

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/276/2011/ARE-4

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001  
Date: 03/10/2019

**RECOMMENDATION**

Sub:- Departmental inquiry against;  
Sri Mahadeva S/o. Japu Chowhan, Junior Engineer,  
Panchayath Raj Engineering Sub Division, Devadurga  
Taluk, Raichur District - Reg.

Ref:- 1) Government Order No. ಸ್ರಾಅಪ 25 ಇಎನ್‌ಕೂ, 2011,  
Bengaluru dated 13/9/2011.

2) Nomination order No.LOK/INQ/14-A/276/2011,  
Bengaluru dated 22/9/2011 of Upalokayukta-1,  
State of Karnataka, Bengaluru

3) Inquiry Report dated 30/9/2019 of Additional  
Registrar of Enquiries-4, Karnataka Lokayukta,  
Bengaluru

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The Government by its Order dated 13/9/2011, initiated the disciplinary proceedings against Sri Mahadeva S/o. Japu Chowhan, Junior Engineer, Panchayath Raj Engineering Sub Division, Devadurga, Raichur 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/276/2011, Bengaluru dated 22/9/2011 nominated Additional Registrar of Enquiries-4, 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 Mahadeva S/o. Japu Chowhan, Junior Engineer, Panchayath Raj Engineering Sub Division, Devadurga, Raichur District was tried for the following charge:-

“That, you Sri Mahadeva S/o. Japu Chowhan, the DGO while working as Junior Engineer in Devadurga Taluk of Raichur District, the complainant namely Parappa S/o. Koteppa Nagoli, resident of \_\_\_\_\_ Raghunathanahalli in Raichur Taluk & District a Class IV contractor was to receive the amount of two Bills of ₹50,000/- each (total ₹1,00,000/-) in respect of C.C. road work executed at Harijanwada of Kothigudda Village and you had not processed the said bills and after lapse of five months, the complainant requested you to process the said bills and then you asked for Rs.6,000/- and on 27/09/2008 received the said amount as bribe to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of Government Servant and thereby committed misconduct as enumerated u/Rule 3(1)(i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-4) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO Sri Mahadeva S/o. Japu Chowhan, Junior Engineer, Panchayath Raj Engineering Sub Division, Devadurga, Raichur District.

5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry

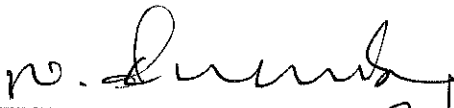
Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

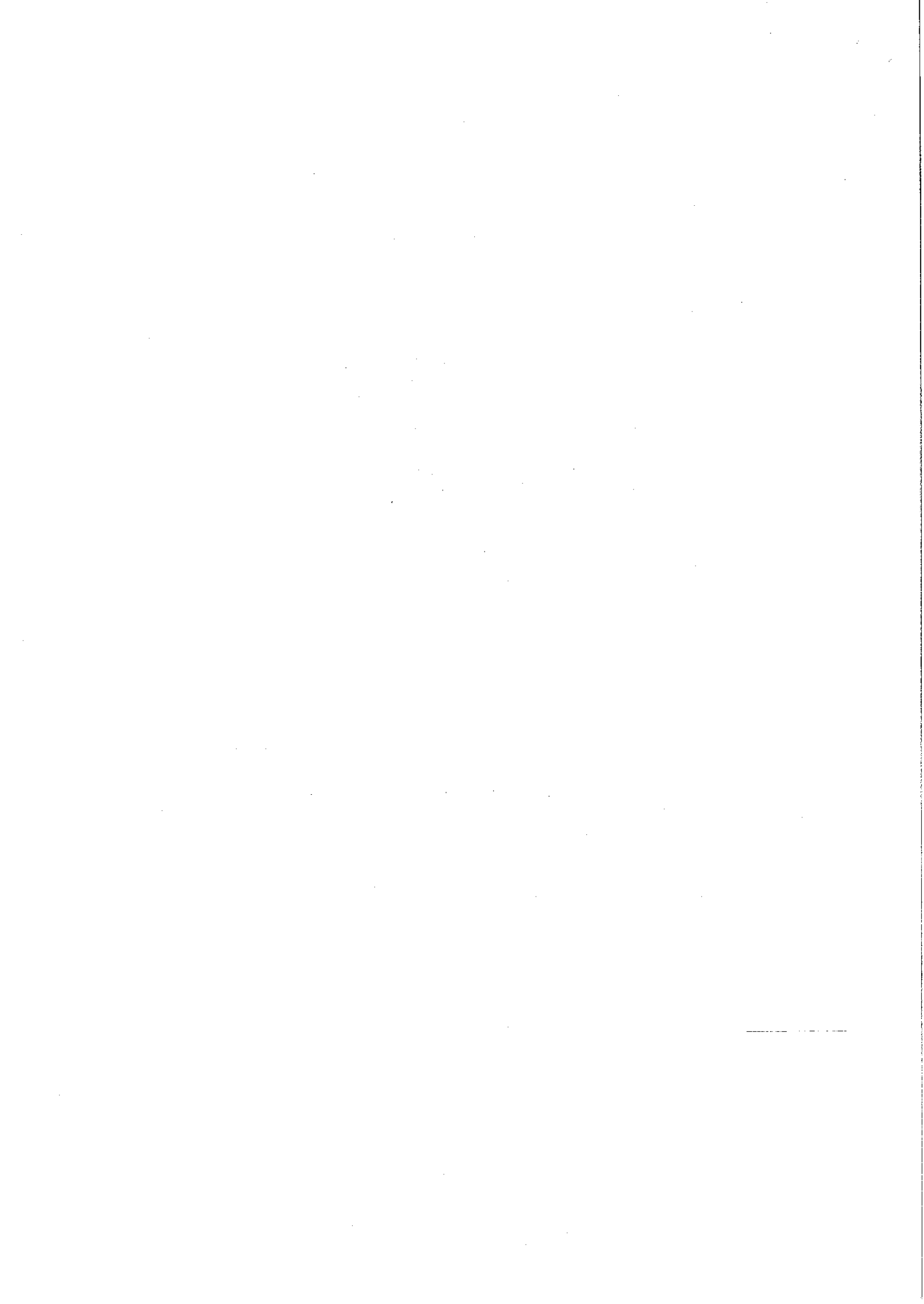
6. As per the First Oral Statement submitted by DGO, he has retired from service on 31/5/2018 (during the pendency of inquiry).

