanakyal,

Manager, Taluk Panchayath, Surpur making allegations against him that, the respondent had misappropriated amount granted under Bharatha Nirmana Yojane, without executing any work. The said complaint was registered as Compt/Uplok/GLB-272/2008 and taken up for investigation under Section 9 of the Karnataka Lokayukta Act. Hon'ble Upalokayukta-1 vide order dated 10.2.2012 in the said file, directed Executive Officer, Taluk Panchayath, Surpur of Yadgir District to submit a report regarding the allegations made in the complaint. Accordingly, a letter dated 10.02.2012 was sent to the Executive Officer, Taluk Panchayath, Surpur asking him to submit a report in this regard on or before 3.3.2012. Despite sending such letter directing him to submit a report, the DGO who was working as Executive Officer, Taluk Panchayath, Surpur during the relevant period, never bothered to send any report. Two reminder letters have also been issued to him, asking him to expedite sending of report as called for and despite issue of two reminders, the DGO failed to submit his report. Thereafter, the name of the DGO was ascertained and 3rd reminder was issued in the name of the DGO asking him to submit his report at an earliest. But, the DGO failed to submit his report despite issue of 3rd reminder. Thereafter, a show-cause notice was issued to the DGO asking him as to why action should not be taken against him for not complying with the direction issued by this authority and for not submitting the report as called for. The said show cause notice was sent to the DGO through RPAD which was duly served on him. Despite service of show-cause notice, the DGO never bothered to send his report or never bothered to furnish his reply to the said show cause notice. Hence, as per the orders of Hon'ble Upalokayukta-1, an observation note was sent to the DGO asking him to offer his explanation as to why recommendation should not be made to the Competent Authority to initiate disciplinary proceedings against him for his neglect attitude and

dereliction of duty since, he has failed to comply with the direction issued by this authority in submitting his report. The DGO sent his explanation to the observation note, vide his letter dated 7.11.2012 stating that, the complainant Ramanagowda S. Patil filed two separate complaints with the same allegations and those two complaints in GLB/161/2011 and GLB/272/2011 have been forwarded to him asking him to submit his report and since there was confusion regarding the allegations made in those two complaints, there was delay in submitting his report and requested this authority to drop the proposed action against him. Since the reply offered by the DGO was not satisfactory and convincing, a report under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary proceedings against him and accordingly, the Government in the Rural Development and Panchayath Raj Department vide G.O. No. ಗ್ರಾಅಪ 229 ಎಸೇಬಿ 2012 ಬೆಂಗಳೂರು ದಿ: 25.2.2013 initiated disciplinary proceedings against the DGO and referred the enquiry under Section 14-A of KCS(CCA) Rules for holding enquiry and to submit report. Accordingly, the present enquiry came to be initiated against the DGO in pursuance of the G.O. dated 25.2.2013 and as per the nomination order dated 14.3.2013, ARE-3 has been nominated to hold enquiry and to submit report. The then ARE-3 framed charges against the DGO which reads as follows:

“Charge

That you DGO Sri.Pyare Mohammed Kutubuddin (here in after referred to as Delinquent Government Official, in short DGO) while working as Executive Officer, Taluk Panchayathi, Surapura, Yadagiri District failed to submit the report on or before 03/03/2012 in respect of misappropriation of funds of Rs.3,00,000/- of Yaktaapur Gram Panchayath under ‘Bharath Nirman Scheme’ by the

then in charge Secretary Sri. Sharana Gowda. G Vanakyal, failed to submit the report before 05/04/2012 to the first reminder dt.22/03/2012, failed to submit the report on or before 05/05/2012 to the second reminder dt.13/04/2012, failed to submit the report on or before 04/07/2012 to the third reminder which is in your personal name, failed to submit reply to the show cause notice dt.08/08/2012 and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

STATEMENT OF IMPUTATION OF MISCONDUCT:

One Sri. Ramana Gowda S/o Saheb Gowda Patil, R/o Vandaganur of Surapura Taluk in Yadgir District filed a complaint alleging the misappropriation of funds of Yaktaapur Gram Panchayath under 'Bharat Nirman Scheme' by the then in charge Secretary Sri. Sharana Gowda G. Vanakyal.

