



KARNATAKA LOKAYUKTA

No. Lok/INQ/14-A/286/2013/ARE-3

Multi-storeyed Building,  
Dr.B.R. Ambedkar Veedhi,  
Bengaluru, dt.4.1.2020.

**RECOMMENDATION**

Sub: Departmental Enquiry against Dr.H.C.Chandrashekhar Reddy, the then District Surgeon and (2) Dr.B.K.Omkar @ Omkarappa- the then Senior Surgeon both working in District Hospital at Ramanagar-reg.

- Ref: 1. Govt. Order No. ಅಕುಕ 111 ಎಂಎಸ್‌ಎ 2010, Bengaluru, dated 1.7.2013 .  
2. Nomination Order No:LOK/INQ/14-A/286/2013 of Hon'ble Upalokayukta-2, Bengaluru, dated 9.7.2013.  
3. Report of ARE-3, KLA, Bengaluru, dated 31.12.2019.

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Government, by order dt. 1.7.2013, initiated the disciplinary proceedings against Dr.H.C.Chandrashekhar Reddy, the then District Surgeon and (2) Dr.B.K.Omkar @ Omkarappa- the then Senior Surgeon, District Hospital, Ramanagara [hereinafter referred to as the Delinquent Government Official, for short 'DGOs'] and entrusted the departmental inquiry to this Institution.

2. This Institution, by Nomination Order dated 9.7.2013 nominated Additional Registrar of Enquiries-4 Karnataka Lokayukta, Bengaluru, to conduct departmental inquiry against the DGOs for the alleged misconduct said to have been committed by them. Subsequently by order No. KLA/EST-1/54/2013-14 dated 1.3.2014 of Registrar ad Order No.Lok/INQ/14-A/2014 dated 14.3.2014 of Hon'ble Upalokayukta-2 file is transferred to ARE-10 and Order No. Uplok-2/DE/2016 dated 3.8.2016, ARE-3 was re-nominated to continue the said enquiry.

3. The charge framed against the DGO, Dr.H.C.Chandrashekhar Reddy the then District Surgeon and (2) Dr.B.K.Omkar @ Omkarappa- the then Senior Surgeon, District Hospital, Ramanagara, is as follows;

“That, you DGO-1 Dr. H.C.Chandrashekhar Reddy while working as District Surgeon and you DGO-2 Dr. B.K.Omkar @ Omkarappa while working as Senior Surgeon, in this way while both of you working in District Hospital, Ramanagar in the 2008, complainant Sri A.R.Damarugesh who was SDA, Sub Treasury office, Magadi from 2007 to 2008, he suffered Jaundice and taken leave from 01.03.2008 to 01.06.2008 and he joined the duty on 01.06.2008 with fitness certificate to perform his duty. On his transfer to Kunigal, a letter was sent to you DGO-1 District Surgeon Ramanagar from his Kunigal office for verification certificate. Therefore, complainant met you DGO-2 on 03.02.2010, who gave him a O.P.D. Slip. Thereafter, you DGO-2 demanded a bribe of Rs.4000/- at the rate of Rs.2000/- to you DGO-2 and also Rs.2000/- to you DGO-1. After bargaining you DGOs demanded illegal gratification Rs.500/- each issued of verification certificate. Accordingly both of you demanded and received tainted bribe of Rs.500/- each on 22.03.2010 in order to issue verification certificate to the complainant. Thereby both of you have failed to maintain absolute integrity and devotion to duty, the such act of both which was un-becoming of a Government Servants and thereby both of you and you have committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (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 charge (demand and acceptance of bribe) levelled against the DGO Dr.H.C. Chandrashekhar Reddy, the then District Surgeon and (2) Dr.B.K.Omkar @ Omkarappa- the then Senior Surgeon, District Hospital, Ramanagara.’

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

Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement of DGOs furnished by the Inquiry Officer, Dr.H.C.Chandrashekhar Reddy, the then District Surgeon and Dr.B. K. Omkar @ Omkarappa- the then Senior Surgeon, retired from service on 30.6.2016 and 30.6.2018 respectively.

7. Having regard to the nature of charge (demand and acceptance of bribe) 'proved' against DGOs - Dr.H.C.Chandrashekhar Reddy, the then District Surgeon and Dr.B. K. Omkar @ Omkarappa- the then Senior Surgeon, District hospital, Ramanagar and on consideration of the totality of circumstances-, 'it is hereby recommended to the Government to impose penalty of Withholding of (Fifty) 50% of the pension payable to DGOs - Dr.H.C.Chandrashekhar Reddy, the then District Surgeon and Dr.B. K. Omkar @ Omkarappa- the then Senior Surgeon, District Hospital, Ramanagar, permanently.'

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

Connected records are enclosed herewith.

  
(JUSTICE B.S.PATIL)

Upalokayukta-2,  
State of Karnataka.



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/286/2013/ARE-3

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

Date: 31.12.2019

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

**Sub:** Departmental Enquiry against (1) Dr. H.C. Chandrashekhara Reddy, the then District Surgeon and (2) Dr.B.K. Omkar @ Omkarappa, the then Senior Surgeon, District Hospital, Ramangar - reg

- Ref:**
1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/BD/2961/2012/DRE-1 dated 15.5.2013
  2. Government Order No. HFW 111 MSA 2010 Bengaluru dated 1.7.2013
  3. Nomination Order No.LOK/INQ/14-A/286/2013 dated 9.7.2013 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

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1. One Sri Damruges S/o Ramakrishnaiah, SDA, District Treasury, Tumkur, on deputation to Sub-Treasury, Kunigal of Tumkur District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Ramanagara on 22.3.2010 against (1) Dr. H.C. Chandrashekhara Reddy, District Surgeon and (2) Dr.B.K. Omkar @ Omkarappa, Senior Surgeon, District Hospital, Ramangar (hereinafter referred to as 'DGOs 1 and 2' for short) making allegations against them that, they are demanding him bribe of Rs. 2000/- each, in order to issue him the fitness certificate so as to enable him to report for duty on availing 3 months leave on medical grounds since was suffering from jaundice during the period of his

absence and on negotiation, DGOs 1 and 2 having scaled down their demand insisting him to pay Rs. 500/- each, to provide him the required fitness certificate.

