

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No: LOK/INQ/14-A/239/2011/ARE-3

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: 02/03/2019

RECOMMENDATION

Sub:- Departmental inquiry against Sri A. Govindaraju,
Excise Inspector, Vijayanagar Range, Bengaluru - Reg.

Ref:-1) Government Order No. ಎಫ್‌ಡಿ 110 ಇಪಿಎಸ್ 2011 Bengaluru
dated 30/08/2011.

2) Nomination order No.LOK/INQ/14-A/239/2011
Bengaluru dated 07/09/2011 of Upalokayukta-1,
State of Karnataka, Bengaluru.

3) Inquiry Report dated 28/2/2019 of Additional
Registrar of Enquiries-3, Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 30/8/2011 initiated the disciplinary proceedings against Sri A. Govindaraju, Excise Inspector, Vijayanagar Range, Bengaluru (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/239/2011 dated 07/09/2011 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 A. Govindaraju, Excise Inspector, Vijayanagar Range, Bengaluru was tried for the following charge:-


“That you, Sri A. Govindaraju (herein after referred to as Delinquent Government Official, in short DGO), while working as the Excise Inspector, Vijayanagar Range, Bangalore demanded and accepted a bribe of Rs.60,000/- on 8/9/2010 from the complainant Sri B. Ramaiah S/o Bettaiah R/o No.78, ‘Sri Manjunath Nilaya’ 3rd Main Road, Sanjeevininagar, Nagarabhavi Road, Bangalore for doing an official favour of not registering cases against the complainant in respect of the Bar and Restaurants run by him, 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 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 A. Govindaraju, Excise Inspector, Vijayanagar Range, Bengaluru.

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 Sri A. Govindaraju, he has retired from service on 31/05/2013 (during the pendency of inquiry).
7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri A. Govindaraju, it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable DGO Sri A. Govindaraju, Excise Inspector, Vijayanagar Range, Bengaluru.
8. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 2/3
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/239/2011/ARE-3

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

Date: 28.2.2019

Enquiry report

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

Sub: Departmental Enquiry against Sri A. Govindaraju, Excise Inspector, Vijayanagar Range, Bengaluru - reg

Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/BCD/86/2011/ARE-10 dated 2.8.2011

2. Government order No. FD 110 EPS 2011 Bengaluru dated 30.8.2011

3. Nomination Order No.LOK/INQ/14-A/239/2011 dated 7.9.2011 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

1. One Sri B. Ramaiah S/o Bettaiah R/o No. 78, 'Sri Manjunath Nilaya' 3rd Main Road, Sanjeevniagar, Nagarbhavi Road, Bangalore being the Proprietor of M/S. Millenium Bar and Restaurant (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Bengaluru City Division on 8.9.2010 against Sri A. Govindaraju, Excise Inspector, Vijayanagar Range, Bengaluru (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO is demanding him to pay Rs.60,000/- by way of bribe/mamool, every month in order to see that, no case is registered against him in respect of the Bar and Restaurants being run by him/complainant.

2. On registering a case on the basis of the said complaint, a trap was held on 8.9.2010 in the O/o DGO situated on the I floor, Chetana Complex, 22nd Cross, Govindarajunagara, Bengaluru wherein, the DGO having demanded bribe from the complainant, received the said bribe amount of Rs. 60,000/- from him. The tainted money of Rs. 60,000/- was recovered from the place in between the top of the table drawer and beneath the table top of the table of the DGO in his office, during the trap proceedings, conducted in the office of the DGO (O/o Excise Inspector, Vijayanagara Range). Since it was revealed during investigation that, the DGO has demanded bribe of Rs.60,000/- from the complainant and received the same, by way of bribe/mamool, in order to see that, no case is registered against him and his establishments (Bar and Restaurants) being run by him/complainant, the Police Inspector having conducted investigation filed charge sheet against the DGO.
3. The ADGP, Karnataka Lokayukta, Bengaluru has forwarded the copy of the charge sheet to the Hon'ble Upalokayukta. On the basis of the materials collected during investigation and materials placed before this authority, an investigation was taken up under Section 7(2) of the Karnataka Lokayukta Act. An observation note was served on the DGO providing him an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating disciplinary proceedings against him. DGO has submitted his reply dated 11.4.2011 denying the allegations made against him contending that, he never demanded or received any money by way of bribe/mamool from the complainant and he has been falsely implicated. It is his specific contention that, he has booked several cases against the complainant and his establishments/Bar and restaurants, for violation of license conditions and because of this reason, the complainant developed animosity against him and in

order to harass him and to tarnish his image, filed false complaint against him. He has denied each and every procedures conducted in his office on the day of trap and also denied recovery of tainted notes from his table on that day and denied obtaining of his hand wash, giving of his explanation and conducting of trap proceedings in his office, thus denied the entire trap proceedings. It is his further contention that, the complainant has compounded all the cases booked against him by admitting his guilt and paying compounding fee/penalty, thus admitted the commission of offence of violation of license conditions. Because of filing of many cases against him, the complainant having developed vengeance against him falsely implicated him by filing false complaint, making false and frivolous allegations against him and requested this authority to drop the proceedings against him.

