

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO:LOK/INQ/14-A/233/2011/ARE-3

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001,  
Date: 29/9/2018

RECOMMENDATION

Sub:- Departmental inquiry against Sri V. Naresh, the then Assistant Executive Engineer, (Elecl)., Gulbarga Electricity Supply Company Limited, Kushtagi, Koppal District - Reg.

- Ref:- 1) Order No. ಕವಿಪ್ರನಿ/ಬ21/8245/2009-10 Bengaluru dated 24/8/2011 of the Director (Administration & Human Resources), Karnataka Power Transmission Corporation Limited, Bengaluru
- 2) Nomination order No.LOK/INQ/14-A/233/2011, Bengaluru dated 6/9/2011 of Upalokayukta-1, State of Karnataka, Bengaluru
- 3) Inquiry Report dated 28/9/2018 of Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru

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The Director (Administration & Human Resources), Karnataka Power Transmission Corporation Limited, Bengaluru by Order dated 24/8/2011, initiated the disciplinary proceedings against Sri V.Naresh, the then Assistant Executive Engineer, (Electrical), Gulbarga Electricity Supply Company Limited, Kushtagi, Koppal 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/233/2011, Bengaluru dated 6/9/2011 nominated Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as the

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 V. Naresh, the then Assistant Executive Engineer (Electrical), GESCOM, Kushtagi, Koppal District was tried for the following charge:-

“That you, Sri. V. Naresh (here in after referred to as Delinquent Government Official, in short DGO), while working as the Assistant Executive Engineer (Elcl.), GESCOM, Kushtagi, Koppal District demanded and accepted a bribe of ₹5000/- on 16/01/2010 from complainant Sri. Muttappa S/o Mallappa Valikar R/o Kaduru in Kushtagi Taluk of Koppal District for sanctioning a new transformer in place of the burnt transformer for installing the same in the land of Shivappukuri situated within the limits of Kadoor of Kushtagi Taluk, that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Board Employee and thus you are guilty of misconduct under Rule 3 (1) of Karnataka Electricity Board Employees (Conduct) Regulations 1988.”

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 V. Naresh, the then Assistant Executive Engineer (Electrical), GESCOM, Kushtagi, Koppal District.

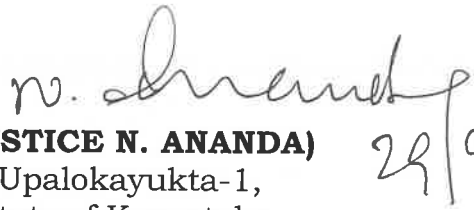
5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 31/5/2042.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO, it is hereby recommended to the Government for imposing penalty of Compulsory Retirement from service on DGO Sri V. Naresh, the then Assistant Executive Engineer (Electrical), GESCOM, Kushtagi, Koppal District

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/233/2011/ARE-3

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

Date: 28.9.2018

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

Sub: Departmental Enquiry against Sri V. Naresh, Assistant Executive Engineer (Elecl.) GESCOM, Kushtagi, Koppal District

Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/GLB /96/2011/ARE-6 dated 22.6.2011

2. Order No. KPTCL/B21/8245/2009-10 dated 24.8.2011

3. Nomination Order No.LOK/INQ/14-A/233/2011 dated 27.09.2012 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

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1. The complainant Sri. Muttappa S/o Mallappa Valikar R/o Kaduru in Kushtagi Taluk of Koppal District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Koppal on 16.1.2010 against Sri V. Naresh, Assistant Executive Engineer (Elecl.) GESCOM, Kushtagi, Koppal District (hereinafter referred to as 'DGO' for short) making allegations against him that, he is demanding him to pay Rs.5000/- as bribe, in order to replace a transformer in place of a burnt transformer, through which electricity was being supplied to the pumpsets of Shivappa Kuri, Ravi Gowda Patil and other adjacent land owners. The complainant who is doing electrical works privately, claimed that, due to burnt of the

transformer the land owners who were getting electricity supply through the said transformer, since requested the complainant to approach the GESCOM officials and see that burnt transformer is replaced at an earliest, the complainant filed an application to the Section Officer, GESCOM, Hanumasagara on 1.1.2010, on behalf of the affected land owners. In order to get the said work done at an earliest, he approached the DGO and requested him to take action on the application filed by him at an earliest in replacing the burnt transformer and according to the complainant DGO demanded him to pay Rs. 5000/- as bribe in order to attend the said work in replacing the burnt transformer. Hence, the complainant filed the complaint making allegation of demand for bribe of Rs. 5000/- against the DGO.