The said complaint was sent to the DGO who was then Executive Officer of Taluk Panchayat, Surapura with instructions to submit the report on or before 03/03/2012. Thereafter reminder No.1 dt.22/03/2012, reminder No.2 dt.13/04/2012, reminder No.3 dt.21/06/2012 and show cause notice dt.16/08/2012 was issued to the DGO which were not replied by the DGO.

The DGO being a Government servant has failed to maintain absolute integrity, besides devotion to duty and acted in a manner unbecoming of a Government servant. The observation note was served on the DGO and he has submitted the reply, which is not found convincing to drop the proceedings. Thus you, the DGO, has failed to maintain absolute integrity and devotion to duty and this act on his part is unbecoming of a Government servant. Hence, he has committed an act which amounted to misconduct as stated under Rule 3 (1) (i) to (iii) of KCS (Conduct) Rules 1966.

In this connection an observation note was sent to the DGO and DGO has submitted his reply which, after due consideration, was found not acceptable. Therefore, a recommendation was made to the Competent Authority

under Section 12(3) of the Karnataka Lokayukta, Act 1984, to initiate Departmental Proceedings against the DGO. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against you, the DGO and to submit report."

3. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared in response to the notice issued to him 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 the enquiry.
4. The DGO has filed his written statement on 30.12.2013 taking up a contention that, he has not committed any misconduct and there was no deliberate inaction on his part, in not submitting the report. He has taken up a contention that, he has reported for duty as Executive Officer, Taluk Panchayath, Surpur on 19.10.2011. One Sri Ramanagowda had filed a complaint against the then Secretary of Yuktapura Grama Panchayath making allegations against him that, Rs. 3 lakhs was sanctioned under Bharatha Nirmana Yojane for execution of certain works but, the said Secretary without executing any such work and without making any entries in the MB book, drawn that amount and misappropriated the same. The said complaint was under investigation in file GLB/161/2011. Further, the same complainant made same allegations even against the Manager, Taluk Panchayath, Surpur and the said complaint was under investigation in file no. GLB/272/2011. He has taken up further contention that, with regard to this allegation, the Joint Director of Agriculture has submitted a report. According to him/DGO on receipt of letter from the Lokayukta office calling upon

him to submit his report with regard to the said allegation, he has sought for the copy of the report submitted by the Joint Director of Agriculture and since he could not receive the copy of the report from the Joint Director, he could not submit his report. He has taken up a further contention that, he has not personally received the reminder letters but the same were received in his office but those reminders were not brought to his notice. It is his further contention that, he could not send his reply to the show-cause notice served on him as he was awaiting the copy of the report from the Joint Director of Agriculture. It is his contention that, he has explained all these aspects in detail while furnishing his reply/remarks to the observation note served on him and explained in detail as to the reason why the report called for could not be submitted by him, and requested this authority to drop the proposed action against him. It is contended that, various contentions taken up by him in his reply/remarks were not considered and requested this authority to drop the proceedings against him by absolving him from the charges leveled against him.

5. During enquiry, on behalf of the Disciplinary authority 1 witness has been examined as PW1 and 11 documents came to be marked as Ex-P1 to P11.
6. After closure of the evidence on behalf of the disciplinary authority, second oral statement of the DGO was recorded. Since the DGO did into desire to lead his defence evidence, the statement of the DGO under Rule 11(18) of KCS(CCA) Rules was recorded. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has also submitted his written arguments and requested this authority to absolve the DGO from the charges

leveled against him. Thereafter this matter is taken up for consideration.

7. 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?

8. The above points are answered as under:

Point No.1: In the 'Affirmative'

Point No.2: As per final order.

R E A S O N S

Point No.1:-

9. The DGO was working as Executive Officer, Taluk Panchayath, Surpur and according to his own admission in his written statement and in his written arguments, he has reported for duty as Executive Officer, Taluk Panchayath, Surpur on 19.10.2011 and was working there in the said capacity, during the relevant period.
10. The complaint file No. Compt/Uplok/GLB/272/2008 was assigned to ARE-6 for scrutiny and Sri S.C. Ingalagi, retired District Judge/the then ARE-6 was the scrutiny officer attending the said complaint file. Sri S.C. Ingalagi has been examined as PW-1 and in his evidence he gave details regarding the circumstances under which show-cause notice and observation note were issued against the DGO and also explained in detail regarding the neglect attitude on the part of the DGO in not complying with the directions issued by this authority and his failure to submit a report as called for with regard to the allegations made in the complaint filed by Sri

Ramanagowda, which was under process in file no. GLB/272/2008, which culminated in forwarding report to the Competent Authority under Section 12(3) of the Karnataka Lokayukta Act.

