



KARNATAKA LOKAYUKTA

No:LOK/ARE-7/Enq-208/2015

Multi Storied Building
Dr B.R.Ambedkar Veedhi
Bengaluru – 560 001
Date: 11-07-2018

**RECOMMENDATION UNDER RULE 14(A)(2)(d) OF THE
KARNATAKA CIVIL SERVICES (C.C&A) RULES, 1957**

Sub:- Departmental Enquiry against Dr. N. Rachegowda, the then Professor and Head of the department, Radiology department, K.R. Hospital, Mysore (Retired from service on 30.04.2015) reg.,

Ref:- Government Order No. HFW 4 MSF 2015 Bengaluru Dated; 13.04.2015.

The Enquiry report dated; 26-06-2018 in No: LOK/ARE-7/Enq-208/2015 submitted by the Additional Registrar of Enquiries-7 (hereinafter referred to as the Enquiry Officer) Karnataka Lokayukta has been placed before me.

2. Pursuant to the report dated; 26-11-2014 submitted by the then Hon'ble Lokayukta under Section 12(3) of the Karnataka Lokayukta Act, 1984 (hereinafter referred to as 'the Act'), the Government of Karnataka by means of its

Government Order No. HFW 4 MSF 2015, Bengaluru, dated;13-04-2015, while accepting the recommendation made u/Sec. 12(3) of the Act, initiated Disciplinary proceedings against Dr. N. Rachegowda, the then Professor and Head of the department, Radiology department, K.R. Hospital, Mysore (Retired from service on 30.04.2015) (hereinafter referred to as Delinquent Government Officer, for short DGO) and entrusted the same to the Hon'ble Lokayukta to conduct an enquiry with regard to the allegations made against the DGO under Rule 14-A of Karnataka Civil Services (CCA) Rules, 1957.

3. Subsequent to the receipt of the said Government Order dated; 13-04-2015, the then Hon'ble Lokayukta by means of Nomination Order No.LOK/INQ/14-A/208/2015 dated; 20-04-2015, nominated the Additional Registrar of Enquiries-7, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and conduct an inquiry against the DGO.

4. The Inquiry Officer has framed the Articles of charges against the DGO. It is useful to extract the Article of charges framed against the DGO, which reads as hereunder:



CHARGE

You the DGO., by name Dr.N.Rachegowda, Professor and Head of the Department, Radiology Department, K.R.Hospital, Mysore (presently working as Director, Hassan Institute of Medical Sciences, Hassan) while discharging your duties:

- i. You-DGO is responsible for installing conventional type Heliphose-D X-ray equipment and raise the bill in the guise of procuring/installing 100 mA polydros LX-50 Model High-frequency X-ray equipment (ಹೆಲಿಪೋಸ್-ಡಿ ಯಂತ್ರವನ್ನೇ ಸ್ಥಾಪಿಸಿದರೂ ಕೂಡ ಸದರಿ ಯಂತ್ರವನ್ನು Polydros LX-50 High-frequency X-ray ಯಂತ್ರೋಪಕರಣವೆಂದು ದೃಢೀಕರಿಸಿರುವುದಲ್ಲದೆ, ಈ ಟಿಪ್ಪಣಿಗೆ ಸಹಿ ಮಾಡಿರುವವರು ಸದರಿ ಆಸ್ಪತ್ರೆಯನ್ನು ದಿ:17-5-2008 ರಂದು ಸ್ಥಳ ತನಿಖೆ ಮಾಡಿದ ಸಂದರ್ಭದಲ್ಲಿ, ಸದರಿ Heliphose-D Control Panel ಹೊಂದಿದ್ದ ಉಪಕರಣವನ್ನೇ High-frequency ಉಪಕರಣವೆಂದು ನೇರವಾಗಿ ಪರಿಚಯಿಸಿ ಕರ್ತವ್ಯಲೋಪವೆಸಗಿರುತ್ತೀರಿ).

and thereby failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

5. The DGO, after service of the Article of charges, denied the charges levelled against him.



6. In the course of inquiry proceedings, on behalf of the Disciplinary Authority, one Sri. B.R. Anil Kumar, the then Chief Engineer of Technical Audit Cell attached to Karnataka Lokayukta institution was examined as PW-1 and ten documents were marked as Ex.P-1 to P-10. DGO examined himself as DW-1 and marked four documents as Ex.D-1 to D-4 in support of his defence.

7. The Inquiry Officer on the basis of the evidence adduced in the course of enquiry, found that the disciplinary authority has established the charges levelled against the DGO.