2. On registering a case on the basis of the said complaint, a trap was held on 22.3.2010 in the chamber of the District Surgeon situated within the premises of District Hospital, Ramangara wherein, DGOs 1 and 2 having demanded bribe from the complainant, received Rs.500/- each from the complainant. The tainted money of Rs. 500/- was recovered, which was found kept in a book found kept in the table drawer of DGO-1 and then tainted notes of Rs. 500/- were recovered from DGO-2 from his shirt pocket. Since it was revealed during the investigation that, DGOs 1 and 2 having demanded bribe from the complainant received the bribe amount of Rs. 500/- each from him, in order to do an official act i.e., in order issue him/Complainant the required fitness certificate so as to enable him to report for duty on availing 3 months leave on medical grounds since was suffering from jaundice during the period of his absence, the Police Inspector, having conducted investigation, filed charge sheet against DGOs 1 and 2.
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. Observation notes were served on DGOs 1 and 2 providing them an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating disciplinary proceedings against them.

4. DGO-1 has submitted his reply dated 23.1.2013 denying the allegations made against him contending that, he never demanded or received any money by way of bribe from the complainant, and he has been falsely implicated. He has questioned the very authority of Hon'ble Upalokayukta in taking up investigation under Section 9 of Karnataka Lokayukta Act and forwarding a report under Section 12(3) of Karnataka Lokayukta Act and the authority of the government in initiating disciplinary proceedings against him on the basis of the recommendation of the Hon'ble Upalokayukta. He has taken up a further contention that, no official work of the Complainant was pending with him as such, there was no occasion for him to demand any bribe from the Complainant by abusing his position as public servant. It is his further contention that, though he gave satisfactory explanation during the trap proceedings, the same was not highlighted by the investigating officer though the circumstances and documentary evidence supported the explanation given by him and by discarding his explanation the Investigation Officer has concocted a trap against him by fabricating the trap panchanama. Taking up these contentions he has requested this authority to drop the proceedings against him.
5. DGO-2 has submitted his reply dated 15.1.2013 denying the allegations made against him contending that, he never demanded or received any money by way of bribe from the complainant, and he has been falsely implicated. He has questioned the very authority of Hon'ble Upalokayukta in taking up investigation under Section 9 of Karnataka Lokayukta Act and forwarding a report under Section 12(3) of Karnataka Lokayukta Act and the authority of the government in initiating disciplinary proceedings against him on the basis of the recommendation of the Hon'ble Upalokayukta. He has taken up a further contention that, the Complainant having joined

hands with the persons inimical to him/DGO-2, has forcibly thrust money in his shirt pocket and ran away from his chamber and thus falsely implicated him. It is his further contention that, on the day of trap, no work of the Complainant was pending with him as the Complainant having approached him on that day obtained his signature on the certificate which was duly prepared and issued to him by DGO-1 and he/DGO-2 having verified the documents signed the fitness certificate and he never demanded or received any bribe from the Complainant and taking up these contentions he has requested this authority to drop the proceedings against him.

6. Since the explanation offered by DGOs 1 and 2 were 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 DGOs 1 and 2 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., Governemtn of Karnataka, Health and Family Welfare department by its order in No. HFW 111 MSA 2010 Bengaluru dated 1.7.2013 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 9.7.2013 nominating ARE-4 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-4 against the DGO as under.

"Charge:

2. That, you DGO-1 Dr. H.C.Chandrashekhhar Reddy while working as District Surgeon and you DGO-2 Dr. B.K.Omkar @



Omkarappa while working as Senior Surgeon, in this way while both of you working in District Hospital, Ramanagar in the 2008, complainant Sri A.R.Damarugesh who was SDA, Sub Treasury office, Magadi from 2007 to 2008, he suffered Jaundice and taken leave from 01.03.2008 to 01.06.2008 and he joined the duty on 01.06.2008 with fitness certificate to perform his duty. On his transfer to Kunigal, a letter was sent to you DGO-1 District Surgeon Ramanagar from his Kunigal office for verification certificate. Therefore, complainant met you DGO-2 on 03.02.2010, who gave him a O.P.D. Slip. Thereafter, you DGO-2 demanded a bribe of Rs.4000/- at the rate of Rs.2000/- to you DGO-2 and also Rs.2000/- to you DGO-1. After bargaining you DGOs demanded illegal gratification Rs.500/- each issued of verification certificate. Accordingly both of you demanded and received tainted bribe of Rs.500/- each on 22.03.2010 in order to issue verification certificate to the complainant. Thereby both of you have failed to maintain absolute integrity and devotion to duty, the such act of both which was un-becoming of a Government Servants and thereby both of you and you have committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

#### STATEMENT OF IMPUTATIONS OF MISCONDUCT

3. Complainant Sri A.R.Damarugesh who was working in the Sub Treasury office at Magadi as SDA from 2007 to 2008, he suffered from Jaundice (disease) on account of which he was on leave from 01.03.2008 to 01.06.2008 and he joined the duty on 01.06.2008 with fitness certificate to attend the duty. Thereafter, on his transfer to Kunigal, a letter was sent to the DGO-1 District Surgeon Ramanagar from his aid Kunigal office to get verification certificate after appearing before District Surgeon at Ramanagar.