11. The entire complaint file bearing No. Compt/Uplok/GLB/272/2008 has been secured from ARE-6 section and PW-1/the then ARE-6 gave evidence with reference to the notings made in the said file.
12. PW-1 has stated that, the said complaint file pertaining to the complaint filed by Ramanagowda was assigned to him for scrutiny and he was scrutinising the said file. He has further stated that, as per the orders of the Hon'ble Upalokayukta-1 dated 10.2.2012, a letter was sent to the DGO/Executive Officer, Taluk Panchayath, Surpur, asking him to submit a report on or before 3.3.2012 with regard to the allegations made by the complainant against the respondent therein. The copy of the letter dated 10.2.2012 is produced as per Ex-P1. According to PW-1, despite sending that letter, the DGO never bothered to send his report and hence as per the orders of Hon'ble Upalokayukta-1, 1st reminder dated 22.3.2012 was issued as per Ex-P2 and 2nd reminder dated 13.4.2012 was issued as per Ex-P3, directing the DGO to submit his report at an earliest. Ex-P3 has been received by the inward and outward clerk of Taluk Panchayath office, Surpur as per the endorsement Ex-P3(b). Even the Police Inspector, Karnataka Lokayukta, Yadgir in his letter as per Ex-P4 confirmed the service of Ex-P3 in the office of the DGO. But, the DGO never bothered to send any reply and hence, the 3rd reminder dated 21.6.2012 came to be issued as per Ex-P5, mentioning the name and designation of the DGO, calling upon him to submit his report within 4.7.2012. The said 3rd reminder as per Ex-P5 was duly served in the office of Taluk Panchayath, Surpur and it has been received by some official in the

said office who acknowledged the receipt of the said letter at Ex-P5(b). The Police Inspector, Karnataka Lokayukta, Yadgir in his letter dated 30.6.2012 as per Ex-P6, confirmed the service of Ex-P5 in the office of the DGO.

13. PW-1 has further stated that, since the DGO never bothered to send any reply to those reminders and never bothered to submit his report as called for, as per the orders of the Hon'ble Upalokayukta-1 a show cause notice was sent to the DGO as per Ex-P7 dated 8.8.2012. The said show cause notice was sent through RPAD and the same was received by the concerned clerk in the office of the Taluk Panchayath, Surpur as per the postal acknowledgement Ex-P8. Despite issue of show cause notice, since the DGO failed to submit his explanation and failed to submit his report as called for, as per the orders of the Hon'ble Upalokayukta-1 dated 4.10.2012, an observation note dated 12.10.2012 was sent to the DGO as per Ex-P9. The DGO has received this observation note personally as per the acknowledgement Ex-P9(b).
14. PW-1 has further stated that, the DGO submitted his reply as per Ex-P10 to the observation note served on him. Since the reply/explanation offered by the DGO was not satisfactory and not convincing to drop the proceedings against him, a decision was taken to send a report under Section 12(3) of the Karnataka Lokayukta Act to the Competent Authority and accordingly a report under Section 12(3) of Karnataka Lokayukta Act dated 3.12.2012 as per Ex-P11 was forwarded to the Competent Authority recommending to initiate disciplinary proceedings against the DGO and to entrust the enquiry under Rule 14-A of KCS(CCA) Rules to this authority and consequently the G.O. dated 25.2.2013 came to

be issued initiating disciplinary proceedings against the DGO and entrusting the enquiry to this authority.

15. PW-1 gave details regarding all these aspects and also explained in detail regarding circumstances under which the report under Section 12(3) of Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary proceedings against the DGO.