8. I have gone through the report of the Inquiry Officer and also the evidence available on record. The substance of the charge levelled against the DGO is that the DGO while working as HOD, Radiology department at K.R. Hospital, Mysore was responsible for installing conventional type Heliphose-D X-ray equipment and **certified that Polydros LX-50 Model High-Frequency X-Ray Equipment has been supplied and working in good condition, though as a matter of fact equipment supplied was conventional type Heliphose-D X-Ray equipment and** thereby failed to maintain absolute



integrity and devotion to duty and committed an act of which is unbecoming of Government Servant and thus he is guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.

9. After elaborately discussing the evidence of PW-1 and also the evidence of DGO, who has examined himself as DW-1, the Enquiry Officer has recorded finding that the DGO has issued installation certificate for HF 500 mA X-Ray unit Model Polydros/Heliphose-D/Klinoskop-HF with motorized table as working in good condition instead of receiving High-Frequency X-Ray Equipment.

10. Further, on consideration of the evidence on record, the Enquiry Officer has concluded that the disciplinary authority has established charges leveled against the DGO and that the DGO has failed to disprove the said allegations. The relevant portion of the finding recorded by the Enquiry Officer holding the charges leveled against the DGO is proved reads as under;

On consideration of the materials available on record the oral and documentary evidence of PW-1 is sufficient to prove the charges framed against the DGO., The contents of the respective documents also makes it very clear with regard to the duty and responsibility of the DGO., and in the

case on hand there is no dispute with regard to the avocation and tenure of the DGO., during the relevant period. The contents of the respective documents as well as the clear admissions on the part of the DGO., itself is sufficient to prove the charges made against him.

Further, the Enquiry Officer has stated as follows;

It is necessary to mention based on the report of the team of experts marked as per Ex.P-8 the Investigation Officer has filed a detailed investigation report dtd:8-9-2014 as per Ex.P-9. It is necessary to mention at para No.28 of the investigation report it has been made clear in the records it has been mentioned for having installed 500 mA High Frequency X-ray Unit even though Heliphose D – X-ray has been installed for which the Professor and the Head of the Department of Radiology, K.R.Hospital, Mysore i.e. the DGO., is responsible and committed misconduct.

It is necessary to mention in view of the clear admissions of the DGO., his oral and documentary evidence is not sufficient to disprove the charges levelled against him. It is necessary to mention it is the specific admission of the DGO., in the supply order it has been described as High Frequency 500 mA X-ray unit Model 50/HD/Klinoskop-H and that he has not observed the mistake in the supply order. It is necessary to mention because of the installation certificate of the DGO., and counter signature of the Medical Superintendent, K.R.Hospital, Mysore the Directorate of Medical Education, Bengaluru has cleared the bill amount of Rs.21,99,000/-. In view of the admitted fact and



circumstances of the case on hand the defence of the DGO., is not sustainable and liable to be rejected.

*By taking into consideration of the materials available on record this Enquiry Officer is of the opinion the Disciplinary Authority has successfully proved that the DGO., being responsible Professor and the Head of the Department of Radiology at K.R.Hospital, Mysore has committed misconduct and dereliction of duty. **The DGO is retired from service on 30-04-2015.***

For the reasons stated above the Disciplinary Authority has successfully proved the charges framed against the DGO., and about his dereliction of duty and misconduct. On appreciation of entire oral and documentary evidence I hold that the charges levelled against the DGO., established beyond all probabilities. Hence, I answer Point No.1 in the affirmative.

11. Having gone through the report of the Enquiry Officer and evidence of PW-1 and DW-1, I do not find any justification to take a view different from the one taken by the Enquiry Officer. The evidence on record supports the conclusion reached by the Enquiry Officer. It is admitted by the DGO that the equipment actually supplied was conventional type Heliphoe-D X-ray equipment instead of Polydros LX-50 Model High-Frequency X-Ray Equipment. There is also no dispute that the Heliphose-D X-ray



equipment is of inferior efficiency or capability than the Polydros LX-50 Model High-Frequency X-Ray Equipment and the price of the Polydros LX-50 Model High-Frequency X-Ray Equipment is much higher than the Heliphose-D X-ray equipment. There is no dispute with regard to the equipment supplied and the one required to be supplied. It is also admitted by the DGO that he has issued certificate at Ex.P-4(a) and he also admits the invoice which was marked at Ex.P-4. It is useful to extract the Ex.P-4(a) i.e., installation certificate signed and issued by the DGO which reads as follows.