2. On registering a case on the basis of the said complaint, a trap was held on 16.1.2010 wherein, the DGO having demanded bribe from the complainant, received the said bribe amount of Rs. 5000/- from him, which was recovered from a place beneath a file kept in the shelf in his house, during the trap proceedings conducted in the official residence of the DGO. Since it was revealed during investigation that, the DGO has demanded bribe of Rs.5000/- from the complainant and received the same, in order to show an official favour i.e., to replace burnt transformer and to install a new transformer, 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 submitted his reply dated 18.5.2011 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. He has taken up a further contention that, burnt transformers are replaced on priority basis as per seniority and also subject to availability of stock of transformers and complainant pressurized him to replace the transformer by violating the rules and by ignoring the seniority and since he refused to oblige the demand by the complainant, he/complainant filed a false complaint against him falsely implicating him in this case. Since the trial of the prosecution case is pending against him in Spl. C.C. (P.C) No. 25/2011, before the Spl. Court, Koppal, no parallel proceedings by way of disciplinary proceedings can be initiated against him and requested for dropping the proceedings against him. 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 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., the Director (Administration and Human Resources) KPTCL, Bengaluru by its Order No. KPTCL/B21/8245/2009-10 dated 24.8.2011 initiated disciplinary proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against DGO, the Hon'ble Upalokayukta issued a nomination order dated 6.9.2011 nominating ARE-3 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-3 against the DGO as under.

**“Charge:**

That you, Sri. V. Naresh (here in after referred to as Delinquent Government Official, in short DGO), while working as the Assistant Executive Engineer (Elcl.), GESCOM, Kushtagi, Koppal District demanded and accepted a bribe of ₹5000/- on 16/01/2010 from complainant Sri. Muttappa S/o Mallappa Valikar R/o Kaduru in Kushtagi Taluk of Koppal District for sanctioning a new transformer I place of the burnt transformer for installing the same in the land of Shivappukuri situated within the limits of Kadoor of Kushtagi Taluk, that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Board Employee and thus you are guilty of misconduct under Rule 3 (1) of Karnataka Electricity Board Employees (Conduct) Regulations 1988.

**STATEMENT OF IMPUTATION OF MISCONDUCT:**

The complainant Sri. Muttappa S/o Mallappa Valikar R/o Kaduru in Kushtagi Taluk of Koppal District filed a complaint on 16/01/2010 before the Police Inspector, Karnataka Lokayukta, Koppal alleging that he is an agriculturist and that he does (attends) the work of other farmers of the village concerning to KEB and that on 01/01/2010 he was informed that the transformer no. 63 fixed in the land of Sri Shivappakuri had burnt on 01/01/2010 and that Sri Shivappakuri and Ravigowda Patil requested him to get fixed another transformer and that therefore on 01/01/2010 he went to Section officer, GESCOM, Hanumasagar and filed an application before him for fixing a



new transformer in the land of Shivappakuri and that the Section officer forwarded the said application with his recommendation to Sri. V. Naresh, Assistant Executive Engineer (Elcl.), GESCOM, Kushtagi, Koppal District (here in afterreferred to as Delinquent Government Servant, in short DGO) and tht he met the DGO and asked about the sanction of transformer and the DGO demanded a bribe of Rs. 5000/- and that he intimated the said fact to Shivappakuri and Shivappakuri was not willing to pay any bribe amount and as per his suggestion on 11/01/2010 he went to Police Inspector, Karnataka Lokayukta, Koppal and narrated the fact of the DGO demanding the bribe of Rs. 5000/- and that a mini tape recorder was given to him by the Police Inspector and that thereafter he went to the DGO and asked about his work and again the DGO demanded a bribe of Rs. 5000/- and the said conversation was recorded in an empty cassette.

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Koppal on 16/01/2010 and lodged a complaint along with the recorded cassette and mini taperecorder. On the basis of the same a case was registered in Koppal Lokayukta Police Station Cr. No. 01/2010 for offences punishable under sections 7, 13(1) (d) r/w section 13(2) of the P.C. Act, 1988 and FIR was submitted to the concerned learned special judge.

After registering the case, investigating officer observed all the pre trap formalities and entrustment mahazar was conducted and you, the DGO was trapped on 16/01/2010 by the Investigating Officer after your demanding and accepting the

bribe amount of ₹5000/- from the complainant in the presence of shadow witness and the said bribe amount which you had received from the complainant was seized from your possession (from the shelf which was fixed in the northern wall of the hall of the house of the DGO) under the seizure mahazar after following the required post trap formalities. During the investigation the I.O has recorded the statements of Panchas and other witnesses and further statement of the complainant. The I.O during the investigation has sent the seized articles to the chemical examiner and obtained the report from him and he has given the result as positive.