16. The learned counsel for the DGO has cross examined PW-1. During his cross examination, PW-1 has admitted that, the complaint was referred to Dy.SP, Karnataka Lokayukta, Yadgir for investigation and to submit a report, since the DGO failed to submit his report as called for and despite issue of notice, reminders and show cause notice. PW-1 was cross examined with regard to service of 1st reminder as per Ex-P2 and 2nd reminder as per Ex-P3 personally on the DGO and PW1 has stated that, Ex-P2 was sent through ordinary post Ex-P3 which was sent through Karnataka Lokayuka police, Yadgir was duly served in the office of the DGO and the concerned inward clerk had received that notice/2nd reminder as per the acknowledgement Ex-P3(b). On behalf of the DGO, a contention was taken that, the reminder letter Ex-P3 was not personally served on the DGO, PW-1 has stated that, some official in the office of the Taluk Panchayath, Surpur received it under his acknowledgement, Ex-P5(b). PW1 has further admitted that, the show cause notice issued to the DGO as per Ex-P7 was sent through RPAD and the same was received by the concerned clerk in the office of the Taluk Panchayath, Surpur as per the postal acknowledgement Ex-P8. All other suggestions put to PW-1 have been categorically denied by him/PW1.

17. The DGO in response to the observation note served on him personally as per Ex-P9 submitted his reply as per Ex-P10, which reads as follows:

“ಶ್ರೀ ರಾಮನಗೌಡ ಎಸ್. ಪಾಟೀಲ ಸಾ. ವಂದಗನೂರ ಇವರ ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಹಾಗೂ ಯಕ್ತಾಪೂರ ಗ್ರಾಮ ಪಂಚಾಯತ ಯಕ್ತಾಪೂರ ಗ್ರಾಮದ ಕುಡಿಯುವ ನೀರಿನ ಕಾಮಗಾರಿಯ ಅನುಷ್ಠಾನದಲ್ಲಿ (ಭಾರತ ನಿರ್ಮಾಣ ಯೋಜನೆ) ಅವ್ಯವಹಾರ ಆಗಿರುವ ಕಡತ ಹಾಗೂ ಶ್ರೀ ರಾಮನಗೌಡ ಎಸ್.ಪಾಟೀಲ ಇವರು ಸಲ್ಲಿಸಿದ ದೂರಿನ ವಿಷಯ ಒಂದೆಯಾಗಿರುವುದೆಂದು ಭಾವಿಸಿದ್ದೆವು. ಹೀಗಾಗಿ ಪ್ರತ್ಯೇಕವಾಗಿ ವರದಿ ಸಲ್ಲಿಸಲು ವಿಳಂಬವಾಗಿರುತ್ತದೆ. ದಯಾಪರರು ಈ ವಿಳಂಬವಾಗಿರುವುದಕ್ಕೆ ಮನ್ನಿಸಲು ಕೋರಲಾಗಿದೆ. ಸದರಿಯವರ ದೂರುಗಳು 2 ಇದ್ದದ್ದು, ಕಡತ ಸಂಖ್ಯೆಯೆ ಜಿಎಲ್‌ಬಿ 272/ ಈ ಕಡತವು ಪ್ರತ್ಯೇಕವಾಗಿರುವುದು ಕಂಡು ಬಂದಿರುವುದರಿಂದ ಈ ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಬ್ಯಾಂಕ್ ದಾಖಲಾತಿಗಳನ್ನು ನೋಡಲಾಗಿ ಬ್ಯಾಂಕ್ ಖಾತೆ ಸಂ. 2038053681 ಇದರಲ್ಲಿ ಭಾರತ ನಿರ್ಮಾಣ ಯೋಜನೆಯ ಅನುದಾನವು ರೂ. 3,13,451-00 ಇದ್ದದ್ದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ಮುಂದುವರೆದು ಉಲ್ಲೇಖ(2) ರ ನ್ಯೂನತೆಗಳ ಪಟ್ಟಿ ಪ್ರಕಾರ ವಿವರಿಸಿದಂತೆ ಉಲ್ಲೇಖಗಳ ಪ್ರಕಾರ ಶ್ರೀ ರಾಮನಗೌಡ ಎಸ್.ಪಾಟೀಲ ವಂದಗನೂರ ರವರ ದೂರು ಹಾಗೂ ವಸ್ತುಸ್ಥಿತಿ ಒಂದೆಯಾಗಿದೆ ಎಂದು ಹೊಲಿಸಿಕೊಂಡು ವರದಿ ಸಲ್ಲಿಸಲು ವಿಳಂಬವಾಗಿರುತ್ತದೆ. ಸದರಿ ದೂರುದಾರರ ದೂರುಗಳು 2 ಅಂದರೆ ಜಿಎಲ್‌ಬಿ/161/2011 & ಜಿಎಲ್‌ಬಿ/272 ಇರುವುದರಿಂದ ಗೊಂದಲಕ್ಕೆ ಇಡಾಗಿ ವರದಿ ಸಲ್ಲಿಸಲು ವಿಳಂಬವಾಗಿದೆ. ಆದಕಾರಣ ದಯಾಳುಗಳಾದ ತಮ್ಮಲ್ಲಿ ಕೋರುತ್ತಾ ನ್ಯೂನತೆಗಳ ಪಟ್ಟಿಯನ್ನು ಕೈಬಿಡಲು ಹಾಗೂ ಪ್ರಕರಣ ವಿಲೇ ಮಾಡಲು ದಯಾಪರರಲ್ಲಿ ಕೋರಲಾಗಿದೆ.”