4. Since the explanation offered by the DGO was not satisfactory, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority, recommending to initiate disciplinary enquiry against 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 Finance Department (Excise) by its order in FD 110 EPS 2011 Bengaluru dated 30.8.2011 initiated disciplinary proceedings against the DGO, and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against the DGO, the Hon'ble Upalokayukta issued a nomination order dated 7.9.2011 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 A.Govindaraju, (here in after referred to as Delinquent Government Official, in short DGO), while working as the Excise Inspector, Vijayanagar Range, Bangalore demanded and accepted a bribe of Rs. 60,000/- on 8/9/2010 from the complainant Sri B. Ramaiah S/o Bettaiah R/o No. 78, 'Sri Manjunath Nilaya' 3rd Main Road, Sanjeevniagar, Nagarbhavi Road, Bangalore for doing an official favour of not registering cases against the complainant in respect of the Bar and Restaurants run by him, 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 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:

The complainant Sri B. Ramaiah S/o Bettaiah R/o No. 78, 'Sri Manjunath Nilaya' 3rd Main Road, Sanjeevniagar, Nagarbhavi Road, Bangalore filed a complaint on 8/9/2010 before the Police Inspector, Karnataka Lokayukta, City Division, Bangalore alleging that since 25 years he has been running Bar and Restaurants by the side of Nagarabhavi Main road and other places and that about a month prior to 08/09/2010, Sri A. Govindaraju, Excise Inspector, Vijayanagar Range, Bangalore (here in after referred to as Delinquent Government Servant, in short DGO) visited Millenium Bar and Restaurant belonging to the complainant and inspected the stock of liquors found there and that the DGO asked the complainant as to why mamool amount was not given and that the complainant retorted that

he was not selling the seconds and he was closing his Bar and Restaurant at the prescribed time and was opening the same at the correct time and that there was no much profit for him and therefore he was not in a position to pay the mamool amount and that to this reply of the complainant the DGO told him that he would book 5 to 6 cases against him and would see that he would pay fine in 5 to 6 cases and that after 2 or 3 days thereafter the DGO visited Maruthi Wine shop belonging to the complainant and filed a case falsely alleging that the liquors were sold at a higher price than the prescribed and that a week thereafter the DGO booked another case against the complainant alleging that he was selling the liquor beyond the prescribed hours of the day and that when the complainant asked as to why he was booking false cases against him, the DGO replied him that the cases would be booked against him till renewal mamool amount is paid and that on 06/9/2010 when complainant talked to the DGO over telephone the DGO demanded Rs. 75,000/- mamool and that he also told that out of the said Rs. 25,000/-, Rs. 18,000/- is to be paid to somebody and remaining Rs. 7,000/- to Deputy Suptd. of Excise, office Staff and AC will have to paid and DGO insisted that Rs. 25,000/- per shop and that the DGO did not plead to the request of the complainant and the DGO asked the complainant to send Rs. 25,000/- to him through the Manager of the complainant and that all these conversations between the complainant and the DGO was recorded and that on 7/9/2010 the DGO called the complainant through his mobile no. 9880738901 and asked the complainant as to why he did not come for doing the said official work and on the same day in

the evening the DGO through his another mobile 9449597253 called the complainant and told him that he had already booked 2 cases against him and requested him not to feel bad and he also told the complainant that he would reduce another Rs. 5,000/- for which shop and that he insisted upon the him to bring Rs. 60,000/- and that he told the DGO that he would come with the money on the next day.

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta City Dn. Bangalore on 08/09/2010 and lodged a complaint. On the basis of the same a case was registered in Bangalore City Dn. Lokayukta Police Station Cr. No. 39/2010 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 08/09/2010 by the Investigating Officer after your demanding and accepting the bribe amount of Rs. 60,000/- 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 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 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 Rs. 60,000/- from the complainant on 08/09/2010 for doing an official act i.e., for doing an official favour of not registering cases against the complainant in respect of the Bar and Restaurants run by him. 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) (i) to (iii) of KCS (Conduct) Rules 1966.

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."

5. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared before this authority 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.

6. DGO has filed his written statement on 28.5.2012, reiterating all the defence contentions he has taken in his reply to the observation note and further denied the allegations made against him contending that, he never demanded or accepted any money by way of bribe from the complainant and he has been falsely implicated. He has reiterated his allegation against the complainant that, he/complainant is running 3 Bar and restaurants and he is in the habit of violating the license conditions and hence he/DGO was forced to book cases against him and all those cases booked against him, have been compounded by him by paying the compounding fee/penalty. It is his specific defence contention that, because he has booked number of cases against the complainant, he developed animosity against him and filed false complaint making false allegations against him and by taking up such contentions, he has requested this authority to drop the proceedings against him and to absolve him from the charges leveled against him. Considering the nature of defence taken by him, his defence is one of total denial.
7. During enquiry, 3 witnesses have been examined as PW1 to PW3 and 15 documents came to be marked as Ex-P1 to Ex-P15, on behalf of the disciplinary authority. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since DGO did not choose to examine himself as a witness in support of his defence, he has been examined under Rule 11(18) of KCS (CCA) Rules with reference to questionnaire prepared. DGO having denied the evidence adduced on behalf of disciplinary authority through PW1 to PW3, further submitted as follows:

“ ತಾರೀಖು 8.9.2010ರಲ್ಲಿ ನಾನು ಸುಮಾರು 12 ಅಥವಾ 12.30ರ ಸಮಯದಲ್ಲಿ ರೆಸ್ಪ್ ರೂಂಗೆ ಹೋಗಿದ್ದೆ. ನಾನು ಹಿರುಗಿ ಬರುವಷ್ಟರಲ್ಲಿ ಫಿಯಾರ್ಡಿ ರಾಮಯ್ಯ ನನ್ನ ಚೇಂಬರ್ ಬಳಿಗೆ ಬಂದು ಕುಳಿತಿದ್ದನು. ಅವನ್ನು ಏತಕ್ಕೆ ಬಂದಿದ್ದೀಯಾ ಎಂದು ಕೇಳಿದಾಗ ಸ್ಟಾಕ್/ಇಂಡೆಂಟ್ ಬಗ್ಗೆ ಮಾತನಾಡಲು ಬಂದಿದ್ದೇನೆ ಎಂದು ಹೇಳಿದನು. 2 ನಿಮಿಷ ನನ್ನ ಚೇಂಬರ್‌ನಲ್ಲಿ ಕುಳಿತಿದ್ದು, ನನಗೆ ಶೇಕ್ ಹ್ಯಾಂಡ್ ಕೊಟ್ಟು ಹೊರಟು ಹೋದನು. ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಒಳಗೆ ಬಂದು ನೀವು ರಾಮಯ್ಯರವರ ಹತ್ತಿರ ದುಡ್ಡು ತೆಗೆದುಕೊಂಡಿದ್ದೀಯಾ ಎಂದು ಹೇಳಿದರು. ನನಗೇನೂ ಗೊತ್ತಿಲ್ಲ. ರಾಮಯ್ಯ ಪೊಲೀಸರಿಗೆ ದುಡ್ಡು ಟೇಬಲ್ ಕೆಳಗಡೆ, ಡ್ರಾಯರ್ ಮೇಲೆ ಇದೆ ನೋಡಿ ಎಂದು ತೋರಿಸಿದನು. ನಾನು ನಿರಪರಾಧಿ ಯಾವುದೇ ತಪ್ಪು ಮಾಡಿಲ್ಲ. ಕೋರ್ಟಿನಲ್ಲಿ ನನ್ನ ಕೇಸು ಮುಕ್ತಾಯಗೊಂಡಿದ್ದು ನನ್ನನ್ನು ಬಿಡುಗಡೆ ಮಾಡಲಾಗಿದೆ. ಸದರಿ ಜಡ್ಜ್‌ಮೆಂಟ್ ಕಾಪಿಯನ್ನು ಹಾಜರುಪಡಿಸುತ್ತಾ ಇದ್ದೇನೆ.”

8. He has produced the copy of the judgment dated 1.9.2017 in Spl.C.C. No. 16/2011 on the file of LXXVI Additional City Civil and Session Judge and Special Judge, Bengaluru and contended that, since he has been acquitted by the trial court absolving him from the charges leveled against him, he has to be absolved from the charges leveled against him, in this enquiry.
9. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has submitted his written arguments and also produced various citations of Hon'ble Supreme Court and vehemently contended that, since the DGO has been honourably acquitted by the trial court, he has to be absolved from the charges levelled against him, as per the decisions of the Hon'ble Supreme Court cited. Thereafter, this matter is taken up for consideration.
10. 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?

11. The above points are answered as under:

Point No.1: In the 'Affirmative'

Point No.2: As per Conclusion.

REASONS

Point No.1:-

12. DGO was working as Excise Inspector, Vijayanagar Range, Bengaluru , during the relevant period.

13. The complainant in his complaint has narrated in detail the circumstances which forced him to file the said complaint against the DGO. According to him, he is running various Bars and Restaurants in the Nagarbhavi main road and he has obtained license by remitting the required license fee and having remitted renewal fee, he is running those Bars and restaurants by complying with the conditions of license. It is his further allegation that, about one month prior to filing of the complaint, DGO visited one of his establishment viz., M/S. Millenium Bar and Restaurant and having inspected his shop, he enquired the complainant asking him as to why he has not paid mamool to him and asked him to look after him properly by regularly paying him mamool. Though the complainant tried to convince him stating that, he is not selling any seconds and not violated any of the license condition and there was no need for him to pay any mamool, DGO insisted him to pay Rs. 25000/- for each of his 3 establishments and warned him that, if he fail to give mamool as per his direction, he will see that, cases will be booked against him, making him to remit the penalty to the Government.

14. It is the further allegation of the complainant in his complaint that, after 2 to 3 days DGO visited another establishment of the complainant by name M/S. Maruthi Wines and booked a case of selling the liquor in excess of the MRP. Within one week one more case was booked against the said shop that, the said shop has been kept open beyond the prescribed time. The Manager of the said shop working under the complainant requested the DGO, not to book repeated cases and DGO told him that, since the owner/complainant refused to give mamool, he has booked cases and he will continue to book cases with respect to the bar and restaurants being run by the complainant. Since the said Manager informed this fact to the complainant, he/complainant contacted the DGO on his mobile on 6.9.2010 and requested him not to book cases against his bar and restaurants. Then the DGO insisted him to pay Rs. 25,000/- per month to each of his 3 establishments and asked him to send the money through his Manager. The complainant has recorded this conversation he had with the DGO in his mobile. According to the complainant, DGO again contacted him/complainant on 7.9.2010 on his mobile and enquired him as to why he has not approached him and not paid money to him as demanded. On negotiation over phone, DGO having scaled down his demand insisted the complainant to pay him Rs. 20,000/- per establishment thus, asked the complainant to give him Rs. 60,000/- as mamool, towards his 3 establishments.
15. Since the complainant was not willing to pay bribe/mamool as demanded by the DGO, he approached, Police Inspector, Karnataka Lokayukta, Bengaluru City Division on 8.9.2010 and filed a written complaint as per Ex-P1 along with a CD containing recorded conversation between him and the DGO, took place on 6.9.2010.