The materials collected by the I.O. during the investigation prima facie disclose that you, the DGO, demanded and accepted bribe of ₹ 5000/- from the complainant on 16/01/2010 for doing an official act i.e., for sanctioning a new transformer I place of the burnt transformer for installing the same in the land of Shivappukuri situated within the limits of Kadoor of Kushtagi Taluk Thus you, the DGO, have failed to maintain absolute integrity and devotion to duty and this act on your part is unbecoming of a Government servant. Hence, you have committed an act which amounted to misconduct as stated under Rule 3 (1) Karnataka Electricity Board Employees (Conduct) Regulations 1988.

In this connection an observation note was sent to you, the DGO and you have submitted your 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 you, 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. Hence the charge."

4. 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.
5. DGO has filed his written statement on 22.1.2013, denying the allegations made against him contending that, he never demanded or received any bribe from the complainant. Except denying each and every allegations made against him and the proceedings conducted by way of entrustment and trap proceedings denying such proceedings and he has not taken up any specific defence in this enquiry. According to him, written explanation was forcibly obtained from him and he gave such an explanation under compulsion. Hence, the defense of the DGO is one of total denial.
6. During enquiry, on behalf of disciplinary authority, 3 witnesses have been examined as PW1 to PW3 and 11 documents came to be marked as Ex-P1 to Ex-P11. 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 2 witnesses as

DW1 and DW2 and has examined himself as DW3 and 7 documents came to be marked as Ex-D1 to Ex-D7, in support of his defence.

7. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has submitted his written arguments. Thereafter, this matter is taken up for consideration.

8. 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?

9. The above points are answered as under:

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

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

### **REASONS**

#### **Point No.1:-**

10. DGO was working as Assistant Executive Engineer (Elecl.) GESCOM, Kushtagi, Koppal District during the relevant period and Hanumasagara section was coming under his jurisdiction.

11. The complainant in his complaint has narrated in detail the circumstances under which he has filed this complaint against the DGO. According to him, apart from doing agriculture, he is also doing electrical works privately and while providing electrical connection to the pump sets of Shivappa kuri, Ravi Gowda Patil and others of Kaduru village, he helped them in getting electrical connection to their lands. It is his further contention that, the transformer installed for supplying electricity to the lands of

Shivappa Kuri and others since burnt, they have brought this fact to his notice on 1.1.2010 requesting him to get the burnt transformer replaced at an earliest by approaching the concerned officer in the GESCOM office. Hence he filed an application on behalf of those land owners on the same day to Section Officer, GESCOM, Hanumasagara requesting to replace the burnt transformer. Since the said application was forwarded to office of the GESCOM, Kushtagi with recommendation for supplying a new transformer in order to install the same in the place of burnt transformer, and on knowing the fact that, the application was forwarded to the DGO, he approached the DGO and requested for allotment of a new transformer at an earliest. It is the allegation of the complainant that, DGO has demanded him to pay Rs. 5000/- by way of bribe in order to sanction new transformer.

12. The complainant having not willing to pay any bribe, approached Lokayukta police on 11.1.2010, and informed about the demand for bribe being made by the DGO. Police Inspector gave him/complainant a voice recorder and asked him to meet the DGO and to record the conversation with him regarding demand for bribe being made by him. Having taken the voice recorder with him, the complainant again met the DGO and discussed with him about sanctioning of a new transformer and recorded the conversation with him wherein, DGO has reiterated his demand for bribe of Rs. 5000/- and again approached Lokayukta police on 16.1.2010 and filed a complaint as per Ex-P1 and also produced the conversation he has recorded with the DGO in the voice recorder given to him. The complainant has also produced the indent forms given by the Section officer, GESCOM, Hanumasagara on which the signature of the DGO was to be obtained in order to sanction a new transformer.

13. On the basis of the complaint so filed by the complainant on 16.1.2010 the Police Inspector, Karnataka Lokayukta, Koppal has registered a case in Cr. No. 1/2010 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
14. An entrustment proceedings was conducted in the Lokayukta Police Station on 16.1.2010 in the presence of two panch witnesses viz., Sri Basanagouda, FDA, O/o Taluk Panchayath, Koppal and Sri Pranesha Poojar, Assistant Teacher, Higher Primary School, Bhudagumpa and in the said proceedings, the bait money of Rs. 5000/- consisting of 10 currency notes of Rs. 500/- denomination each, given by the Complainant, were smeared with phenolphthalein powder making it as tainted money, and the said tainted notes were 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 Pranesh Poojar was sent along with the complainant, as a shadow witness. 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.
15. The complainant and the shadow witness were taken to the office of GESCOM, Kaduru at about 2pm and sent them to meet the DGO in the said office. When the complainant and shadow witness went inside the office to meet the DGO, DGO was not available in the office and on coming to know that, DGO is available in his official residence situated just behind the office, the complainant and shadow witness went to the house of DGO and met him there. When the complainant enquired the DGO about the allotment of a new transformer, DGO enquired him as to whether he has brought money. When the complainant gave tainted notes of Rs. 5000/- to

the DGO, DGO received it with his left hand and kept it on a teapoy in the drawing room of his house and thereafter, signed the indent forms and handed over the same to the complainant. Event the shadow witness who was with the complainant confirmed all these happenings claiming that, he was standing by the side of the door and watched all these happenings. The complainant having received the signed indent form from the DGO, came out of the house of the DGO and gave pre-arranged signal to the Police Inspector.

16. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant and the complainant took them inside the house of the DGO and showed the DGO claiming that, he is the concerned Assistant Executive Engineer (Electrical) and he has received money from him and on signing the indent forms returned the indent forms to him.
17. The Police Inspector introduced himself to the DGO and explained to him about the registration of a case against him and asked him to co-operate in the investigation. The DGO disclosed his name Sri V. Naresh, Assistant Executive Engineer (Elecl.) GESCOM, Kushtagi, Koppal District.
18. Thereafter, the hand wash of DGO was obtained asking him to wash his both hand fingers separately in two separate bowls containing sodium carbonate solution. When DGO washed his right hand fingers and left hand fingers separately in two separate bowls containing sodium carbonate solution, the solution in both the bowls turned into pink colour. Those pink coloured solution of right hand wash and left hand wash of the DGO, were collected in two separate bottles and sealed the same.

19. Thereafter, the Police Inspector asked the DGO about the money he has received from the complainant. DGO showed the rack in the veranda of his house saying that, the money is available beneath a file found kept in the said almirah. The Police Inspector with the help of panch witness Pranasha, got removed those notes which were found kept beneath a file in the said rack shown by the DGO. On verification of those notes with reference to its serial numbers, it was confirmed that, those were the notes entrusted to the complainant during the entrustment proceedings. Those notes were kept in a separate cover and sealed the same.
20. Even the place where the notes were initially kept by the DGO on the teapoy and also the place beneath the file where the notes were found kept, were swabbed with a cotton swab and the said swab immersed in a bowl containing sodium carbonate solution and on such dipping the colourless solution turned into pink colour and the said solution was collected in a separate bottle and sealed and seized.
21. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P8 claiming that, after obtaining his signature on the indent form, DGO kept the money on the table and he refused to receive that money and returned the money to the complainant and thereafter, went inside his house, to go to toilet and taking advantage of this situation, the complainant kept the money in the rack beneath the file, without his knowledge. The complainant and shadow witness have denied the correctness of the version of explanation given by the DGO claiming it as false and incorrect.



22. The indent forms on which the DGO put his signature and returned to the complainant, which were available with the complainant were also seized as per Ex-P7.
23. The voice recorder entrusted to the complainant was taken back from him and when played in the presence of panchas at the time of conducting trap proceedings in the house of DGO, the conversation taken place between complainant and DGO was found recorded in it. Even the said voice recorder was also seized for taking further proceedings. A detailed mahazar was got prepared as per Ex-P3 incorporating all these details of trap proceedings and photographs of these proceedings were also obtained.
24. During enquiry, the complainant has been examined as PW1. But the complainant has not supported the case and turned hostile. According to him one Babugowda gave complaint and at his instance he has signed the complaint. He pleaded his ignorance about conducting of entrustment proceedings and entrustment of tainted notes of Rs. 5000/- to him. Even he failed to narrate the details of the trap proceedings conducted in the house of the DGO.
25. Hence, the complainant has been treated as a hostile witness and he has been cross examined by the learned Presenting Officer. During his cross examination he has denied all the suggestions put to him. He has further stated voluntarily during his cross examination that, when he offered money to the DGO he refused to receive the amount and went inside and hence he kept the money "in the madu" (on the teapoy). During the cross examination by the learned counsel for DGO he has reiterated his contention that, he accompanied Babugowda and signed the complaint since he had faith on Babugowda. Considering this evidence of the complainant,

he/complainant turned hostile and failed to support the case of the disciplinary authority since denied very filing of the complaint and pleaded his ignorance about entrustment proceedings and trap proceedings.

26. PW2 is the shadow witness who accompanied the complainant and went along with him when the complainant went inside the house of the DGO. He claimed that, when the complainant met the DGO inside his house, he/PW2 was standing near the door of the said house and he was watching the events transpired between the complainant and the DGO. He has further stated that, the complainant enquired the DGO about the change of transformer and requested the DGO that, he has brought forms and asked the DGO to put his signature on those forms. DGO enquired the complainant as to whether he has brought that, which he has told to him. The complainant taking out tainted notes gave it to DGO and the DGO received the said amount from the complainant with his left hand and kept it on the teapoy and signed the indent forms and returned it to the complainant and thereafter the complainant came out of the house of the DGO and gave pre-arranged signal to the Police Inspector.