“The above equipment HF 500 mA X-ray unit is supplied in good working condition Model Polydros/HeliphosD/Klinoskop-HF Motorised table, along with complimentary accessories like 4 Lead aprons and Cassette of all sizes one set. Equipment is installed and working satisfactorily.”

Further, he admits that Ex.P-4(b) is his signature to the said installation certificate. The certificate extracted above certifies that the DGO has examined the working of Polydros-LX-50 High Frequency X-ray equipment and certified that it is Polydros-LX-50 High Frequency X-ray



equipment. Therefore, the certificate given by DGO which is in writing clearly indicates that after inspecting the equipment he has given the certificate. However, in his evidence as DW-1 he has taken up the defence that he has given the certificate based on invoice and without examining the equipment. It is useful to extract the relevant portion of the said evidence of DGO which reads as hereunder;

“ನಿಶಾನೆ ಪಿ-4ರಂತೆ ಇನ್ವಾಯ್ಸ್ ಮುಖಾಂತರ ಎಕ್ಸ್‌ರೇ ಯಂತ್ರ ಸರಬರಾಜು ಆಗಿದ್ದು, ಆ ಎಕ್ಸ್‌ರೇ ಯಂತ್ರವನ್ನು ಚೀಫ್ ಫಾರ್ಮಸಿಸ್ಟ್ ಕೆ.ಆರ್. ಆಸ್ವತ್ತೆ, ಮೈಸೂರು ಇವರು ಇನ್ವಾಯ್ಸ್ ಅನ್ನು ಪರಿಶೀಲಿಸಿ ದಾಸ್ತಾನಿಗೆ ತೆಗೆದುಕೊಂಡು ವೈದ್ಯಕೀಯ ಅಧೀಕ್ಷಕರ ಮೇಲುರುಜು ಪಡೆದು, ಯಂತ್ರವನ್ನು ಸ್ಥಾಪಿಸಿರುವ ದೃಢೀಕರಣ (**Installation Certificate**) ನೊಂದಿಗೆ ಎಕ್ಸ್‌ರೇ ವಿಭಾಗದ ಮುಖ್ಯಸ್ಥನಾದ ನನಗೆ ನೀಡಿರುತ್ತಾರೆ **Installation Certificate** ನ ದೃಢೀಕರಣವು ನಿಶಾನೆ ಪಿ3ರ ಸರಬರಾಜು ಆದೇಶಕ್ಕೆ ತಾಳೆಯಾಗಿರುವುದನ್ನು ಪರಿಶೀಲಿಸಿ ನಾನು ದೃಢೀಕರಿಸಿರುತ್ತೇನೆ. ಸರಬರಾಜು ಆದೇಶದಲ್ಲಿ **High frequency 500 mA X-ray Unit Model - Polydros PLX 50/HD/Klinoskop-H** ಎಂದಿದ್ದು, ಸರಬರಾಜು ಆದೇಶದಲ್ಲಿ ತಪ್ಪಾಗಿರುವುದನ್ನು ನಾನು ಆ ಸಂದರ್ಭದಲ್ಲಿ ಗಮನಿಸಿರುವುದಿಲ್ಲ.”

Therefore, when the certificate Ex.P4(a) given by the DGO clearly states that he has inspected the equipment and after being satisfied that it is Polydros-LX-50 High

Frequency X-ray equipment, even accepting his version in his evidence that he has given the certificate without inspecting the equipment is correct, it clearly indicates that there has been a total dereliction of duty on his part. When the certificate states that he has inspected the equipment and when he states that he has not actually inspected the equipment means that he has given a false certificate certifying that he has inspected the same. DGO is a professor and Head of Department of Radiology. The Polydros LX-50 Model High-Frequency X-Ray Equipment was acquired by the K.R. Hospital, which is a Government Hospital for the purpose of giving better health care to the poor patients. In that situation, it is needless to point out that the DGO had greater responsibility and duty to ensure that the equipment acquired by the hospital in respect of which he was required to give a certificate he was required to personally inspect the equipment and give a certificate. The accuracy of the certificate has a value - (i) from the price point of view; (ii) to ensure that the equipment supplied is the same in respect of which order was placed by the department and more importantly from the point of view of providing very efficacious and satisfactory health care to the poor patients who depend only on Government



Hospitals. The evidence on record clearly shows that the DGO has committed serious dereliction of duty as stated above. Certificate which was required to be given by the DGO has a value and therefore the responsibility was entrusted to a high ranking Government Servant who was in the cadre of Professor and Head of Department of Radiology who is well versed in working and nature of the equipment. Under these circumstances, in the light of the discussion made above, I am fully satisfied that the part of the charge framed against the DGO that the DGO has given a false certificate, has been established. The conclusion reached by the Enquiry Officer on that question cannot be found fault with and requires to be accepted.