16. On the basis of the complaint so filed by the complainant on 8.9.2010 the Police Inspector, Karnataka Lokayukta, Bengaluru City Division, has registered a case in Cr. No. 39/2010 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.

17. An entrustment proceedings was conducted in the Lokayukta office, Bengaluru City Division on 8.9.2010 in the presence of two panch witnesses viz., Sri H.M. Shivaram, CTI and Sri Alia, SDA O/o Joint Commissioner of Commercial Taxes, Bengaluru and in the said proceedings, the bait money of Rs. 60,000/- consisting of 60 currency notes of Rs. 1,000/- 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 meet him and only in case if the DGO demands for bribe. Panch witness Sri H.M. Shivaram was sent along with the complainant, as a shadow witness, asking him to accompany the complainant and go with him as his friend and watch the happenings that may take place when the complainant meets the DGO. A digital voice recorder and a button camera were entrusted to the complainant asking him to switch on the same and record the conversation with the DGO in the digital voice recorder and video clippings in the button camera, while paying money to him. Accordingly, an entrustment mahazar was prepared as per Ex-P2.

18. The complainant and the shadow witness were taken to the office of DGO situated on the first floor of Chethan complex, situated on 22nd Cross, Govindaraja Nagara, Bengaluru and sent them to go and meet the DGO in his office. The complainant though took the shadow witness with him to the first floor, asked him not to come

along with him inside the office of the DGO since, DGO may entertain doubt about his/shadow witness presence with him. Hence, the shadow witness, H.M. Shivaramu did not go inside the office of the DGO by accompanying the complainant and complainant alone went inside the office of the DGO.

19. The complainant having went inside the office of the DGO spoke with him who was found sitting in front of his table and discussed with him about giving of mamool as insisted by him/DGO. The DGO enquired him as to whether he has brought money as demanded and the complainant gave him the tainted notes of Rs. 60,000/-. DGO having received the said money from the complainant with his right hand, kept that money in the space in between the top of the table drawer and beneath the table top. Having talked with the DGO for sometime, the complainant came out of the office of the DGO and gave pre-arranged signal to the Police Inspector.
20. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant and the complainant took them inside the O/o DGO and showed him to the Police Inspector and told him that, he is the concerned Excise Inspector and he has received money from him.
21. 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. DGO disclosed his name as Sri A. Govindaraju, Excise Inspector, Vijayanagar Range, Bengaluru.
22. 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 the DGO dipped his

right hand fingers in one bowl containing sodium carbonate solution, the colorless solution in the said bowl turned into pink color. But when the DGO dipped his left hand finger in another bowl containing solution, there was no change in the colour of the solution. Both right hand wash and left hand wash of the DGO were collected in two separate bottles and seized those bottles.

23. Thereafter, the Police Inspector asked the DGO about the money he has received from the complainant. DGO showed the money he had kept in the space in between below the top of the table and the top of the drawer in his table. As per instructions of Police Inspector, panch witness Sri Alia took out the said money from the said place of the table of the DGO and produced the same before the Police Inspector. 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.
24. With the help of cotton swab, the portion of the space where the tainted notes were found kept below the table top and above the drawer was swabbed and the said cotton swab was dipped in a separate bowl containing sodium carbonate solution, on such dipping of the cotton swab, the colorless solution turned into pink color. The said pink colored solution was collected in a separate bottle and sealed the same and seized along with the said cotton swab.
25. The DGO was asked to produce relevant documents pertaining to complainant's Bar and Restaurants. The DGO has produced 4 files on taking out those files from his almirah and told the Police Inspector that, those are files pertaining to booking of cases against

the Bar and Restaurants of the complainant. The copies of those documents produced by the DGO have been seized as per Ex P4.

26. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P5 claiming that, the complainant offered him the note bundle asking him to give that money to the Deputy Commissioner and though he refused to receive that amount from the complainant, he/complainant kept that money in the said place of his table. Complainant has denied the correctness of the version of the explanation given by the DGO, claiming it as false and incorrect.
27. The Police Inspector having decided to conduct the further proceedings in the Lokayukta office, arrested the DGO on following the arrest formalities and brought him to Lokayukta office along with the seized articles, to conduct further proceedings.
28. On bringing the complainant and panch witnesses and DGO with the seized articles to the office of Lokayukta, the trap proceedings was further continued. The digital voice recorder and the button camera entrusted to the complainant were taken back from him and when played in the presence of panch witnesses, the conversation between the complainant and DGO took place in his office on that day, was found recorded in it. Even the button camera when played was found to contain the video clippings of the happenings took place when the complainant met the DGO. The recorded conversation and video clippings were transferred into a C.D. Sri Chandru, Deputy Commissioner of Excise was secured to Lokayukta office and his presence the conversation and video clippings were again played. Sri Chandru having heard the conversation identified the voice of the DGO in the said conversation and also identified the

DGO in the video clippings. Even the conversation recorded by the complainant on 6.9.2010 which he has produced by way of CD along with the complaint, was also played during the said proceedings and the said Deputy Commissioner of Excise identified the voice of the DGO even in the said conversation. For having identified the voice of the DGO in the recorded conversations and identified the DGO in the video clippings, Sri Chandru, Deputy Commissioner of Excise, gave his statement in writing as per Ex-P11. The transcription of the said conversation have also been prepared as per Ex-P7, P8 and also the details of the video clippings have been prepared as per Ex-P10.