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Mahadeva, it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO Sri Mahadeva S/o. Japu Chowhan, Junior Engineer, Panchayath Raj Engineering Sub Division, Devadurga, Raichur District.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) 3/10.  
Upalokayukta-1,  
State of Karnataka,  
Bengaluru



**KARNATAKA LOKAYUKTA**

No.LOK/INQ/14-A/276/2011/ARE-4

M.S.Building,  
Dr.B.R.Ambedkar Road  
Bengaluru-560 001  
Date: 30/09/2019

**:: INQUIRY REPORT ::**

**Sub:** Departmental Inquiry against,

- 1) Sri Mahadeva  
s/o Japu Chowhan  
Junior Engineer  
Panchayath Raj Engineering  
Sub-division, Devadurga Taluk  
**Raichur District (now retired)**

- Ref:**
- 1) Report u/s 12(3) of the K.L Act, 1984 in  
Compt/Uplok/GLB/89/2010/ARE-6  
dated: 09/08/2011
  - 2) Govt. Order. No. RDPR 25 ENQ 2011,  
Bengaluru dated: 13/09/2011
  - 3) Order No.LOK/INQ/14-A/276/2011  
Dtd.22/09/2011 of the Hon'ble  
Upalokayukta

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1. This Departmental Inquiry is directed against Sri Mahadeva s/o Japu Chowhan, Junior Engineer, Panchayath Raj Engineering Sub-Division, Devadurga Taluk, **Raichur District (now retired)** (herein after referred to as the Delinquent Government Official in short "DGO")

2. After completion of the investigation a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No.1.

3. In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta, vide order dated: 22/09/2011 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Enquires-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGO calling upon him to appear before this Authority and to submit written statement of his defence.

4. The Articles of Charges framed by ARE-4 against the DGO is as below:

**ANNEXURE-I**

**CHARGE**

*That, you Sri Mahadeva s/o Japu Chowhan, the DGO while working as Junior Engineer in Devadurga Taluk of Raichur District, the complainant namely Parappa s/o Koteppa Nagoli resident of Raghunathanahalli in Raichur Taluk & District a Class IV Contractor was to receive the amount of two bills of Rs. 50,000/- each (total Rs. 1,00,000/-) in respect of C.C. Road work executed at Harijanwada of Kothigudda village and you had not processed the said bills and after of lapse of five months, the complainant requested you to process the said bills and then you asked for Rs. 6,000/- and on 27/09/2008 received the said amount as bribe to*

show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of Government Servant and thereby committed misconduct as enumerated u/Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