27. He has further stated about, arrival of Police Inspector on receiving the signal from the complainant, obtaining of hand wash of both hands of the DGO which gave positive result regarding presence of phenolphthalein and recovery of tainted notes at the instance of the DGO which were found kept beneath a file in the rack in the veranda of the house of the DGO, which was got taken out with the help of panch witness Pranesha. He also gave the other details of the trap proceedings including giving of written explanation by the DGO

as per Ex-P8, seizure of documents as per Ex-P7 from the complainant etc.,

28. The learned counsel for DGO has thoroughly cross examined this witness at length. Even during his cross examination he has reiterated his evidence given in his chief examination claiming that, he and complainant went to the house of the DGO at about 3.15pm and when the complainant met the DGO inside his house, he/PW2 claimed that, he was standing at some distance from the DGO and the DGO was visible to him. While cross examining the shadow witness, the learned counsel for DGO put suggestion to him that, when the DGO went inside his house in order to attend nature's call, the complainant kept the amount on the shelf taking advantage of the absence of DGO in the veranda. A further suggestion was put to him that, since the complainant was given instructions by the Inspector asking him to keep the amount at some place if the DGO refused to receive the same and accordingly the complainant taking advantage of the absence of DGO in the veranda, kept the money in the shelf beneath a file, without the knowledge of the DGO. These suggestions have been categorically denied by PW2. Various suggestions put to him with reference to other details of the trap proceedings have been denied by PW2.

29. PW3/IO in his evidence has stated in detail regarding the registration of a case on the basis of the complaint filed by the complainant, conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 5000/- to the complainant. He further gave details regarding the trap proceedings he has conducted in the official residence of the DGO which is situated just behind the office of GESCOM, Kaduru. He gave evidence regarding obtaining of hand wash of both hands of the

DGO which gave positive result, recovery of tainted notes from the rack beneath a file in the veranda of the house of DGO, giving of explanation by DGO as per Ex-P8 and preparation of trap mahazar as per Ex-P3 and other details of the trap proceedings and also the steps he has taken at the various stages of his investigation.

30. PW3 has further deposed regarding sending the seized articles for chemical examination and obtaining a report of the chemical examiner as per Ex-P11 and getting the sketch of scene of occurrence drawn by PWD engineer as per Ex-P10.
31. He has further deposed that, on 30.4.2010 he secured one Syed Mehaboob and in his presence the conversation of the DGO recorded by the complainant prior to filing of the complaint, in the voice recorder entrusted to him and during the trap proceedings in the voice recorder given to him, were played in the presence of the said Syed Mehaboob who on hearing the conversations identified the voice of the DGO in those conversations. He further stated that, regarding this proceedings of identification of voice of the DGO, a mahazar as per Ex-P9 has been prepared.
32. The learned counsel for DGO cross examined PW3 at length. But nothing was elicited during the cross examination of PW3 to disbelieve the evidence given by him in this enquiry. A further suggestion was put to him that, the complainant without the knowledge of DGO, went inside the house of DGO and kept money in the shelf in the house of the DGO without his knowledge. A further suggestion was put to him that, since he was aware about the fact, through the complainant regarding the place where the money was kept in the shelf in the house of DGO since complainant revealed those details to him, he got those tainted notes taken out

through the DGO and after getting the tainted notes taken out from the shelf, by the DGO, his hand wash was obtained. These suggestions have been categorically denied by PW3/IO. Regarding the seizure of the relevant papers as per Ex-P7 during the trap proceedings is concerned, PW3/IO has stated that, when he enquired the DGO about the papers pertaining to the work of sanctioning of new transformer, DGO told him that, he had just handed over those papers to the complainant and the complainant has produced those papers during the trap proceedings and he has seized the same as per Ex-P7.

33. Though PW3/IO has stated in his evidence that, he has entrusted a voice recorder to the complainant on 11.1.2010 and the complainant returned the voice recorder with the recorded conversation with the DGO on the day of filing of complaint on 16.1.2010 and further stated that, while taking the complainant to conduct trap, a voice recorder was entrusted to him asking him to record the conversation with the DGO while paying money to him and accordingly, the complainant recorded the conversation with the DGO while paying money to him in his house and further stated that, he got the voice of the DGO in those two conversations identified with the help of Sri Syed Mehaboob, driver and he got prepared the transcriptions of those conversation, the transcriptions so prepared are not produced in this enquiry. Even the gist of the conversation are not incorporated in the mahazars Ex-P2 and P3. Therefore, there is nothing to consider the evidence given by the IO regarding the conversation recorded by the complainant prior to filing of the complaint and also during the trap proceedings.