29. During enquiry, the complainant has been examined as PW1. Shadow witness has been examined as PW2 and IO has been examined as PW3.

30. The complainant in his evidence has stated in detail regarding the circumstances which forced him to file complaint against the DGO as per Ex-P1. According to him, he having obtained license to run Bar and Restaurant, is running 3 such Bar and Restaurants in his name situated on Nagarabhavi main road. He gave details regarding the visit of DGO to one of his establishment M/S. Millenium Bar and Restaurant and demanded him to pay him Rs. 25000/- to Rs. 30,000/- per shop. He has also claimed that, he has recorded the conversation he had with the DGO on that day in his mobile and on that basis filed a complaint against the DGO as per Ex-P1. He further narrated conducting of entrustment proceedings in the Lokayukta office and entrustment of tainted notes of Rs. 60,000/- to him in the said proceedings. He further gave details regarding the trap proceedings claiming that, since the DGO asked him to come to his office, he went to the office of the DGO and while discussing with

him in his office, DGO enquired him about the money and when he gave tainted notes to him, DGO having received the said money from him with his right hand, kept that money in the drawer of his table.

31. He further gave evidence regarding arrival of Police Inspector on receiving signal from him and obtaining of hand wash of both the hands of the DGO wherein the right hand wash of the DGO gave positive result and left hand wash gave negative result and on the basis of the information furnished by the DGO, the tainted notes were recovered from the table drawer of the DGO. He further gave details regarding the various procedures conducted during the trap proceedings and giving of explanation by the DGO as per Ex-P5 and seizure of the documents pertaining to his Bar and Restaurants as per Ex-P4 and other details of the trap proceedings. He further stated that, the pen camera and digital voice recorder entrusted to him were taken back from him and when played, the video clippings in the pen camera and conversation between him and the DGO took place, were found recorded in the digital voice recorder and gave details regarding the voice identification procedure conducted by the Police Inspector and other details of the trap proceedings including preparation of trap mahazar as per Ex-P6.
32. PW1 has been cross examined by the learned counsel for the DGO. The copy of the deposition given by him/complainant before the Spl. Court in Spl.C.C. No. 16/2011 has been confronted to him and marked as Ex-D1. The complainant while giving evidence before Spl. Court, did not support the case of the prosecution and turned hostile. A suggestion was put to him during this enquiry that, what evidence he gave before the Spl. Court was true and the complainant has admitted this suggestion. He further admitted booking of certain cases by the DGO against him and his Bar and Restaurants for



violation of license condition. He has admitted that, the license have been renewed well within time.

33. Certain suggestions have been put to him by the learned counsel for DGO, wherein, the complainant/PW1 gave positive answers to all those suggestions. A suggestion was put to him that, though DGO never demanded for money, he himself kept the money beneath the table and above the drawer portion of the table of the DGO. A further suggestion was put to him that, when he met the DGO, he told him to give liter turnover of the liquor and he/PW1 having shook the hands of the DGO went out of his office. The complainant went on giving positive replies to all these suggestions put to him and also to the suggestions put to him regarding entrustment and trap proceedings. A further suggestion was put to him that, since the DGO filed many cases against him, out of vengeance he has filed this case against the DGO and even to this suggestion PW1 gave positive reply.

34. Considering the evidence given by PW1 in his chief examination and also the various admissions given by him during his cross examination by the learned counsel for the DGO, the possibility of PW1 being won over by the DGO, or extracting answers from him by threatening him, cannot be ruled out. On perusing Ex-D1 the deposition given by him before the trial court, he turned hostile and not supported the case of the prosecution. But when he was examined before this authority on 4.8.2016 he supported the case of the disciplinary authority and gave the details regarding the circumstances which forced him to file complaint against the DGO and also the details of the conversation he has recorded with the DGO when he spoke with the DGO on his mobile, conducting of entrustment proceedings and also giving details of the trap

proceedings by narrating as to how the DGO demanded and received bribe from him. Though the complainant was examined on 4.8.2016, after about 2 years, at the request made on behalf of the DGO, this witness was recalled on 17.9.2018 and he was subjected to cross examination by the learned counsel for DGO. During his cross examination, he gave a complete go by to the evidence given by him in his chief examination and went on giving positive replies to various suggestions put to him. Considering the nature of the admissions given by him during his cross examination, the enquiry officer questioned him as to whether he is running his bar and restaurants even to this day and the complainant admitted that, even today he is doing his business in vending liquor in his 3 establishments of bar and restaurants. Considering this fact, the possibility of the complainant being threatened by the DGO forcing him to give positive answers to the various suggestions put to him and the possibility of the complainant being won over by the DGO, cannot be ruled out.

35. PW2 is the shadow witness who gave evidence regarding conducting of entrustment proceedings in the Lokayukta office and entrustment of tainted notes of Rs. 60,000/- to the complainant in the said proceedings. He further claimed that, though he accompanied the complainant and went along with him to the office of the DGO, it is his evidence that, while the complainant going inside the office, he asked him not to come along with him, as if he were to accompany him, the DGO will entertain doubt about his presence and claimed that, hence he never went inside the office of the DGO and complainant alone went inside the office of the DGO.
36. PW2 further gave details regarding arrival of Police Inspector on receiving the signal from the complainant, obtaining of hand wash of

DGO and right hand wash of DGO gave positive result and left hand wash of DGO giving negative result and the recovery of tainted notes from the table of the DGO with the help of panch witness Alia claiming that, the notes were found kept in the space beneath the table top and above the table drawer. He gave details regarding the various procedures the Police Inspector has conducted during trap proceedings and giving of explanation by DGO as per Ex-P5 and other details of the trap proceedings.