Accordingly, complainant appeared at Ramanagar District Hospital on 03.02.2010 and met the DGO-2, who gave O.P.D. Slip to him. Thereafter, you DGO-2 demanded a bribe of Rs.4000/- at the rate of Rs.2000/- to the DGO-2 and also to the DGO-1, who have also demanded the same amount from his when earlier met before about a week. So, thereafter on approaching Lokayukta Police on 20.03.2010, complainant met the DGOs on the same day and requested for verification certificate about the treatment, which he had in that hospital earlier and told the DGOs that he will pay Rs.500/- each. Not only that, on-22.03.2010 the DGOs had received Rs.500/- tainted (bribe) amount each from him in connection with his verification certificate. Thereafter, the DGOs were caught red handed by the I.O. (Dy. S.P.) as the DGOs were found in possession of the tainted (bribe) amount of Rs.500/- each. Added to that, the DGOs have failed to give any satisfactory reply or explanation or account for the said tainted amount found with DGOs then, when questioned by the said I.O. The said tainted (bribe) amount found with the both DGOs was seized under a mahazar by the said I.O. Further, there are statements of witnesses, including complainant, besides material and records collected and filed, which show your said repeated misconduct of you-DGOs.

4. Said facts supported by the material on record, show that the DGOs, being public servants, have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of a Government servants and thereby repeatedly committed misconduct and made themselves liable for disciplinary action. Therefore, an investigation was taken up against the DGOs and observation note was sent to them to show

cause as to why recommendation be not made to the Competent Authority for initiating departmental inquiry against them in the said matter.

5. For that, the DGOs gave their replies. However, the same have not been found convincing to drop the proceedings, as ordered in the file. Since said facts and material on record a prima facie show that that the DGOs have committed mis-conduct U/R 3(1) of KCS (Conduct) Rules 1966. A report U/S 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate the disciplinary proceedings against the DGOs. Accordingly, the Competent Authority initiated Disciplinary Proceedings against the DGOs and entrusted the enquiry to the Hon'ble Upalokayukta U/R 14-A of KCS (CCA) Rules. Hence, the Charge."

7. 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 this enquiry.
8. DGOs 1 and 2 have filed their joint written statement on 1.4.2014, denying the charges and imputations made against them claiming that, they are innocent and they never demanded or received any bribe or illegal gratification from the complainant and they have been falsely implicated. They have reiterated all the contentions they have urged in their reply to the observation note claiming that, they have not committed any act of misconduct and requested this authority to absolve them from the charges levelled against them.

9. While the enquiry was pending before ARE-4, in pursuance of O.M. ಕಲೋ/ಸಿಬ್ಬಂದಿ-1/54/2013-14 ದಿ: 1.3.2014, this enquiry file was withdrawn from the file of ARE-4 and was assigned to ARE-10 by nominating ARE-10 to proceed with the enquiry.
10. During enquiry, before ARE-10, Complainant was examined as PW1. When the enquiry was in progress before ARE-10, by virtue of order No.UPLOK-2/DE/2016, Bengaluru dated 3.8.2016 of Hon'ble Upalokayukta-2, this enquiry file was again withdrawn from the file of ARE-10 and was made over to ARE-3 to proceed with the enquiry and to submit report. Hence, further enquiry was taken up before ARE-3. The shadow witness and the Investigation Officer have been examined before ARE-3.
11. Totally, 3 witnesses have been examined as PW1 to PW3 and 17 documents came to be marked as Ex-P1 to Ex-P17 in this enquiry, on behalf of the disciplinary authority. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGOs 1 and 2 was recorded. Since DGOs 1 and 2 have not desired to lead any defence evidence in support of their defence and not willing to examine themselves before this authority, they have been questioned under Rule 11(18) of KCS (CCA) Rules with reference to questionnaire prepared. DGOs 1 and 2 having denied the evidence adduced on behalf of disciplinary authority, further reiterated their contention that, they are innocent and they never demanded any bribe from the complainant and they have been falsely implicated.
12. Thereafter, the learned Presenting Officer has filed written arguments. Learned Counsel for DGOs 1 and 2 have also filed

written arguments on behalf of DGOs 1 and 2. Thereafter, this matter is taken up for consideration.

13. The points that would arise for my consideration are:

**Point No.1:** Whether the charge framed against DGO-1 is proved by the Disciplinary Authority?

**Point No.2:** Whether the charge framed against DGO-2 is proved by the Disciplinary Authority?

**Point No.3:** What order?

14. The above points are answered as under:

**Point No.1&2:** In the 'Affirmative'

**Point No.3:** As per Conclusion.

### REASONS

#### Point No.1 & 2:-

15. DGO-1 was working as District Surgeon, Ramanagara District and DGO-2 was working as Senior Surgeon, District Hospital, Ramangar during the relevant period.

16. The complainant in his complaint has narrated in detail the circumstances under which he has filed the said complaint against DGOs. According to him, during 2007-08 he was working as SDA in the Sub-Treasury, Magadi and he fell ill since suffering from jaundice and he could not attend the office for about 3 months from 1.3.2008. He obtained treatment for his ailment jaundice at Ayurvedic Hospital, Magadi for about 3 months and after becoming fit to attend to his duties, he reported for duty. According to him, he has submitted his leave application for grant of leave on medical grounds for 3 months from 1.3.2008 to 1.6.2008. In the meantime

he was transferred to Kunigal and hence his leave application was forwarded to District Treasury, Tumkur for sanction of leave. A letter was addressed to the District Surgeon, Ramangar for issue of fitness certificate to him/Complainant certifying that, he was fit to perform government duties. In that regard, the District Surgeon issued him a notice asking him to appear before the Board for considering to issue the required fitness certificate. Accordingly, he/complainant came to District Hospital, Ramangara on 3.2.2010 and met DGO-2 and he was issued with an OPD chit. Thereafter, he met DGO-1 and requested him for issue of fitness certificate. It is his allegation that, DGO-1 has demanded him to pay Rs. 4000/- as bribe insisting him/Complainant to pay Rs. 2000/- to him and Rs. 2000/- to DGO-2 in order to send the required fitness certificate. He having took time to bring money, he went back to Kunigal and on 20.3.2010 he approached Dy.SP, Karnataka Lokayukta, Ramangara and informed him about the demand for bribe being made by DGOs. The Dy.SP provided him/complainant a micro tape recorder and asked him to meet the DGOs and to record the conversation with them, regarding demand for bribe being made by them. Accordingly, the complainant again met DGOs 1 and 2 and discussed with them about issue of fitness certificate and the conversation with the DGOs was recorded by the complainant in the micro tape recorder given to him. The complainant having recorded the said conversation with DGOs 1 and 2, again approached Dy.SP, Karnataka Lokayukta, Ramangara on 22.3.2010 and filed a written complaint as per Ex-P1 and handed over the micro tape recorder claiming that, he has recorded the conversation with DGOs 1 and 2, in it.