34. DGO has adduced defence evidence by examining himself as DW3 and he has taken up a specific defence that, he has submitted the

estimate to the Division office on 4.1.2010 and work order was issued by Division office on 6.1.2010 and since the physical verification of the lands of Shivappa Kuri and others conducted by the Section officer disclosed that, no transformer in the said land was burnt, he refused to sign the indent form and because of this reason the complainant developed vengeance against him and filed a false complaint against him falsely implicating him in this case. It is his specific contention that, 25 KVA transformer was installed in the land of Shivappa Kuri during the year 1998 and through the said transformer, electricity was being supplied to the pumpsets of Shivappa Kuri and Ravi Gowda and others and the said transformer was not burnt and it was in a good condition and no proposal for enhancement of the capacity of a transformer from 25 KVA to 63 KVA was received in his office and hence question of sanctioning new transformer for installation in the place of burnt transformer in the land of Shivappa Kuri and others does not arise and a false case has been filed against him. To substantiate this defence contention, he has produced 2 documents as per Ex-D1 and D2 which are the documents obtained under the RTI Act regarding the details of the transformer installed in the lands of Shivappa Kuri and Ravigowda Patil. DGO has also examined DW-2, the concerned Assistant Executive Engineer, who issued these documents under RTI Act, at the request of the DGO. One more witness examined as DW1 is a lineman,

35. Though the DGO has come up with such a defence contention while adducing his defence evidence, he has not taken up such contention while submitting his reply to the observation note served on him or while filing his written statement before this authority. He has come up with a new contention while adducing his defence evidence by examining himself. But on perusing Ex-P7, the documents seized

during the trap proceedings, the application filed by the complainant for replacement of burnt transformer of 63 KVA by installing a new transformer is dated as 2.1.2010. The Section Officer, Hanumsagara has prepared an indent form with the signature of the stores assistant and on this indent form, the complainant obtained the signature of the DGO on paying money to him in his house on the day of trap. These two documents at page no. 119 and 120 (among the documents marked as per Ex-P7) have been seized from the possession of the complainant on the day of trap. The Police Inspector has secured the other documents, on writing a letter to the Executive Engineer, Division office, GESCOM, Koppal dated 25.1.2010 and the Executive Engineer furnished the documents at pages no. 122 to 127 (among the documents marked as per Ex-P7) to the Police Inspector. These documents are pertaining to the application filed by the complainant wherein, the DGO has addressed a letter to the Executive Engineer bringing to his notice about burnt transformer of 63 KVA at Kadur village belonged to Purathageri Feeder. The report of Junior Engineer, Hanumsagara regarding transformer failure report (Page 125) and request for replacement of failed transformer (Page 123), are among the documents furnished by Executive Engineer as per Ex-P7. On perusing these documents, it is clear that, 63 KVA transformer of Kaduru Village had been burnt and on the application of the complainant, proposal was moved for replacement of this burnt transformer with a new transformer on the basis of the report of Junior Engineer. On perusing these documents, it is clear that, complainant had requested for replacement of burnt transformer of 63 KVA and even the Junior Engineer having visited the spot, submitted his report and indent form, and the said indent form was carried by the complainant on the day of trap for obtaining signature of DGO. The indent form at page no. 120 in Ex-P7 is the document

on which DGO put his signature on collecting money from the complainant on the day of trap. Considering these documents, the defence contention taken by the DGO and the documents he has produced in support of his defence, cannot be believed and no reliance can be placed on these documents ExD1 and E2.

36. DGO has not examined the concerned Junior Engineer who has prepared the indent form and who has visited the spot and confirmed the burning of 63 KVA transformer. The Junior Engineer has certified that, he has personally visited the spot and prepared the estimate as per the document at page 123 in Ex-P7. Without examining the Junior Engineer who would have thrown the light on the defence contention taken by the DGO, the DGO choose to examine a linemen as DW-1. But the evidence of DW1 cannot be believed in the absence of the evidence of the concerned Section Officer and hence, the evidence of DW1 is no way helpful to believe the defence contention of the DGO.
37. The omission on the part of the DGO in not taking such a defense contention while submitting his reply and also while filing his written statement, and taking up such a contention for the first time while adducing his defence evidence but omitted to examine the concerned Junior Engineer, are the factors which persuaded me to disbelieve the defence contention of the DGO since, the possibility of the DGO taking up such a defence contention by way of an afterthought cannot be ruled out. Hence, I decline to place reliance on this defence contention of the DGO and the same is rejected.
38. Having regard to the nature of the defence taken by the DGO in this enquiry, the recovery of tainted notes from the shelf inside the house of the DGO is not seriously disputed or denied or behalf of the DGO.