37. The learned counsel for DGO cross examined this witness at length. By way of putting suggestions to him, various details of the entrustment proceedings and trap proceedings given by him in his chief examination, have been denied. But PW2 has denied all those suggestions put to him confirming the evidence given by him in his ~~cross~~ ^{Chief} examination. The evidence given by PW2 in his chief examination has not been shaken in his cross examination since each and every suggestion put to him in his cross examination, have been categorically denied by PW2.
38. PW3/IO, in his evidence has stated in detail regarding the complainant approaching him on 8.9.2010 and filed a complaint as per Ex-P1 and on the basis of the said complaint, registered a case and took up investigation. He narrated in detail regarding conducting of entrustment proceedings and entrustment of tainted notes of Rs.60,000/- to the complainant in the said proceedings. He further gave evidence regarding production of a CD by the complainant containing the conversation claimed to have been recorded by him with the DGO, in his mobile.
39. He further gave details regarding the trap proceedings he has conducted in the O/o of DGO stating that, he sent both the

complainant and the shadow witness, inside the O/o DGO and on receiving signal from the complainant, he claimed that, he and his staff went inside the said office and complainant showed the DGO claiming that, he has received money from him. He gave evidence regarding obtaining of hand wash of both the hands of the DGO wherein right hand wash of the DGO gave positive result, and left hand wash giving negative result, regarding presence of phenolphthalein, recovery of tainted notes from the table of the DGO which was found kept in the space above the table drawer and below the table top, with the help of panch witness Alia, giving of explanation by DGO as per Ex-P5, seizure of documents as per Ex-P4 and preparation of trap mahazar as per Ex-P6 and other details of trap proceedings. He also gave details regarding voice identification procedure he has conducted during the trap proceedings conducted in the O/o Lokayukta, Bengaluru City Division, with the help of Deputy Commissioner of Excise Sri Chandru.

40. Though the learned counsel for DGO has cross examined this witness at length, nothing was elicited during his cross examination to disbelieve his evidence. Various suggestions have been put to him regarding pendency of work of the complainant with the DGO and also regarding various cases booked by the DGO against the complainant and also the reason for him to take the DGO to his office to continue the trap proceedings in the Lokayukta office and with regard to other details of the evidence he has given in his chief examination. An allegation was made against the IO that, he has conducted shabby investigation and filed a false charge sheet against the DGO and this suggestion has been categorically denied by PW3/IO.

41. A suggestion was put to him/PW3 in his cross examination that, since panch witness Alia while taking the tainted notes from the table of the DGO touched the hand of the DGO, the right hand wash of the DGO obtained gave positive result regarding presence of phenolphthalein. A further suggestion was put to him that, when the complainant went inside the chamber of the DGO, shook the hand of the DGO and hence the right hand of the DGO came in contact with the hand of the complainant and because of this reason the right hand wash of the DGO gave positive result regarding presence of phenolphthalein. These suggestions have been denied by PW3. But interestingly no such suggestion was put to the complainant during his cross examination that, his right hand was smeared with phenolphthalein powder and since by using his right hand, shook the hand of the DGO on meeting him in his office, the right hand of the DGO came in touch with phenolphthalein powder. Even no suggestion was put to PW2 that, panch witness Alia while taking the tainted notes from the table of the DGO, touched the hand of the DGO. Therefore, these contentions have been taken for the first time by way of an afterthought, while cross examining PW3.
42. DGO did not choose to adduce any defence evidence to prove his innocence and he was hesitant to enter into the witness box to give his defence evidence probably in order to avoid answering the questions that may be put to him in his cross examination. In the absence of any defence evidence adduced by the DGO, it has to be decided whether, the evidence adduced on behalf of the disciplinary authority are sufficient to decide whether the disciplinary authority was able to establish the charges against the DGO.
43. The evidence of the complainant in his chief examination and the details of the allegations he has made in his complaint when



considered, he has explained in detail the circumstances which forced him to file his complaint against the DGO. It is true that, no work of the complainant was pending with the DGO as on that day. But considering the nature of the allegations made by the DGO and the affirmation of those allegations in his evidence when considered, admittedly the complainant is running 3 bar and restaurants in his name, even to this day. DGO approached the complainant in order to coerce him to pay him money every month, by way of mamool/monthly hafta. The modus operandi adopted by the DGO in making the DGO to oblige to his demand in paying him mamool was, by way of booking various cases against him for violation of conditions of license. He gave the details of the cases he has registered against the DGO in his written statement and even the documents seized as per Ex-P4 gave the details of the cases booked against the complainant. DGO has booked cases against the complainant vide FIR no. 1/09-10 dated 5.8.2009, 20/09-10 dated 16.2.2010, 6/2010-11 dated 5.9.2010, etc., By booking such cases against the complainant, DGO has adopted threatening tactics against the complainant, in order to make him to agree for paying him monthly mamool. Therefore, there is nothing to disbelieve the allegations being made by the complainant against the DGO and also the evidence given by him before this authority. Though the complainant failed to support the case of the prosecution before the trial court and turned hostile, he gave positive evidence in this inquiry during his chief examination dated 4.8.2016 giving details as to the circumstances under which he filed complaint as per Ex-P1 and also gave details regarding the trap of the DGO giving details as to the manner in which DGO having demanded money from him received money. The complainant was not cross examined on that day and after 2 years, he was recalled and subjected to cross examination on 17.9.2018 and he was made to give evidence by

giving positive answers to the various suggestions put to him during his cross examination. Therefore, though the complainant gave positive answers to the various suggestions put to him in his cross examination conducted on 17.9.2018, this will not in any way dent the evidence given by him in his chief examination conducted on 4.8.2016, giving details regarding the allegations he has made against the DGO and also the circumstances under which he has filed the complaint against the DGO.