12. However, it is necessary to notice the defence of the DGO that he has given a complaint against the supplier of the equipment to initiate criminal prosecution and therefore he cannot be found fault with and the charge framed against him requires to be dropped. I do not find any merit in the said defence. It is necessary to point out that the X-ray equipment in question was inspected by PW-1 on 07.09.2007 and on that day the DGO had come to know that the equipment supplied was different from the



one mentioned in Ex.P-4. However, he only wrote a letter to institute criminal proceedings against the supplier only on 22.05.2008 i.e., after lapse of eight months after the inspection by PW-1. There is no material placed on record that DGO has taken any steps to initiate any disciplinary or criminal proceedings against the Medical Superintendent or Pharmacist, who according to him had certified the equipment as Polydros-LX 50 Model High Frequency X-Ray equipment on account of that he was misled. Further, in view of the false certificate given by him, writing of letter instituting criminal prosecution against the supplier will not absolve him from the charges leveled against him. In my view the letter was written by him at a later stage only with a view to cover up his misconduct and with a view to avoid anticipated disciplinary proceedings as by then the Chief Engineer of Technical Audit Cell attached to Karnataka Lokayukta, Bengaluru had inspected the equipment.

13. The only other question that requires to be considered is with regard to penalty that is required to be imposed on the DGO. As observed by me earlier, DGO was holding the post of Professor and Head of Department of



Radiology. It is a very responsible position. He was entrusted with responsibility of certifying the nature of the equipment acquired by the K.R. Hospital. As found by the Enquiry Officer, he has given a false certificate with regard to the nature of the equipment. The dereliction of duty by DGO in my considered view, has a consequence of seriously affecting the quality of the health care provided to the poor ailing patients in the department of radiology in a Government hospital. The X-ray is one of the important equipment to conduct the tests and act as supporting equipment for various tests required to be held in the hospital. Therefore, the dereliction of duty in certifying the quality of the equipment either deliberately or negligently has to be normally viewed very seriously and may possibly deserves extreme penalty of dismissal of Delinquent Official from service. However, so far as the DGO is concerned the material on record shows that he had retired from service as back as on 30.04.2015. The certificate was issued on 22.12.2006.

14. Having regard to the long lapse of time and more particularly keeping in mind that he had retired from service about three years back, I am of the view that the



ends of justice would be met, if a recommendation is made for denial of 25% (twenty five percent) of the pension payable to him every month for a period of five years from the date of such denial and 5% (five Percent) of the retirement benefits payable to him.

15. In the light of the discussion made above, I make the following recommendation:

- (i) The Enquiry Report dated; 26.06.2018 submitted by the Enquiry Officer i.e., ARE-7 holding that the Disciplinary Authority has established the part of the charge against DGO - Dr. N. Rachegowda, the then Professor and Head of the department, Radiology department, K.R. Hospital, Mysore (Retired from service on 30.04.2015) that he has given a certificate for having acquired Polydros LX-50 Model High-Frequency X-Ray Equipment instead he received Heliphose-D X-ray equipment, is correct and requires to be accepted by the Competent Authority.
- (ii) The Competent Authority may deny 25% (twenty five percent) of the pension, payable to



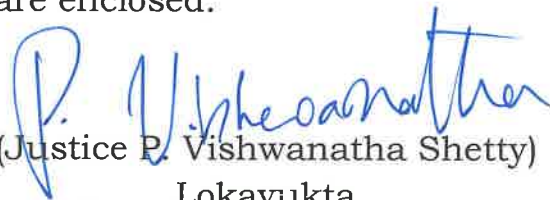
DGO every month for a period of five years from the date of such denial and also denial of 5% (five percent) of the retirement benefits payable to him.

- (iii) Subject to denial of pension and retirement benefits payable to DGO by way of penalty as recommended by me above, all other retirement benefits may be settled to him at the earliest, if the same has not been settled so far.

Accordingly, recommendation is made to the Government.

16. Action taken in the matter be intimated to this Authority within three months from the date of receipt of the recommendation.

Connected records are enclosed.


(Justice P. Vishwanatha Shetty)
Lokayukta,

State of Karnataka, Bengaluru.


11/7/2018.