18. Though the DGO has taken up such a defense contention while submitting his reply to the observation note served on him, no such contention has been taken by him during the enquiry. It is for the DGO to put forth his defense effectively explaining the circumstances under which he could not submit his report as called for. He has pleaded that, he got confused in view of two complaints filed by the same complainant which were under consideration before two scrutiny officers in GLB/161/2011 and GLB/272/2008. He has not come out with any details as to the nature of confusion he has entertained, and the reason for him in

not submitting his report despite issuance of reminders and show cause notice to him.

19. While filing his written statement, he has taken up a contention that, joint director of agriculture had submitted a report with regard to the same allegation made in the complaint and hence he made efforts to get the copy of the said report from the joint director, in order to submit his report to this authority. Though he has taken up such a contention, he has not furnished any details about the alleged report claimed to have been submitted by the Joint Director of Agriculture and no copy of the said report has been furnished by him. Even no such contention has been taken up by him in this enquiry, when he was questioned under Rule 11(18) of KCS(CCA) Rules. When he was questioned with reference to the evidence of PW1 given against him, he gave answers stating that, either he is ignorant about those facts or claiming that it is false. He has claimed that, he has not received any letters or reminders sent to him. He has further stated that, he had no information about any letter or reminders sent to him calling upon him to submit his report, as no such letters or reminders were served on him. He has claimed that, he has been unnecessarily subjected to enquiry and he has already been retired from service on 15.2.2015 and since two years his retirement benefits have been withheld. Except stating as such, he has not come out with any satisfactory explanation as to why he could not submit his report as called for, despite issuing him reminders and show-cause notices.
20. The DGO did not chose to enter into the witness box and did not chose to adduce his defence evidence and it appears he has intentionally avoided to enter into the witness box, probably to avoid answering the questions that may be put to him during his

cross examination and the documents and copies of the notices that may be confronted to him during such cross examination.

21. The DGO though has taken up specific defense contention while submitting his explanation/reply to the observation note served on him and in the written statement filed by him, no such defense has been taken by him or on his behalf, during this enquiry or while cross examining PW1 except contending that, no such notice or reminders have been received by him. But this contention of the DGO cannot be believed and it appears that, the DGO is taking up such a contention just to hide his lapses and to take a defense to suppress his lapses, in not sending his report despite issuing reminders and show cause notice to him.
22. On perusing the copies of the notices and reminders produced and marked in this case, Ex-P1 is the notice issued to him dated 4.2.2012 calling upon him to submit his report with regard to the allegations made in the complaint filed by Sri Ramanagowda. Since no report has been submitted by him, 1st reminder dated 22.3.2012 as per Ex-P2 was issued to him and again 2nd reminder dated 13.4.2012 as per Ex-P3 was sent to him. Ex-P3 was received by the concerned clerk in the Taluk Panchayath office, Surpur as per the endorsement Ex-P3(b). Thereafter, the 3rd reminder dated 21.6.2012 was sent to him as per Ex-P3 which was received by some official in the office of the Taluk Panchayath, Surpur as per the endorsement at Ex-P5(b). The DGO cannot take a defense contending that, these letters and reminders were not received by him, since not served on him personally. He was working as Executive Officer, of Taluk Panchayath, Surpur during the relevant period and any communication or letter sent and served on the office, shall be deemed to have been served on him. Even the show