17. On the basis of the complaint so filed by the complainant on 22.3.2010 the Dy.SP, Karnataka Lokayukta, Ramanagara, has

registered a case in Cr. No. 1/2010 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.

18. An entrustment proceedings was conducted in the Lokayukta Police Station, Ramanagara on 22.3.2010 in the presence of two panch witnesses viz., Sri.Siddaraju, FDA from the office of the Assistant Executive Engineer, PWD No.1 Sub-Division, Ramanagara and Sri.G.Jagadish, SDA from the office of the Asst. Director of Animal Husbandry, and in the said proceedings, the bait money of Rs.1000/- consisting of ten currency notes of Rs.100/- 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 DGOs when he meet them and only in case if they demand for bribe. Panch witness Sri Siddaraju was entrusted with the task of a shadow witness. The Complainant was entrusted with a micro tape recorder asking him to switch on the same when he meet DGOs and to record the conversation with them, while paying money to them.

19. The complainant and shadow witness were taken to the District Hospital premises, Ramanagara and sent them to meet DGOs 1 and 2. The Complainant having accompanied with the shadow witness went into the chamber of DGO-1 and requested him for issue of fitness certificate and DGO-1 enquired him as to whether he has brought money as demanded. Then the Complainant took out 5 currency notes of Rs. 100/- denomination each out of 10 such notes entrusted to him and gave that money to DGO-1 who having received that amount with his right hand kept that money in his table drawer. Thereafter, both the Complainant and shadow witness went to OPD room of the District hospital and met DGO-2 and

enquired him about the issue of fitness certificate and DGO-2 enquired him about the money he has demanded and the Complainant gave the remaining 5 tainted currency notes of Rs. 100/- denomination each to DGO-2. DGO-2 having received the said notes from the Complainant with his right hand, kept that money in the left side pocket of his shirt and thereafter, he/DGO-2 having come out of OPD room, went inside the chamber of DGO-1. Thereafter, the Complainant came out of the District Hospital and gave pre-arranged signal to the Police Inspector.

20. On receiving the signal from the complainant, Dy.SP and his staff and another panch witness approached the complainant. The complainant took them inside the chamber of DGO-1 and showed them DGOs 1 and 2, who were found sitting in the chamber of DGO-1 claiming that, they have received money from him.
21. Dy.SP introduced himself to DGOs 1 and 2 and informed them about the registration of a case against them. On enquiry, DGO-1 disclosed his name as Dr. H.C. Chandrashekhara Reddy, District Surgeon, Ramanagara District and DGO-2 disclosed his name as Dr.B.K. Omkar @ Omkarappa, Senior Surgeon, District Hospital, Ramangara Ramanagara District.
22. Thereafter, the Dy.SP got prepared Sodium carbonate solution in four separate bowls and asked DGO-1 to wash his right hand fingers and left hand fingers separately in 2 bowls containing sodium carbonate solution. When DGO-1 dipped his right hand fingers in one bowl and left hand fingers in another bowl containing sodium carbonate solution, the colorless solution in those 2 bowls turned into dim brown color. The said dim coloured solution of the



- right hand wash and left hand wash of DGO-1 were collected in 2 separate bottles and sealed the same.
23. Thereafter, the Dy.SP asked DGO-2 to wash his right hand fingers and left hand fingers separately in another 2 bowls containing sodium carbonate solution. When DGO-2 dipped his right hand fingers in one bowl and left hand fingers in another bowl containing sodium carbonate solution, the colorless solution in those 2 bowls turned into pink colour. The said pink coloured solution of the right hand wash and left hand wash of DGO-2 were collected in 2 separate bottles and sealed the same.
24. Dy.SP asked DGO-1 about the money he has received from the complainant. DGO-1 on opening his table drawer took out a book and took out 5 currency notes of Rs. 100/- denomination each from the said book and produced the same before the Dy.SP. The serial number of those notes when cross-checked, confirmed that, those were the 5 notes out of 10 such notes entrusted to the complainant during the entrustment proceedings. Those notes produced by DGO-1 were kept in a separate cover and sealed the same.
25. Thereafter, Dy.SP asked DGO-2 about the money he has received from the complainant. DGO-2 took out 5 currency notes of Rs. 100/- denomination each from his left side shirt pocket and produced the same before the Dy.SP. The serial number of those notes when cross-checked, confirmed that those were the remaining 5 notes out of 10 such notes entrusted to the complainant during the entrustment proceedings. Those notes were kept in a separate cover and sealed the same.