**ANNEXURE NO. II**

**STATEMENT OF IMPUTATIONS OF MISCONDUCT**

The complainant namely Parappa s/o Koteppa Nagoli resident of Raghunathanahalli in Raichur Taluk & District is a Class IV Contractor. He had executed CC Road work at Harijanwada of Kothigudda village in Devadurga Taluk of Raichur District. The complainant was to receive the amount of two bills of Rs. 50,000/- each (total Rs. 1,00,000/-) towards the said work. The DGO has not processed those bills. The complainant approached the DGO about five months later and requested to process the said bills. Then, instead of telling that they will be processed or he will act according to law, asked the complainant to come after some days demanding bribe of Rs. 6,000/-. The complainant was not willing to pay bribe as demanded by the DGO. Therefore on 27/09/2008, the complainant lodged a complaint before the Lokayukta Police Inspector of Raichur (herein after referred to as the Investigating Officer, for short, "the I.O.") The I.O. registered the complaint in Cr. No. 11/2008 for the offences punishable u/sec. 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act 1988. During the course of investigation into the said crime, when the tainted amount of Rs. 6,000/- was given by the complainant to the DGO, the I.O. trapped the DGO on 27/09/2008 in the

*presence of the complainant, the pancha witnesses and his staff at Devadurga and seized the tainted amount under mahazar after following post-trap formalities. The I.O. took statement of the DGO in writing and recorded statements of the complainant, the panch witnesses and others. After receiving report of the chemical examiner, the I.O. submitted report of investigation. The facts and materials on the record of investigation of the I.O. prima facie showed that, the DGO being a Government Servant, failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Government Servant. Therefore a suo-moto investigation was taken up u/sec. 7(2) of Karnataka Lokayukta Act and an observation note was sent to the DGO calling for his explanation. The DGO submitted his reply and the reply was not convincing and not satisfactory to drop the proceedings. As the facts and materials on record prima-facie showed that the DGO has committed misconduct as per rule 3(1)(i) & (iii) of KCS (Conduct) Rules, 1966 a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate disciplinary proceedings against the DGO and to entrust inquiry to the Hon'ble Upalokayukta u/Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) 1957. Accordingly the competent authority initiated disciplinary proceedings against the DGO and entrusted the inquiry u/Rule 14-A of the KCS (CCA) Rules, 1957 to the Hon'ble Upalokaykta. Hence, this charge.*

5. DGO appeared before this Inquiry Authority on 12/03/2012 and on the same day his First Oral statement



was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO pleaded not guilty and claims to hold an inquiry.

6. DGO has filed his written statement as follows:-

The DGO has denied the charge and the statement of imputations in his written statement specifically. The Lokayukta police have also registered criminal case and the same is pending in Special Case No. 4/2010 on the file of the Prl. District and Session Judge, Raichur. The complainant is well known to the DGO from the last few years and he used to take hand loan whenever he was short of money in connection with work and in the month of May-June 2008 the complainant had taken hand loan of Rs. 6,000/- and the said amount was due to the DGO. Taking advantage of the said loan which was due to the DGO some interested person used the complainant to foist a false allegation against the DGO. There was no demand or acceptance of the bribe amount. At the relevant time the DGO was staying in a rented room at Devadurga near GESCOM office and while he was in his room the complainant came there and told that he is returning the hand loan availed. Accordingly the DGO received the said money and at that time nobody was there except the DGO and the complainant. This fact was clearly explained by the DGO in his explanation at the earliest point of time when the alleged trap was conducted. The DGO has never demanded any bribe amount nor received the same. There is no prima facie materials against the DGO. The DGO is not the authority to make the payment of contract work. But only to process the bill etc., The DGO had already processed the bill of the complainant to divisional office, Raichur on 25/09/2008. On

the date of the alleged complaint or trap, no work of the complainant was pending with the DGO. The DGO is innocent and he has not committed any misconduct as alleged. Hence, prays to exonerate him from the charges leveled against him in this case.

7. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all four witnesses as PW1 to PW4 and got marked documents at Ex.P1 to P15. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of DGO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, DGO himself examined as DW1 and got marked documents at Ex.D1 to D5 and closed his evidence. Hence, recording the answers of DGO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

8. The Disciplinary Authority has not filed written brief, but DGO has filed his written brief and additional written brief. Oral arguments of the Presenting Officer was heard.

9. Upon consideration of the oral and documentary evidence placed on record, the defence of DGO, the only points, that arises for the consideration of this inquiry authority is:-

- 1) Whether the Disciplinary Authority satisfactorily proved the charge framed against DGO?
- 2) What order?