39. According to the defence contention of the DGO, when he went to toilet to attend nature's call, the complainant kept that money beneath a file in the rack in his house without his knowledge. But the DGO has not come out with satisfactory explanation as to why the hand wash of his both hands obtained during trap proceedings gave positive result regarding presence of phenolphthalein. While cross examining PW3/IO a suggestion was put to him that, the money from the shelf was got removed through DGO and after getting the money taken out from the shelf through him/DGO, his hand wash was obtained. Though such a contention was taken while cross examining the IO, DGO has not taken up such a contention during his defence evidence but, stated that, the complainant has shown the money where he has kept in his house and the police forcibly asked him to remove the money after it was shown by the complainant and taken signature on the indent. But he has not taken <sup>any</sup> specific contention that, after getting the notes taken out from him from the shelf in his house, his hand wash was obtained. Even while giving his written explanation, he has not taken up such a contention except stating that, he having refused to receive money from the complainant went inside the house to the toilet. Therefore, the defence contention taken by the DGO are not consistent and there is no specific denial of the fact of the Police Inspector obtaining his hand wash of both his hands at the first instance and thereafter, got the tainted notes taken out from the shelf since, DGO himself showed the place where he has kept the notes beneath a file in the rack and those notes were got taken out with the help of panch witness Pranesh. This fact has not been specifically denied by the DGO. Therefore, these are the materials which are sufficient to conclude that, DGO has received the tainted notes of Rs. 5000/- from the complainant and thereafter, put his

signature on the indent form and returned the same to the complainant. It is the evidence of the complainant that, the DGO received tainted notes from him with his left hand and kept it on the teapoy. But, the tainted notes were recovered subsequently during the trap proceedings beneath a file in the rack. Therefore, after the complainant went out of the house of the DGO, possibility of the DGO on taking those notes he has kept on the teapoy and on counting the same, keeping the said notes beneath a file in the rack before arrival of the Police Inspector, cannot be ruled out.

40. DGO in his written explanation, Ex-P8, has not come out with such an explanation contending that, he was made to take out the money by the Police Inspector from the shelf of his house. On perusing the sketch Ex-P10, the place where DGO having received money from the complainant initially kept the tainted notes on a small table and subsequently those tainted notes came to be recovered from the shelf which was at a distance of about 10½ feet from the teapoy. While giving his written explanation, he has not come out with any explanation as to how the tainted notes came to be kept in the shelf in his house. Even while filing his written statement, he has not come out with any explanation with regard to this aspect. Therefore, the case of the disciplinary authority when examined with reference to the defence taken by the DGO, the evidence of PWs 2 and 3 clearly goes to show that, the hand wash of both the hands of the DGO gave positive result when subjected to phenolphthalein test and the same has been confirmed in the report of the chemical examiner as per Ex-P11. There is nothing to disbelieve the evidence of the shadow witness who has categorically stated that, DGO having enquired the complainant about the money, received the same from his left hand and kept the same on the teapoy. Considering the materials made available by the disciplinary

authority through the evidence of PW2 and PW3 and documentary evidence produced in this enquiry, I am of the opinion that, the defence taken by the DGO is not acceptable as, the say of the DGO is not consistent and hence the explanation given by the DGO cannot be considered to be a plausible explanation. Hence, I am of the considered opinion that, these materials produced by the disciplinary authority are sufficient to conclude that, DGO having demanded bribe from the complainant received Rs. 5000/- by way of bribe in his house and thus he is guilty of misconduct.

41. The learned counsel for the DGO has vehemently argued that, since the DGO has been acquitted by the Special court, Koppal vide judgment dated 27.9.2013 in Spl.C.C.(PCA) No. 25/2011, the charges against the DGO have to be held not proved and the DGO has to be absolved from the charges leveled against him. In support of his arguments, he relied upon the decision of the Hon'ble Supreme Court in G.M. Tank case, which is subsequently relied upon in S. Bhaskar Reddy's Case. The Hon'ble Supreme Court in the decisions cited above, while setting aside the order of dismissal passed against the appellant, made an observation that, if the official has been honorably acquitted in the criminal trial, the disciplinary authority shall take note of that aspect and if the criminal case and departmental proceedings are based on similar facts and evidence and if the trial court acquitted the Government official honorably, then the disciplinary authority considering the grounds on which the trial court acquitted the Government official and on that basis, take a decision as to whether the report of the enquiry officer in a departmental proceeding can be accepted or not and on that basis, can decide whether the charges against the Government official stand proved or not.