26. On providing an alternate shirt, the shirt worn by DGO-2 was got removed and the left side pocket portion of the said shirt, was dipped in a separate bowl containing sodium carbonate solution and on such dipping, the colourless solution turned into pink colour. The said pink colored solution was collected separately in a bottle and sealed the same and seized along with the shirt of DGO-2.
27. The micro tape recorder which was entrusted to the Complainant was taken back from him and it was played in the presence of DGOs and panch witnesses. The conversation found recorded in it, were not clearly audible. On taking out the cassette from the said micro tape recorder, the same seized.
28. DGO-1 was asked to produce the relevant documents pertaining to the Complainant regarding issue of fitness certificate and DGO-1 has produced a file containing certain documents, and the copies of those documents were seized as per Ex-P5.
29. DGOs 1 and 2 were asked to give their explanation in writing. DGOs 1 and 2 got their explanation typed with the help of computer available in the chamber of DGO-1 and DGOs-1 and 2 gave their explanation as per Ex-P8 and Ex-P9 under their signatures Ex-P8(a) and Ex-P9(a). The complainant and shadow witness have denied the correctness of the version of the explanation given by DGOs 1 and 2 claiming it as false and incorrect.
30. A detailed mahazar was got prepared as per Ex-P3 incorporating all the details of the trap proceedings. Photographs of these proceedings conducted in the chamber of DGO-1, were obtained as per Ex-P13 (1 to 6).

31. During enquiry, the complainant has been examined as PW-1 and the panch witness as PW2 and the investigation officer has been examined as PW3.
32. The complainant who is examined as PW1 has not supported the case of the disciplinary authority and turned hostile. Though he has admitted that, he was in need of fitness certificate to join for his duty after availing 3 months leave on medical grounds, hence he approached DGO-2 and requested him for issue of fitness certificate. It is the contention of the Complainant that, DGO-2 asked him to come on the next day. According to him, since somebody told him that, if he gives a complaint to Lokayukta police, fitness certificate will be issued to him at an earliest, he filed complaint to Dy.SP as per Ex-P1. It is his evidence that, DGOs 1 and 2 have not demanded him any bribe for issue of fitness certificate.
33. He has narrated in detail regarding conducting of entrustment proceedings in the Lokayukta Police Station and entrustment of tainted notes of Rs. 1000/- consisting of 10 currency notes of Rs. 100/- denomination each to him in the said proceedings. He has further stated that, he having accompanied with the shadow witness went to the chamber of DGO-1 and requested him to issue him the fitness certificate and further claimed that, he put Rs. 500/- into the table drawer of DGO-1 and thereafter, DGO-1 signed the certificate and returned it to him. He has further stated that, he having taken the said certificate with him, went to OPD block and met DGO-2 and requested him to sign the said certificate and DGO-2 since signed the said certificate, he/Complainant claimed that, he kept Rs. 500/- in the shirt pocket of DGO-2 and thereafter, he came out of the District Hospital and gave pre-arranged signal to the Dy.SP. He narrated in detail regarding the arrival of Dy.SP on receiving his

signal and obtaining of hand wash of both the hands of DGO-1 which turned into pink colour and recovery of tainted notes of Rs. 500/- from the table drawer of DGO-1 which was found kept in a book. He further stated that, thereafter, the Dy.SP obtained hand wash of both the hands of DGO-2 which turned into pink colour and further stated about recovery of tainted notes of Rs. 500/- from the shirt pocket of DGO-2. He has further stated that, the voice recorder entrusted to him was taken back from him and on playing the same in the presence of DGOs 1 and 2 and panch witnesses, conversation took place between him and DGO-1 and also with DGO-2 were found recorded in it and in this regard a detailed mahazar was got prepared as per Ex-P3.

34. Since he claimed in his chief examination that, DGOs 1 and 2 have not demanded him for any bribe and he himself kept the money in the table drawer of DGO-1 and the shirt pocket of DGO-2 and since this evidence given by Complainant was contrary to the details of the trap proceedings incorporated in the trap mahazar, he/PW1 has been treated as hostile witness and he has been cross examined on behalf of the disciplinary authority, by the Learned Presenting officer. Various suggestions put to him have been denied by him during his cross examination.

35. Even the Learned Counsel for DGO cross examined him/PW1 at length. Various suggestions have been put to him by the Learned Counsel for DGO and all those suggestions have been conveniently replied in positive by PW1/Complainant. He has taken up a contention during his cross examination conducted by the counsel for the DGO that, DGO-2 got typed the fitness certificate and on signing it gave it to him and after DGOs 1 and 2 signed the fitness certificate as per Ex-D1 he paid money to them, claiming that, since

the police have instructed him to give money to DGOs and then only his work will be attended and hence he gave money to the DGOs.

36. Considering the nature of the evidence given by PW1 with regard to the material particulars of the trap proceedings, he went to an extent of claiming that, DGOs never demanded him for any bribe and further claimed that, he himself put the money in the table drawer of DGO-1 and in the shirt pocket of DGO-2 and further considering the specific denial of various suggestions put to him during his cross examination by the Learned Presenting officer and giving positive replies to the various suggestions put to him by the Learned Counsel for DGOs, the possibility of he being won over by the DGOs, cannot be ruled out.

37. PW2 is the panch witness and he has deposed about conducting of entrustment proceedings in the Lokayukta Police Station, Ramanagara and entrustment of tainted notes of Rs. 1000/- consisting of 10 currency notes of Rs. 100/- denomination each to the complainant in the said proceedings. He has further stated that, the Complainant and the shadow witness went inside the District Hospital premises and he and Dy.SP and his staff were waiting outside for the signal of the Complainant. It is his further evidence that, since the Complainant gave pre-arranged signal to the Dy.SP, the Dy.SP and his staff approached the Complainant and he/PW-2 has also accompanied them and the Complainant took all of them to the chamber of DGO-1 and showed DGO-1 and also DGO-2 who was found sitting in the chamber of DGO-1, telling the Dy.SP that, they are the concerned doctors who have received Rs. 500/- each from him and he paid Rs. 500/- each to them, as per the demand made by them to him/Complainant.