10. My finding on the above points are as follows

Point No.1: In the “ **AFFIRMATIVE**”

Point No.2: As per the final order for the following:

**:: REASONS ::**

11. **Point NO.1:** As stated above it is the case of the Disciplinary Authority that the DGO while working as Junior Engineer in Devadurga Taluk, Raichur District, the complainant-Sri Parappa r/o Raghunathanahalli, Class-IV Contractor, was to receive the amount of two bills of Rs. 50,000/- each in respect of C.C. road works executed at Harijanawada of Kothigudda village, the DGO to process the bill demanded bribe of Rs. 6,000/- and received the same on 27/09/2008 to show official favour and thereby he has committed the misconduct.

12. The complainant has been examined as PW1 and copy of the complaint is at Ex.P1. In Ex.P1 it is stated that in the year 2007-2008 PW1 has done the contract work of constructing C.C. road, from the house of Sri Mallaiah up to the house of Sri Thimmappa and from Yellammagudi to the main road and in that respect he received half of the amount (Rs. 50,000/- per work) the DGO is the officer supervising the above said works and he had taken the commission of Rs. 6,000/- for sanctioning the bills of half of the amount of the above said two works. The above said two works were completed about 5 months back and the final bills in respect of the above said works is not yet paid (Rs. 50,000/- per work). In that connection PW1 met the DGO and the DGO demanded the amount of Rs. 6,000/- and not willing to pay the bribe amount he has lodged the complaint. The complaint has been lodged on 27/09/2008 at 10 a.m.

13. PW1 has deposed that he carried out the above said two works of Panchayath Raj Engineering Division, Devadurga Taluk. He has deposed that the DGO was working as Junior Engineer in Devadurga and regarding each work Rs. 50,000/- was due to him. He has also deposed that he had done the two works of C.C. road from the house of Sri Mallaiah to the house of Sri Thimmappa and from Yellamma temple to the main road. He has deposed that he requested the DGO for preparing the bill for Rs. 50,000/- each in respect of the above said works and the DGO demanded bribe amount of Rs. 6,000/- and not willing to pay the bribe amount he informed the matter to the Lokayukta Inspector and he was given a small tape-recorder and directed to approach the DGO and to record the conversation. He has deposed that he was not knowing how to record the conversation and he had pressed the wrong button and hence the conversation was not recorded. He has deposed that with the mobile of his friend he contacted the DGO and recorded the conversation in the mobile. He has deposed that Police Inspector secured two panchas and they were introduced to him. He has deposed that he produced the amount of Rs. 6,000/- (Rs. 500x12). He has deposed that Lokayukta police got smeared the powder to the notes and those notes were kept in his shirt pocket by one of the pancha witness by name Ajjab Ali. He has deposed that the hands of that pancha witness was washed in the solution and that solution turned to pink colour. He has deposed that he was instructed to approach the DGO and request for his work and if the DGO demands for the bribe amount the tainted currency notes kept in his shirt pocket has to be given and afterwards he has to give the signal by cleaning his face with the hand

kerchief. He has deposed that Sri Rajjab Ali was appointed as the shadow witness and a panchanama was drawn and the copy of the same is at Ex.P2. Ex.P2 is the copy of the entrustment mahazar.

14. PW1 has further deposed that after the entrustment mahazar, they went to Devadurga and after confirming that the DGO is in his private room situated near GESCOM office and all of them went there and himself and Sri Rajjab Ali were sent to meet the DGO and I.O. his staff and another pancha witness remained outside that room. He has deposed that he enquired the DGO about his bills and the DGO told that if the amount is brought the bills will be prepared and he told that he has brought the amount and gave the tainted currency notes and the DGO received and counted the same and kept it in his left side shirt pocket and told that within one week the work of the PW1 will be done. He has deposed that afterwards he came out of the room and gave the pre-instructed signal and immediately the Lokayukta police and another pancha witness came inside the room of the DGO and he showed the DGO and told that he has received the amount of Rs. 6,000/-. He has deposed that the Lokayukta police introduced himself to the DGO and the hands of the DGO were washed in the solution and that solution turned to pink colour. He has deposed that the Lokayukta police inspector got the amount which was in his left side of the shirt pocket of the DGO removed by another pancha Sri Venkoba and those notes were the same notes mentioned in the entrustment mahazar. He has deposed that by providing alternative shirt to the DGO, the shirt worn by him was got removed and the left side pocket

portion of the same was immersed in the solution and that solution also turned to pink colour. He has deposed that the copy of the trap mahazar is at Ex.P3. He has deposed that he also gave the mobile in which he recorded the conversation and the Lokayukta police transferred the conversation into the cassette and gave back the mobile to him and the copy of the mahazar in that respect is at Ex.P4.