42. In pursuance of the Government order issued entrusting the proceedings to Hon'ble Upalokayukta under Section 14-A of KCS(CCA) Rules, a nomination order was issued by the Hon'ble Upalokayukta directing ARE-3 to frame charges and to hold enquiry and to submit a report as to whether the charges framed against the DGO is proved or not. Hence, the enquiry officer has to frame charge and to hold an enquiry and to prepare a report as to whether the evidence adduced on behalf of the disciplinary authority are sufficient to hold that, the charges against the DGO has been established or not. The enquiry officer has to independently consider the evidence made available on behalf of the disciplinary authority during the enquiry, without considering the judgment of the criminal court since the Hon'ble Supreme Court in a decision reported in 2012(1) SC 442 (Divisional Controller, KSRTC Vs. M.G. Vittal Rao) observed as follows:

*“ Thus there can be no doubt regarding the settled legal proposition that the standard of proof in both the proceedings is quite different and the termination is not based on mere conviction of an employee in a criminal case, the acquittal of the employee in a criminal case cannot be the basis of taking away the effect of departmental proceedings nor can such an action of the department be termed as double jeopardy. The judgment of this court in Captain M. Paul Antony does not lay down the law of Universal application. Facts, charge and nature of evidence etc., involved in an individual case would determine as to whether decision of acquittal would have any bearing on the findings recorded in the domestic enquiry.”*

43. Even in the decision rendered by the Hon'ble Supreme Court cited on behalf of the DGO in S. Bhaskar Reddy case, the Principle laid

down in Paul Anthony case which was based on the judgment in G.M. Tank's case has been relied upon. But, in the decision in M.G. Vittal Rao's case, the Hon'ble Supreme Court made it clear that, Paul Anthony's case does not lay down the law of universal application.

44. Hence, it is for the Disciplinary Authority to consider such a contention if raised by the DGO, while submitting his explanation to the second show cause notice that may be issued to him, by the disciplinary authority.
45. Further the learned Session Judge proceeded to acquit the DGO on the ground that, the prosecution has failed to establish the guilt of the accused beyond doubt and giving benefit of doubt in his favour. The said judgment of acquittal dated 27.9.2013 has been challenged on behalf of the State, by preferring appeal before the Hon'ble High Court of Karnataka, Dharwad Bench and the criminal appeal so filed in Criminal Appeal No. 100136/2014 is pending consideration before the Hon'ble High Court. Therefore, the judgment of the Spl. Court acquitting the accused/DGO is not a ground to absolve the DGO from the charges levelled against him in this enquiry. Hence, I decline to accept this contention urged on behalf of the DGO by his learned counsel.
46. In view of my discussions made above, I am of the opinion that, the disciplinary authority was able to establish the allegations against the DGO and accordingly I hold that, charge against the DGO is established. Accordingly, I answer point no.1 in the Affirmative.

**Point No.2:**

47. 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 V. Naresh, the then Assistant Executive Engineer (Elecl.) GESCOM, Kushtagi, Koppal District who is now working as Assistant Executive Engineer (Elecl.) RSD, GESCOM, Hospet.

ii) As per the first oral statement, the date of birth of the DGO is 10.5.1982 and he is due for retirement on 31.5.2042.



(S. Renuka Prasad)

Additional Registrar of Enquiries-3  
Karnataka Lokayukta, Bengaluru.

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

<b>PW-1</b>	Sri Muthappa (complainant)
<b>PW-2</b>	Sri Pranesh Poojar (shadow witness)
<b>PW-3</b>	Sri L.Y. Shirkol (investigation officer)

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

<b>DW-1</b>	Sri Sharanappa Hakki
<b>DW-2</b>	Sri Poorna Chandra Thejasvi
<b>DW-3</b>	Sri Naresh V (DGO)

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

<b>Ex.P-1</b>	Certified copy of the complaint
<b>Ex.P-2</b>	Certified copy of the entrustment mahazar
<b>Ex.P-3</b>	Certified copy of the trap mahazar
<b>Ex.P-4</b>	Certified copy of the statement of PW1 given before IO
<b>Ex.P-5</b>	Xerox copy of the photographs
<b>Ex.P-6</b>	Certified copy of the sheet containing sl.nos. of currency notes
<b>Ex.P-7</b>	Xerox copy of records seized by IO
<b>Ex.P-8</b>	Certified copy of the written explanation of DGO
<b>Ex.P-9</b>	Xerox copy of mahazar voice identification
<b>Ex.P-10</b>	Certified copy of sketch of scene of occurrence drawn by PWD Engineer
<b>Ex.P-11</b>	Certified copy of chemical examination report

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

<b>Ex-D1</b>	Letter dated 31.10.2011 (Original)
<b>Ex-D2</b>	Letter dated 24.12.2011 (Original)
<b>Ex-D3</b>	Deposition of Shivappa in Spl.C.C. (PC) No. 25/2011 (certified copy)
<b>Ex-D4</b>	Deposition of Ravigowda Patil in Spl.C.C. (PC) No. 25/2011 (certified copy)
<b>Ex-D5</b>	Judgment dated 27.9.2013 in Spl.C.C.(PC)No. 25/2011 (certified copy)

<b>Ex-D6</b>	RTC pertaining to sy.no. 8/1 of Yerigonala village (Original)
<b>Ex-D7</b>	Certificate issued by Village Accountant, Yerigonala dated 8.1.2018 (Original)

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



(S. Renuka Prasad)

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