38. He has further stated about obtaining of hand wash of both the hands of DGOs 1 and 2 separately and the hand wash of DGOs 1 and 2 giving positive result regarding presence of phenolphthalein and collection of the hand wash of both the hands of DGOs 1 and 2 in separate bottles. He has further stated that, when the Dy.SP asked DGO-1 about the money he has received from the Complainant, DGO-1 took out the money from his table drawer and produced Rs. 500/- consisting of Rs. 5 currency notes of Rs. 100/- denomination each before the Dy.S.P. He has further deposed that, when the Dy.SP asked DGO-2 to produce the money he has received from the Complainant, DGO-2 produced 5 currency notes of Rs. 100/- denomination each on taking out from his shirt pocket. He has further stated that, on cross checking the currency notes produced by DGOs 1 and 2, with reference to its serial numbers, Dy.S.P has confirmed that, those were the notes entrusted to the Complainant during the entrustment proceedings. He has also further stated that, the shirt worn by DGO-2 was got removed by providing him an alternate shirt and even the pocket portion of the said shirt was subjected to phenolphthalein test which gave positive result regarding presence of Phenolphthalein.

39. He has also narrated in detail regarding DGOs 1 and 2 giving their explanation in writing as per Ex-P8 and P9 and the Complainant and shadow witness on going through the same claimed that, the version of the explanation given by DGOs 1 and 2 are not true and is incorrect. He has also narrated in detail regarding seizure of documents as per Ex-P6 since produced by DGO-1 and also the tape recorder entrusted to the Complainant when played in the presence of DGOs 1 and 2, was found to contain the conversation took place between him/Complainant, with that of DGOs 1 and 2 recorded in it, preparation of mahazar as per Ex-P3 and obtaining of the

photographs of the trap proceedings, have been deposed by PW2 in his evidence.

40. The Learned Counsel for DGO thoroughly cross examined PW2 at length. Various suggestions have been put to him during his cross examination. PW2 has claimed that, he had no personal knowledge as to how the money was found kept in the table drawer of DGO-1 and shirt pocket of DGO-2. But so far as the recovery of tainted notes of Rs. 500/- consisting of 5 currency notes of Rs.100/- denomination each from the table drawer of DGO-1 and production of those notes by DGO-1 on taking out from his table drawer and recovery of the other 5 currency notes of Rs. 100/- denomination each from the shirt pocket of DGO-2 and production of those notes by DGO-2 on taking out from his shirt pocket are not at all disputed or denied on behalf of DGOs. Suggestions were put to him by the counsel for DGOs 1 and 2 that, after DGOs -1 and 2 were asked to produce money and after DGO-1 took out the money from his table drawer and produced the same before the Police Inspector and after DGO-2 produced the money before the Dy.SP on taking out from his shirt pocket, their hand wash were obtained. PW2 gave positive reply to this suggestion put to him by the counsel for the DGO. Various other suggestions put to him have been categorically denied by him.

41. PW3 is the IO who gave evidence in detail regarding the various stages of investigation he has conducted, right from registration of the case against DGOs 1 and 2 on the basis of the complaint filed by the complainant and took up investigation. He narrated in detail regarding conducting of entrustment proceedings and entrustment of tainted notes of Rs.1000/- to the complainant, in the said proceedings.

42. He further gave details regarding the trap proceedings he has conducted in the chamber of DGO-1 which is situated inside the District Hospital complex, Ramanagara claiming that, he sent both the complainant and shadow witness, to meet DGOs 1 and 2 and they having went inside the hospital, the Complainant on coming out of the District Hospital gave him pre-arranged signal. He further narrated in detail that, the Complainant took him and his staff and another panch witness inside the chamber of DGO-1 and showed DGOs 1 and 2 stating that, they are the concerned doctors who have demanded money from him in order to issue him the fitness certificate and received Rs. 500/- each from him. He further narrated in detail regarding obtaining of hand wash of both the hands of DGOs 1 and 2. It is his evidence that, when DGO-1 dipped his right hand fingers in one bowl and left hand fingers in another bowl containing sodium carbonate solution, the colorless solution in both the bowls turned into light brown colour. It is his further evidence that, when DGO-2 dipped his right hand fingers in one bowl and left hand fingers in another bowl containing sodium carbonate solution, the colorless solution in the bowl in which DGO-2 dipped his right hand fingers turned into pink colour whereas, the solution in the bowl in which DGO-2 dipped his left hand fingers, there was no change in the colour of the solution and further stated that, about collection of right hand wash and left hand wash of DGOs 1 and 2 separately in bottles. PW3 has further deposed about recovery of tainted notes from DGOs 1 and 2 claiming that, when he asked them/DGOs 1 and 2 to produce the money they have received from the Complainant, DGO-1 on opening the table drawer took out a magazine and took out money from the said magazine and produced the notes before him and DGO-2 on taking out the money from his shirt pocket produced the same before him and on



verification of those notes produced by DGOs 1 and 2 with reference to its serial numbers, he has confirmed that, those were the notes entrusted to the Complainant during the entrustment proceedings and hence seized those notes. He has further stated about subjecting the left side pocket portion of shirt of DGO-2 to Phenolphthalein test which gave positive result regarding presence of phenolphthalein. It is his further evidence that, the voice recorder entrusted to the Complainant was taken back from him and when played, the conversation found recorded in it was not clearly audible. He has further narrated about seizure of copies of documents as per Ex-P6 since DGO-1 produced the file containing those documents and also giving of explanation by DGOs 1 and 2 as per Ex-P8 and P9 and preparation of trap mahazar and obtaining of photographs of the trap proceedings. He also gave details regarding various stages of investigation he has conducted including sending of seized articles for chemical examination and receipt of FSL report as per Ex-P15, obtaining of service particulars of DGOs 1 and 2 as per Ex-P17, got prepared the sketch of scene of occurrence with the help of PWD Engineer as per Ex-P14 and other details of the investigation. He confirmed during his evidence that, PW1/Complainant gave statement before him as per Ex-P16,

43. The Learned Counsel for DGOs has cross examined PW3/IO at length. Various suggestions put to him during his cross examination have been categorically denied by PW3. He has further admitted that, as per the opinion of the chemical examiner as incorporated in the FSL report Ex-P15, regarding non detection of phenolphthalein in the hand wash of both the hands of DGO-1. By way of putting suggestions to him, the giving of explanation by DGOs 1 and 2 as per Ex-P8 and P9 has been admitted on behalf of DGOs. PW3 has claimed that, no fitness/medical certificate was seized on the day of

trap and he further admitted that, he did not enquire with any members of the medical board about the reason why the fitness certificate was not issued to the Complainant so far.