15. In his cross-examination PW1 has denied the suggestion that earlier to the complaint itself the DGO had submitted the bills to his higher officer. He has deposed that only regarding half of the work the DGO had sent the bill and not regarding the remaining half portion of the work. He has deposed that he had taken the mobile of his friend Sri Basavaraju to record the conversation between himself and the DGO. He has denied the suggestion that the amount of Rs. 6,000/- given by him to the DGO on 27/09/2008 was the hand loan amount taken by him from the DGO. Thus PW1 has denied the contention of the DGO that he had taken hand loan of Rs. 6,000/- from the DGO and the amount of Rs. 6,000/- which DGO received from PW1 on 27/09/2008 in his room was the hand loan amount and not the bribe amount. He has also denied the suggestion of the learned counsel for the DGO to the effect that on 16/09/2008 itself the DGO had done his duty and that the work of PW1 was not pending with the DGO.

16. PW1 has deposed that before the Session court in the criminal court he has deposed that the DGO did not demand for the bribe amount and that he has not paid the bribe amount to the DGO. But he has clearly deposed that he gave that type of evidence before the criminal court as there was

threat to him at that time. He has deposed that regarding that threat he had not lodged any complaint. But he has clearly deposed that when he gave the evidence in the criminal case there was threat to him and hence he gave the evidence before the criminal court to the effect that the DGO did not demand for any bribe amount nor received any bribe amount from him. The certified copy of the evidence of this witness in the criminal case is at Ex.D4. As per Ex.D4 PW1 has deposed that the DGO did not demand for the bribe amount and that he has not given any bribe amount to the DGO for his official work. As stated above, PW1 has given the reason for giving evidence before the criminal court as per Ex.D4. Hence, on the ground that the evidence given by PW1 in this inquiry is different from his evidence in the criminal case the evidence given by him in this inquiry cannot be discarded. It is also pertinent to note that in Ex.D4 there is no suggestion to the effect that PW1 had taken the hand loan amount of Rs. 6,000/- from the DGO and that amount was returned by him to the DGO on 27/09/2008. PW1 before this inquiry has clearly supported the case of the disciplinary authority and the evidence is also in accordance with Ex.P1 to P4 and there is no reason to discard his evidence given in this inquiry.

17. PW2 is the shadow witness by name Sri Rajjab Ali and he has deposed that on 27/09/2008 as per the instructions of his Head Master he went to Lokayukta police station, Raichur and reported before the police inspector. He has deposed that another pancha witness Sri Venkoba also reported before the police inspector at the same time. He has deposed that in the Lokayukta police station PW1 was present and he was

introduced to them. He has deposed that the contents of the complaint were also made known to himself and another pancha witness. In fact he has deposed about the gist of the complaint also.

18. PW2 has deposed that PW1 produced the amount of Rs. 6,000/- and himself and another pancha witness verified those notes and noted the denomination and numbers of those notes in a sheet and the copy of the same is at Ex.P6. He has deposed about all the averments mentioned in the entrustment mahazar, the copy of which is at Ex.P2. Thus PW1 has deposed about the contents of Ex.P2 also.

19. PW2 has further deposed that after the entrustment mahazar, they went to the room of the DGO situated near GESCOM office of Devadurga. He has deposed that PW1 and himself went inside the room of the DGO. He has deposed that the DGO was present in that room and PW1 gave the tainted currency notes and the DGO received the same, counted the notes and kept it in his left side shirt pocket and afterwards PW1 went outside that room and gave the pre-instructed signal. He has deposed that immediately the Police Inspector, his staff and another pancha witness came inside that room and the hand wash of the DGO was positive. He has deposed that the tainted currency notes were in the left side shirt pocket of the DGO and that amount was got removed by another pancha as per the instructions of the Police Inspector. He has deposed that even the shirt wash of the DGO was positive and the DGO gave his explanation in writing and the copy of the same is at Ex.P7. He has deposed that himself and PW1 denied the contents of Ex.P7 as false. He has deposed



that Ex.P3 is the copy of the trap mahazar. He has deposed that the copies of the photographs taken at the time of Ex.P2 and P3 are at Ex.P8. He has also deposed that the conversation that was recorded in the cassette was played and the higher officer of the DGO by name Sri Ganapathi identified the voice of the DGO was in the same and the copy of the panchanama prepared at that time is at Ex.P10.