44. DGO since did not chose to examine himself in support of his defence, he was questioned by means of a questionnaire prepared and during his questioning, he has admitted that, the complainant had come to his office on 8.9.2010 and claimed that,when he was away from his seat and had been to restroom, the complainant having entered his chamber found sitting inside his chamber. When he enquired him as to the reason why he has come, he spoke to him that he has come to discuss with him about the stock and indent and while going out of his chamber he shook his hand. Considering this explanation given by the DGO, it appears that, he is trying to explain as to the circumstances under which his right hand wash gave positive result. But there was no impediment for the DGO to take up such a contention on oath by examining himself before this authority. But he was hesitant to take up this contention on oath by examining himself, probably in order to avoid answering the questions that may be put to him in his cross examination. The intentional omission on the part of the DGO in adducing his defence by examining himself on oath, is an another factor which is sufficient to conclude that, the defence contention taken by the DGO during his examination, under Rule 11(18) of KCS(CCA) Rules, cannot be believed.

45. The giving of explanation by the DGO as per Ex-P5 is not disputed or denied on behalf of the DGO. The explanation in writing given by the DGO reads as follows:

“ದಿನಾಂಕ 8.9.2010ರಂದು ಮಾರುತಿ ವೈನ್ಸ್, ಮಿಲೇನಿಯಂ ಬಾರ್, ಆರ್.ಬಿ.ಆರ್. ಬಾರ್ ಮಾಲಿಕರಾದ ರಾಮಯ್ಯರವರು ನಮ್ಮ ಕಚೇರಿಗೆ ಬಂದು ನನ್ನದು ರಿನಿವಲ್ ಹಾಗೂ ಅಂಗಡಿಗಳ ಬಗ್ಗೆ ಡಿ.ಸಿ. ರವರಿಗೆ ಹಣ ಕೊಡಬೇಕೆಂದು ತಿಳಿಸಿದರು. ಈ ಹಣವನ್ನು ನನ್ನ ಹತ್ತಿರ ಕೊಡಲು ಬಂದಾಗ, ನಾನು ಇದನ್ನು ಸೇರವಾಗಿ ಡಿ.ಸಿ. ರವರಿಗೆ ಕೊಡಿ ಎಂದು ತಿಳಿಸಿದೆ, ಆದರೆ ಅವರು ನಾನು ಬೇಡವೆಂದರೂ ಈ ಹಣವನ್ನು ಇಟ್ಟಿರುತ್ತಾರೆ. ಇದಕ್ಕೂ ನನಗೂ ಸಂಬಂಧಪಡುವುದಿಲ್ಲ ಎಂದು ಕೋರುತ್ತೇನೆ.”

46. While giving his written explanation, he has admitted that the complainant came to his office and offered money to him asking him to give that money to the Deputy Commissioner and since he refused to receive it, the complainant kept the money in the space in between the table top and the table drawer of his table. Therefore, it can be concluded that, the DGO had knowledge about the availability of the money in the said place of his drawer which was recovered from the said place of his drawer, during the trap proceedings. Giving of such an explanation by him since not disputed, as no suggestion was put to PW3/IO regarding this aspect, this written explanation given by the DGO when considered with reference to the other materials made available in this enquiry and the right hand wash of the DGO since gave positive result regarding presence of phenolphthalein, I have no hesitation to conclude that, DGO did receive the said tainted notes from the complainant with his right hand and kept the money in the said space of his table and therefore, the DGO is guilty of demanding and receiving the said tainted notes by way of illegal gratification, from the complainant.

47. Considering the case of the disciplinary authority, and the evidence produced by way of oral and documentary evidence, there is nothing to disbelieve the case of the disciplinary authority. The seizure of tainted notes from the table of the DGO during the trap proceedings is not at all disputed or denied on behalf of the DGO. The right hand wash of the DGO obtained during the trap proceedings since gave positive result regarding presence of phenolphthalein, it is sufficient to conclude that, his right hand came in contact with the tainted notes. Hence, the evidence of the complainant can be believed that, DGO has received the tainted notes from him by using his right hand. But the defence contention taken by the DGO explaining the circumstances under which his right hand wash gave positive result regarding presence of phenolphthalein, cannot be believed since the DGO has failed to establish this contention by producing cogent evidence.
48. The Hon'ble Supreme Court in a decision reported in AIR 1968 Page 1292 (Sri S.N. Bose Vs. State of Bihar) have clarified the legal position as to the nature of evidence, an Accused has to produce to prove the contention taken by him by way of his defence and the relevant portion of the observation reads as follows:

“A fact is said to be proved when after considering the matters before it, the Court either believes it to exist or considers its existence was so probable that a prudent man ought under the circumstances of the particular case to act upon the supposition that it exists. The proof given by the accused must satisfy the aforementioned conditions. If it does not satisfy those conditions then he cannot be said to, have proved the contrary. In Dhanvantrai Balwantrai v. State of Maharashtra(¹) this Court considered the nature of the proof required to be given by' the

accused under s. 4 (I). Wherein this, Court held that the burden resting on the accused person in such a case would not be as light as that placed on him under s. 114 of the Evidence Act and the same cannot be held to be discharged merely by reason of the fact that the explanation offered by him is reasonable and probable. It must further be shown that the explanation is a true one. The words 'unless the contrary is proved' which occur in that provision make it clear that the presumption has to be rebutted by proof and not by a bare explanation which is merely plausible.”