cause notice dated 8.8.2012 as per Ex-P7 was sent to him through RPAD which was duly served in the office as per the postal acknowledgement Ex-P8. Despite service of 3 reminders and show-cause notice, the DGO never bothered to submit his reply or report as called for. Only on receiving observation note as per Ex-P9 he has sent a letter dated 7.11.2012 claiming that, there was delay in submitting report due to confusion he has entertained in view of two complaints filed by the same complainant were under process wherein, he was asked to submit his report. But, he has not come out with any details as to the nature of confusion he had entertained, and also the reason for him, in not responding to the reminders and show cause notice issued to him and in not submitting his report as called for. Interestingly, no such defense contention was taken by him during this enquiry. Therefore, the DGO has failed to explain with plausible explanation as to the reason why he was prevented from submitting his report as called for. Therefore, it can be concluded that, there is deliberate negligence on the part of the DGO in not responding to the direction issued by this authority and in not submitting his report despite issuing him reminders and show cause notice and deliberate omission on his part in not responding to the show cause notice issued to him.

23. The word "misconduct" has not been defined in service rules. But, various circumstances of misconduct may be the basis for initiating disciplinary proceedings against such erring Government official including violation of executive instructions, carelessness/negligence in the discharge of legitimate duties and also an act which constitutes an act of unbecoming of a Government servant.

24. In the present case, as per the orders of Hon'ble Upalokayukta-1, the DGO was asked to submit his report with regard to the allegations made by the complainant against the respondent in the complaint filed by him. The DGO was admittedly working as Executive Officer, Taluk Panchayath, Surapura during the relevant period and he was asked to submit his report regarding the alleged irregularities committed in executing various works in the villages of Yuktapura Grama Panchayath and misappropriation of the funds allocated to the Grama Panchayath under Bharatha Nirmana Yojane. The DGO since was asked to furnish his report, it is the duty of the DGO to submit his report and ~~his~~ deliberate omission on his part in not submitting his report as called for, would amount to misconduct since there is negligence/carelessness on his part since he has not submitted his report as called for and this act of the DGO constitutes an act unbecoming of a Government servant and hence, the DGO has committed the act of misconduct within the meaning of Rule 3(i)to(iii)of KCS(Conduct) Rules. Hence, I hold that, the DGO is guilty of misconduct and there are enough materials produced in this enquiry to come to the conclusion that, the DGO is guilty of misconduct since the DGO by his deliberate act of negligence in not submitting his report despite issuing of reminders and show cause notice, which amounts to misconduct. Hence, I am of the considered opinion that, the disciplinary authority was able to establish the charge against the DGO and accordingly, I answer point no.1 in the affirmative.

Point No.2:

25. 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 Pyare Mohammed Kutubuddin, the then Executive Officer, Taluk Panchayath, Surapura, Yadagir District

ii) As per the first oral statement of the DGO, the date of birth of the DGO is 15.02.1955 and he has already retired from service on 28.02.2015.



(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta,
Bengaluru.

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

PW-1	Sri S.C. Ingalagi (scrutiny officer/the then ARE-6)
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II. Witnesses examined on behalf of the DGO:

Nil

III Documents marked on behalf of D.A.

Ex.P-1	Original copy of letter dated 10.2.2012 addressed to Executive Officer, Taluk Panchayath, Surpur
Ex.P-2	Original copy of 1 st reminder letter dated 22.3.2012
Ex.P-3	Xerox copy of 2 nd reminder letter dated 13.4.2012
Ex.P-4	Original copy of letter of Police Inspector, Karnataka Lokayukta, Yadgir dated 4.5.2012
Ex.P-5	Xerox copy of 3 rd reminder letter dated 21.6.2012
Ex.P-6	Original copy of endorsement of Police Inspector, Karnataka Lokayukta, Yadgir dated 30.6.2012
Ex.P-7	Original copy of show cause notice addressed to the DGO dated 8.8.2012
Ex.P-8	Original Postal acknowledgement
Ex.P-9	Original copy of Observation note dated 12.10.2012
Ex.P-10	Original copy of reply of DGO to observation note
Ex.P-11	Original copy of report under Section 12(3) of Karnataka Lokayukta Act

IV. Documents marked on behalf of DGO:

Nil

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

Nil



(S. Renuka Prasad)

Additional Registrar of Enquiries-3,
Karnataka Lokayukta, Bengaluru.