20. In his cross-examination PW2 has deposed that he has given his evidence before the District and Sessions Court and the certified copy of the same is at Ex.D1. He admits that in his evidence before the said court he has stated that from the place where he was standing he was not able to see who were in the room of the DGO and what was the conversation that took place in that room. But before this inquiry he has clearly deposed that he had also gone inside the room of the DGO and he heard the conversation between the DGO and PW1. He has denied the suggestion of the learned counsel for the DGO to the effect that the hands of the DGO were not washed and that he has given the false evidence. Thus PW2 also supported the case of the disciplinary authority in this inquiry.

21. PW4 is Sri K.M. Yusuff and he has deposed that from March 2007 to August 2009 he was working as Police Inspector in Lokayukta police station, Raichur. He has deposed that on 25/09/2008 at 10 a.m. PW1 came to the Lokayukta police station and told that the DGO is demanding for bribe amount to prepare the bill in respect of the work done by PW1 and to confirm the same he gave a voice recorder to PW1 and asked him to meet the DGO and to record the conversation. He has deposed that on 27/09/2008 PW1 came

to the Lokayukta police station at 10 a.m. and gave the oral complaint and the same was typed with the help of the computer and the copy of the same is at Ex.P1. He has deposed about the gist of the complaint also. He has deposed that he registered the case on the basis of Ex.P1 and sent the FIR to the court and the copy of the FIR is at Ex.P12.

22. PW4 has further deposed that he secured panchas and PW1 produced the amount of Rs. 6,000/- and about all the other averments mentioned in the entrustment mahazar, the copy of which is at Ex.P2. He has deposed that the panchas noted the denomination and numbers of the currency notes in a sheet and the copy of the same is at Ex.P6 and Ex.P6(a) is his signature.

23. PW4 has further deposed that after the entrustment mahazar they left the Lokayukta police station and went to Devadurga and after confirming that the DGO is in his room they went near that room situated near GESCOM office. He has deposed that PW1 and PW2 were sent inside that room and himself and his staff and another panch witness remained outside that room for the signal of PW1. He has deposed that at about 2 p.m. PW1 came out of the room and gave the pre-instructed signal and immediately himself, his staff and another pancha went to that room and PW1 showed a person who was present in that room and told that he is the person who has received the bribe amount from him. He has deposed that, that person was the DGO and the hands of the DGO were washed separately in sodium carbonate solution and the solution turned to pink colour. He has deposed that PW1 and PW2 told him regarding the DGO demanding amount,

receiving the same and after counting keeping the same in his left side shirt pocket. He has deposed that through the pancha witness Sri Venkoba the amount which was in the left side shirt pocket of the DGO was removed and that amount was Rs. 6,000/- consisting of the notes mentioned in Ex.P6. He has deposed that even the shirt wash of the DGO was positive. He has deposed that the DGO gave his explanation in writing and the copy of the same is at Ex.P7. He has deposed that PW1 and PW2 told him that the contents of Ex.P7 is false. He has deposed that the DGO told that the file of the complainant is in his office. He has deposed that Ex.P3 is the copy of the trap mahazar and Ex.P3(a) is his signature. He has also deposed about the mahazar-Ex.P4. He has deposed that Ex.P9 is the transcription of the conversation. He has deposed that the recorded conversation was played and Sri Ganapathi identified the voice of the DGO in the same and the copy of the panchanama drawn in that respect is at Ex.P10. He has deposed that Ex.P13 is the copy of the FSL report and Ex.P14 is the copy of the sketch of scene of occurrence prepared by the PWD Engineer. He has deposed that Ex.P8 are the copies of the photographs taken at the time of the Entrustment Mahazar and the Trap Mahazar. He has deposed that Ex.P15 is the copy of the service particulars of the DGO and he handed over the further investigation to PW3.