49. Examining the defence contention of the DGO in the context with the above cited decision of the Hon'ble Supreme Court, since the DGO failed to establish his defence contention by adducing cogent evidence, his bare explanation cannot be believed.
50. DGO by producing the judgment of acquittal passed by the Spl. Court dated 1.9.2017 in Spl.C.C. No. 16/2011 on the file of LXXVI Addition City Civil and Sessions Judge, and Spl. Court, Bengaluru contended that, since he has been acquitted by the Trial court absolving him from the charges levelled against him, he has to be absolved from the charges even in this enquiry. But this contention of the DGO cannot be accepted for the reason that, the acquittal of the accused/DGO will not in any way come in the way of the enquiry officer in appreciating the evidence adduced in the enquiry and to arrive at a conclusion regarding the allegation of misconduct made against such DGO.
51. The Hon'ble Supreme Court in the decision reported in 2005(7) SCC 764, Ajit Kumar Nag V/s. General Manager,
“The two proceedings, criminal and departmental are entirely different fields and have different objectives whereas the

object of criminal trial is to inflict appropriate punishment on the offender the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service Rules.

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

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

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

53. The prayer of the DGO when considered in the context with the 2 decisions of the Hon'ble Supreme Court referred to above, the Hon'ble Supreme have held that, the approach and the objectives in the criminal proceedings and the disciplinary proceedings are all together distinct and different and the standard of proof, the mode of

enquiry and the rules governing the enquiry and trial before the Court are entirely distinct and different. Further, the complainant before the Spl. Court since failed to support the case of the prosecution and turned hostile, the learned Special Judge held that, the demand and acceptance of money by the accused from the complainant has not been established. Though the learned judge accepted the evidence produced by the prosecution regarding recovery of tainted currency notes from the table of the accused/DGO and regarding the right hand wash of the DGO/accused giving positive result regarding presence of phenolphthalein, for want of evidence with regard to demand and acceptance of amount as illegal gratification, it is held that, the prosecution has failed to prove the alleged charges leveled against the accused and proceeded to acquit the accused/DGO by giving benefit of doubt arising in the evidence of the prosecution witnesses. Therefore, the acquittal by the trial court cannot be considered to be an honourable acquittal. Therefore, the contention of the DGO that, since he was acquitted by the Trial court, it is to be held in this enquiry that, the charges against him are not established, cannot be accepted.

54. The learned counsel for the DGO has vehemently argued that, since the DGO has been acquitted by the Spl. Court vide judgment dated 1.9.2017 in Spl.C.C. No. 16/2011 on the file of LXXVI Addition City Civil and Sessions Judge, and Spl. Court, Bengaluru, the charges against the DGO has 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 proceedings can be accepted or not and on that basis, can decide whether the charges against the Government official stands proved or not.

55. 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.”

56. 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.
57. 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.
58. In view of my discussions made above, I am of the considered opinion that, the disciplinary authority was able to establish the allegations against the DGO and hence I hold that, charge against the DGO is established. Accordingly, I answer point no.1 in the Affirmative.

Point No.2

59. 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 A. Govindaraju, the then Excise Inspector, Vijayanagar Range, Bengaluru.

(ii) As per the first oral statement, the date of birth of the DGO is 18.5.1953 and he has already retired from service on 31.5.2013.



(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta, Bengaluru.

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


PW-1	Sri B.Ramaiah (complainant) (original)
PW-2	Sri H.M. Shivaram (shadow witness) (original)
PW-3	Sri K.C.Lakshmi Narayanagowda (Investigation officer) (original)

II. Witnesses examined on behalf of the DGO: Nil**III Documents marked on behalf of D.A.**

Ex.P-1	Certified copy of the complaint
Ex.P-2	Certified copy of sheet of paper containing slnos of currency notes
Ex.P-3	Certified copy of entrustment mahazar
Ex.P-4	Certified copy of records seized by IO
Ex.P-5	Certified copy of explanation of DGO
Ex.P-6	Certified copy of trap mahazar
Ex.P-7	Certified copy of transcription of the conversation recorded on 6.9.2010
Ex.P-8	Certified copy of transcription of the conversation recorded on 8.9.2010
Ex.P-9	Certified copy of rough sketch
Ex.P-10	Certified copy of transcription of the video clippings of button camera
Ex.P-11	Certified copy of letter of Deputy Superintendent of Excise
Ex.P-12	Certified copy of service particulars of DGO
Ex.P-13	Certified copy of call particulars
Ex.P-14	Certified copy of FSL report
Ex.P-15	Certified copy of sketch of scene of occurrence

IV. Documents marked on behalf of DGO:

Ex-D1	Certified copy of deposition of Ramaiah in Spl.C.C. No. 16/2011
--------------	---

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


(S. Renuka Prasad)

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