44. DGOs 1 and 2 since not chosen to adduce their defence evidence by examining themselves, they have been questioned under Rule 11(18) of KCS(CCA) Rules, with reference to the questionnaire prepared. DGOs 1 and 2 having denied the evidence given by PWs 2 and 3 against them during the enquiry further claimed that, they are innocent and they never demanded any money by way of bribe from the Complainant. DGO-1 has further claimed that, the Complainant kept the money by dropping the money in his table drawer without his knowledge. DGO-2 claimed that, the Complainant thrust money in his shirt pocket without his knowledge and he never received any money by way of bribe from the Complainant.
45. Though they have taken up such a contention in their written explanation as per Ex-P8 and P9 and reiterated such contention even during recording of their statement under Rule 11(18) of KCS(CCA) Rules, they never bothered to examine themselves to take up such a contention on oath before this authority probably in order to avoid answering the questions that may be put to them on behalf of the disciplinary authority during their cross examination. DGO-1 has not taken up such a defence contention in his reply to observation note that the Complainant has dropped money in his table drawer without his knowledge. But DGO-2 in his reply to observation note has taken up a contention that, the Complainant having joined with some persons inimical to him, forcibly on putting the amount into his pocket ran away from his office. But no such contention have been taken by them in the joint written statement filed by them.

46. In the present enquiry, the shadow witness could not be secured and examined before this authority since despite issuing summons and warrants on many occasions the same was not served on him for the reason that, on his transfer to different office he never reported for duty in his transferred office and not available in his residential address. The Complainant has not supported the case of the disciplinary authority and turned hostile. Therefore, the evidence of the panch witness and the Investigation Officer along with the documentary evidence produced in this enquiry are the materials available on record, in order to consider the charges framed against DGOs 1 and 2.

47. The recovery of tainted notes from the table drawer of DGO-1 and from the shirt pocket of DGO-2 are not disputed or denied on behalf of the DGOs. Hence it has to be considered as to whether the defence contention taken by DGOs in their written explanation can be believed. In this regard, I rely upon a decision of the Hon'ble Supreme Court in a decision reported in AIR 1968 SC 1292 (Sri S.N. Bose Vs. State of Bihar) wherein 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 has been clarified 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(<sup>1</sup>) 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."

48. Therefore, the DGOs though taken up such a contention in support of their defence, since they failed to substantiate their defence contention by adducing evidence to support their contention and intentionally refused to enter into the witness box to take up such a contention on oath, the defence contention taken by the DGOs 1 and 2 cannot be believed and no reliance can be placed on such a contention taken by them, in support of their defence.
49. As per the evidence of PWs 2 and 3, DGO-1 on taking out a book from his table drawer took out currency notes from it and produced the same before the Dy.SP. Even DGO-2 on taking out the notes from his shirt pocket produced the same before the Dy.SP. Therefore, they cannot plead innocence claiming that, Complainant has dropped the money in the table drawer of DGO-1 and forcibly inserted money in the shirt pocket of DGO-2 without their knowledge. Further, DGO-1 never claimed that, he kept his table drawer open so as to enable the Complainant to drop the money in his table drawer without his knowledge. Even it is beyond imagination to consider the contention of DGO-1 that, while he was

sitting in front of his table, anybody can enter into his chamber and drop the money in his table drawer without his knowledge. Further, DGO-2 claimed that, the Complainant thrust money in his shirt pocket without his knowledge. But as per the proved facts, the Complainant met DGO-2 in the OPD block and DGO-2 received money from the Complainant in the OPD Block. Thereafter, DGO-2 came to the chamber of DGO-1 and while he was sitting there with DGO-1 in the said chamber both were apprehended. If really the money were forcibly thrust in his shirt pocket, there was no occasion for him to continue to keep the money in his shirt pocket while coming to the chamber of DGO-1. Further, it is also beyond imagination to believe the contention of DGO-2 that, the money was thrust in his shirt pocket without his knowledge.

50. The Learned Counsel for DGOs in his written arguments has stressed on the report of the FSL and argued that, since the hand wash of both the hands of DGO-1 gave negative result regarding presence of phenolphthalein, the allegation that, he has received bribe money from the Complainant and kept that money in his table drawer cannot be believed as he never received that money with his hands as the hand wash of his both hands gave negative result. But as per the details of trap proceedings incorporated in the mahazar Ex-P3, there is a mention that, DGO-1 on receiving that money from his right hand kept that money in his table drawer. Though the Complainant not supported this aspect of the trap proceedings, the mere recovery of tainted notes from the table drawer of DGO-1 coupled with his uncorroborated defence contention, are sufficient to conclude that, he has received the bribe money of Rs. 500/- from the Complainant. So far as allegation against DGO-2 is concerned, since the right hand wash of DGO-2 gave positive result regarding presence of phenolphthalein and since it has been proved that,

tainted notes of Rs. 500/- was recovered from the shirt pocket of DGO-2 since produced by him on taking out from his shirt pocket, I have no hesitation to conclude that, he has received those tainted notes from the Complainant.