24. In his cross-examination PW4 has denied the suggestion that PW1 had taken the hand loan of Rs. 6,000/- from the DGO and the amount of Rs. 6,000/- seized from the DGO on 27/09/2008 is the repayment of the hand loan by PW1. Ex.P7 is the copy of the explanation given by the DGO to the I.O. and

in the same it is stated that PW1 had taken the hand loan of Rs.6,000/- and on 27/09/2008 at 2 p.m. PW1 returned that hand loan amount and by that time the Lokayukta police caught hold of him. It is pertinent to note that PW1 does not admit the above said explanation of the DGO. Even PW4 had deposed that PW1 and PW2 denied the contents of Ex.P7 when the contents of the same was told to them. PW4 has deposed that he did not seize the file of the complainant as he was transferred as stated above. Thus PW4 has clearly deposed that at the time of the trap he enquired the DGO about the file of the complainant and the DGO told that the file is in his office. It is the contention of the DGO that he had already prepared the bills that submitted the same to his higher officer as on the date of the complaint and trap. If it is so, the DGO could have mention about the same in Ex.P7. But there is no mention about the same in Ex.P7. Nothing is made out in the cross-examination of PW4 to discard his evidence.

25. PW3 is Sri Anil Kumar and he has deposed that he took up further investigation from PW4 and recorded the further statement of PW2 and obtained Ex.P11. Ex.P11 is the copy of the assessment extract in respect of private room of the DGO stated above. He has deposed that he has submitted the charge sheet also.

26. DW1 is the DGO, he has deposed that in the month of May-June 2008 PW1 had taken a hand loan of Rs. 6,000/- and for 2-3 months the amount was not returned and the amount received by him on 27/09/2008 from PW1 is the above said hand loan amount and not the bribe amount. It is pertinent to note that DW1 has not examined any witness to

prove that PW1 had taken loan of Rs. 6,000/- from him in the month of May-June 2008. There is no witness also to prove that PW1 was in the habit of taking hand loan from the DGO whenever he was short of money in connection with his work. As stated above, PW1 has denied the above said contention of the DGO. Hence it is not proper to rely on the uncorroborated defence of DW1 stated above.

27. DW1 has further deposed that the work of PW1 had already been done and no work of PW1 was pending as on the date of complaint/trap. In that connection he has produced Ex.D2 and D3. Ex.D2 and D3 are the copies of the contract certificates. In Ex.D2 it is stated that the DGO has taken the measurement of the work and recorded the same in measurement Book No. 4941 and below the signature of the DGO (officer incharge of work) no date is mentioned. Likewise in Ex.D3 also it is stated that measurement was taken on 16/09/2008 and recorded in the M.B. book No. 4941 and below the signature of officer incharge of work there is no date. The learned counsel for the DGO contents that on the seal found in Ex.D2 and D3 the date mentioned is 25/09/2008 and it is the date of receipt of Ex.D2 and D3 by the Executive Engineer office. It is pertinent to note that as per the records the I.O. has not seized the file of the complainant after the trap. Hence, there is possibility of the DGO creating Ex.D2 and D3 in support of his contention stated above. Even otherwise it is pertinent to note that non-pendency of the work of the complainant can be one of the ground for creating doubt in the case of the prosecution and not a doubt in the departmental inquiry. Even after the work is done if the DGO

receives the bribe amount for the work already done it amounts to misconduct only and hence the above said contention of the DGO cannot be given much weight in this departmental inquiry.

28. DW1 in his cross-examination admits that there is no ill-will between himself and DGO. He also admits that there is no ill-will between himself and the I.O. Hence, there is no reason as to why PW1 has filed the false complaint against the DGO. DW1 also admits that his hand wash and shirt wash was positive and the tainted currency notes of Rs. 6,000/- was seized from his shirt pocket. He also admits that he has attended the file of PW1. As stated above, there is no witnesses to prove that PW1 had taken the loan from the DGO and that PW1 had returned the hand loan amount to the DGO on 27/09/2008. The facts and circumstances of this case only probablises the case of the Disciplinary Authority and not the defence of the DGO stated above.

29. Ex.D5 is the certified copy of the judgment passed in Special Case No. 4/2010 dated: 30/10/2014 to show that he has been acquitted in the criminal case. It is pertinent to note that only on the ground that the DGO has been acquitted in the criminal case it cannot be held that, the disciplinary authority has not proved its case in this departmental inquiry. It is well established principle of law that, in the criminal case the prosecution has to prove its case beyond all reasonable doubt. Where as in the departmental inquiry the evidence has to be scrutinised on the basis of the preponderance of probabilities. In the decision reported in **1997(2) SCC 699 in case of Depot Manager, APSRTC V/S Mohammed Yosuf**

**Miya and others, (2005)7 SCC 764 between Ajit Kumar Nag v/s General manager (P) Indian Oil Corporation Limited, Haldia and others** and recent decision of Hon'ble Supreme Court in **(2012)13 Supreme Court Cases 142 in a case of Avinash Sadashiv Bhosale (dead) V/S Union of India and others** made out very clear that, the purpose of departmental inquiry and the prosecution are too different and distinct aspect though the two proceedings relates to the same set of facts. The nature of evidence in criminal case is entirely different from the departmental proceedings and in the criminal case the prosecution is required to prove the guilt of the accused beyond all reasonable doubt on the touch-stone of human conduct and where as the evidence required in a departmental inquiry is not regulated by the Evidence Act. Therefore, misconduct of the DGO required to be taken into consideration on the basis of preponderance of probabilities and merely the DGO has been acquitted in the criminal case by the judgment in Special Case No. 4/2010 on the Prl. Sessions Judge at Raichur, by itself is not sufficient to overlook the evidence placed on record by the Disciplinary Authority.

30. The facts and circumstances of this case clearly supports the case of the disciplinary authority and there is no believable reasons as to why PW1 has lodged the false complaint and deposed falsely against the DGO and the disciplinary authority has proved the charge framed against the DGO.

31. Thus the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of

Government Servant. Hence, I answer the above point No.1 in the **AFFIRMATIVE**.

**32. Point NO.2:-** For the reasons discussed above, I proceed to pass the following:-

**:: ORDER ::**

*The Disciplinary Authority has satisfactorily proved the charge against, DGO- Sri Mahadeva s/o Japu Chowhan, Junior Engineer, Panchayath Raj Engineering Sub-division, Devadurga Taluk, **Raichur District. (Now retired)***

33. Hence this report is submitted to Hon'ble Upalokayukta -1 for kind perusal and for further action in the matter.

Dated this the 30<sup>th</sup> day of September, 2019

-Sd/-  
(Somaraju)  
Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bengaluru.



**:: ANNEXURE ::****LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

- PW-1: Sri Parappa Nagoli (complainant)  
PW-2: Sri Rajjab Ali (shadow witness)  
PW-3: Sri Anil Kumar (another I.O.)  
PW-4: Sri K.M. Yusuff (I.O.)

**LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:**

- DW-1: Sri Mahadev Chavan (DGO)

**LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY**

- Ex.P-1: Certified copy of the complaint  
Ex.P-1(a): Relevant entry in Ex.P1  
Ex.P-2: Certified copy of the Entrustment Mahazar  
Ex.P-2(a): Relevant entry in Ex.P2  
Ex.P-3: Certified copy of the Trap Mahazar  
Ex.P-3(a); Relevant entry in Ex.P3  
Ex.P-4: Certified copy of the panchaname dated: 27/09/2008  
Ex.P-4(a): Relevant entry in Ex.P4  
Ex.P-5: Not marked  
Ex.P-6: Certified copy of the note numbers and denominations mentioned sheet  
Ex.P-6(a); Relevant entry in Ex.P6  
Ex.P-7: Xerox copy of the explanation of DGO  
Ex.P-8: Xerox copy of the Xeroxed photos on the white sheet (total 7 sheets)  
Ex.P-9: Xerox copy of the transcription of the conversation that took place in between complainant and DGO  
Ex.P-10: Xerox copy of the panchaname dated: 30/09/2008  
Ex.P-10(a): Relevant entry in Ex.P10  
Ex.P-11: Certified copy of the new assessment register of property tax  
Ex.P-12: Certified copy of the FIR  
Ex.P-12(a): Relevant entry in Ex.P12  
Ex.P-13: Certified copy of the chemical examination report  
Ex.P-13(a); Relevant entry in Ex.P13  
Ex.P-14: Certified copy of the letter of A.E.E., PWD dated; 13/06/2009 addressed to P.I. KLA, Raichur  
Ex.P-14(a): Certified copy of the sketch  
Ex.P-15: Xerox copy of the service particulars of the DGO  
Ex.P-15(a); Relevant entry in Ex.P15

**LIST OF EXHIBITS MARKED ON BEHALF OF DGOs:**

- Ex.D-1: Xerox copy of the deposition of Sri Rajjab Ali in  
Special case No. 4/2010
- Ex.D-2: Certified copy of the contract certificate for amount of  
Rs. 41221/-, measurement book No. 4941
- Ex.D-3: Certified copy of the contract certificate for amount of  
Rs. 41295/-, measurement book No. 4941
- Ex.D-4: Certified copy of the deposition of Sri Parappa  
in Special case No. 4/2010
- Ex.D-5: Certified copy of the judgment passed in Special Case  
No. 4/2010

Dated this the 30<sup>th</sup> day of September, 2019

-Sd/-

(Somaraju)

Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bengaluru.