51. So far as the pendency of the work of Complainant with DGOs 1 and 2 is concerned, the letter written by DGO-1 dated 18.1.2010 to District Treasury Officer, Tumkur directing the Complainant to appear before him and also the letter written by District Treasury Officer dated 23.12.2009 to the President of Medical Board, District Hospital, Ramanagara for issue of fitness certificate in respect of the Complainant, which are available along with the other documents seized as per Ex-P5, are sufficient to conclude that, the official work of issue of fitness certificate in the name of the Complainant was pending with DGOs 1 and 2. Further, while cross examining PW1/Complainant, a copy of the certificate dated 22.3.2010 has been confronted to him and admission was obtained from the Complainant that, DGO-2 got prepared this certificate as per Ex-D1 and he/DGO-2 having signed the said certificate, gave it to him/Complainant for obtaining the signature of DGO-1. If that were to be the case, this certificate should not have been in the possession of DGOs but, it should be in the possession of the Complainant and Complainant should have produced the same before the Dy.SP during the trap proceedings. Even DGOs 1 and 2 have not taken any such contention that, the required certificate has been got prepared and handed over to the Complainant on the day of trap itself. Moreover, DGOs 1 and 2 have not taken up any such contention that, DGO-2 has got prepared the certificate and having signed it, handed it over to the Complainant and the Complainant on taking that certificate to DGO-1 obtained his signature. Therefore, the possibility of creating such a document as per Ex-D1

subsequent to trap cannot be ruled out and hence no reliance can be placed on Ex-D1.

52. Having regard to the fact that, DGOs 1 and 2 never bothered to adduce their defence evidence by examining themselves and avoided to give evidence before this authority to substantiate their defence contention and further since the defence contention taken by them while offering their explanation as to how they came in possession of the tainted notes, since I have disbelieved as improbable and beyond imagination, I have no hesitation to conclude that, DGOs 1 and 2 having demanded bribe from the Complainant received the bribe amount from him, on the day of trap, to do an official act of issuing fitness certificate in the name of the complainant.
53. Further, the Complainant had recorded the conversation with DGOs 1 and 2 in the voice recorder entrusted to him prior to registration of the case and the said conversation has been transcribed and identification of voice of DGOs 1 and 2 was conducted in the voice identification procedure conducted in the Police Station subsequent to trap on 29.10.2011 for which a mahazar has been prepared as per Ex-P4. The transcription of the conversation has been incorporated in the said mahazar itself. On going through this transcription, it can be concluded that, DGOs 1 and 2 have put forth demand for bribe, demanding money by way of bribe from the Complainant in order to issue him the required fitness certificate and though it is their official duty to issue such certificate but in order to do the said official work, DGOs 1 and 2 having demanded bribe from the Complainant received the bribe amount from him on the day of trap which was recovered from their possession at the time of conducting trap proceedings. Hence, I have no hesitation to conclude that, DGOs 1 and 2 are guilty of misconduct in demanding

and receiving bribe from the Complainant and accordingly, I answer both points no.1 and 2 in the Affirmative.

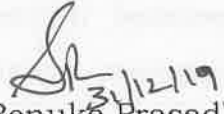
**Point No.2:**

54. Having regard to the discussion made above, and in view of my findings on point no.1 and 2 as above, my conclusion is as follows:

**CONCLUSION**

i) The Disciplinary Authority has proved the charge as framed against DGO-1 Dr. H.C. Chandrashekhara Reddy, the then District Surgeon and DGO-2 Dr.B.K. Omkar @ Omkarappa, the then Senior Surgeon, District Hospital, Ramanagar.

ii) As per the service particulars at Ex-P17 and as per the first oral statements of DGOs 1 and 2, the date of birth of the DGO-1 is 7.6.1956 and that of DGO-2 is 5.6.1958 as such, both have already retired from service on 30.6.2016 and 30.6.2018 respectively.

  
(S.Renuka Prasad)

Additional Registrar of Enquiries-3  
Karnataka Lokayukta, Bengaluru.



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

|             |                                                    |
|-------------|----------------------------------------------------|
| <b>PW-1</b> | Sri A.R. Damuruges (complainant) (original)        |
| <b>PW-2</b> | Sri G. Jagadish (shadow witness) (original)        |
| <b>PW-3</b> | Sri H. Manjappa (investigation officer) (original) |

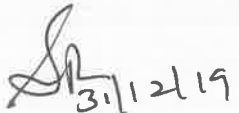
**II. Witnesses examined on behalf of the DGO:-NIL-****III Documents marked on behalf of D.A.**

|                       |                                                                     |
|-----------------------|---------------------------------------------------------------------|
| <b>Ex.P-1</b>         | Certified copy of complaint                                         |
| <b>Ex.P-2</b>         | Certified copy of entrustment mahazar                               |
| <b>Ex.P-3</b>         | Certified copy of trap mahazar                                      |
| <b>Ex.P-4</b>         | Certified copy of mahazar for                                       |
| <b>Ex.P-5</b>         | Certified copy of records seized by IO                              |
| <b>Ex.P-6</b>         | Certified copy of attendance certificate and medical certificate    |
| <b>Ex.P-7</b>         | Certified copy of sheet containing serial numbers of currency notes |
| <b>Ex.P-8 &amp;9</b>  | Certified copy of written explanation of DGOs 1 and 2               |
| <b>Ex.P-10</b>        | Certified copy of FIR                                               |
| <b>Ex.P-11&amp;13</b> | Photographs (Xerox)                                                 |
| <b>Ex.P-12</b>        | Rough sketch (Xerox)                                                |
| <b>Ex.P-14</b>        | Sketch of PWD Authorities (Xerox)                                   |
| <b>Ex.P-15</b>        | FSL Report (Xerox)                                                  |
| <b>Ex.P-16</b>        | Statement of Complainant (certified copy)                           |
| <b>Ex.P-17</b>        | Service particulars of DGO (Xerox)                                  |

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

|              |                                      |
|--------------|--------------------------------------|
| <b>Ex-D1</b> | Fitness certificate (certified copy) |
|--------------|--------------------------------------|

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

  
31/12/19

(S. Renuka Prasad)  
Additional Registrar of Enquiries-3,  
Karnataka Lokayukta, Bengaluru.

