

**GOVERNMENT OF KARNATAKA**



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/442/2011/ARE-4

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001  
Date: **27/08/2020**

**RECOMMENDATION**

Sub:- Departmental inquiry against;  
Sri M.N. Narasimha Murthy, Second Division  
Assistant, Office of the Deputy Conservator of Forests,  
Aranya Bhavan, Malleshwaram, Bengaluru – Reg.

- Ref:- 1) Govt. Order No. ಅಪಜೀ 82 ಅಇವಿ 2011, Bengaluru dated  
17/11/2011.
- 2) Nomination order No.LOK/INQ/14-A/442/2011,  
Bengaluru dated 30/11/2011 of Upalokayukta-1,  
State of Karnataka, Bengaluru
- 3) Inquiry Report dated 25/8/2020 of Additional  
Registrar of Enquiries-4, Karnataka Lokayukta,  
Bengaluru

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The Government by its order dated 17/11/2011 initiated the disciplinary proceedings against Sri M.N.Narasimha Murthy, Second Division Assistant, Office of the Deputy Conservator of Forests, Aranya Bhavan, Malleshwaram, Bengaluru (hereinafter referred to as Delinquent Government Official, for short as DGO) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/442/2011 Bengaluru dated 30/11/2011 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 M.N. Narasimha Murthy, Second Division Assistant, Office of the Deputy Conservator of Forests, Aranya Bhavan, Malleshwaram, Bengaluru was tried for the following charge:-

“That, you Sri M.N. Narasimha Murthy, the DGO, while working as Second Division Assistant in the O/o. the Deputy Conservator of Forests of Aranya Bhavan in Malleshwaram, Bangalore, the Complainant namely Sri V. Rajesh S/o. G. Lingareddy of Yeshwanthpuram in Bangalore having purchased “M/s. Sri Lakshmi Venkateshwar Saw Mill (Timbers)” in the year 2008 from Sri G.V. Diwakar applied for renewal of licence in his name for the year 2010-2011 along with necessary D.D. and documents and you being the case worker asked for payment of bribe for Rs.17,000/- from the complainant to issue license, changing the name and on 10/5/2010 received the said bribe amount from the complainant through one Sri Gopal, a Group-D employee of your office to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R. 3(1)(i) to (iii) of the 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 M.N.Narasimha Murthy, Second Division Assistant, Office of the Deputy Conservator of Forests, Aranya Bhavan, Malleshwaram, Bengaluru.


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

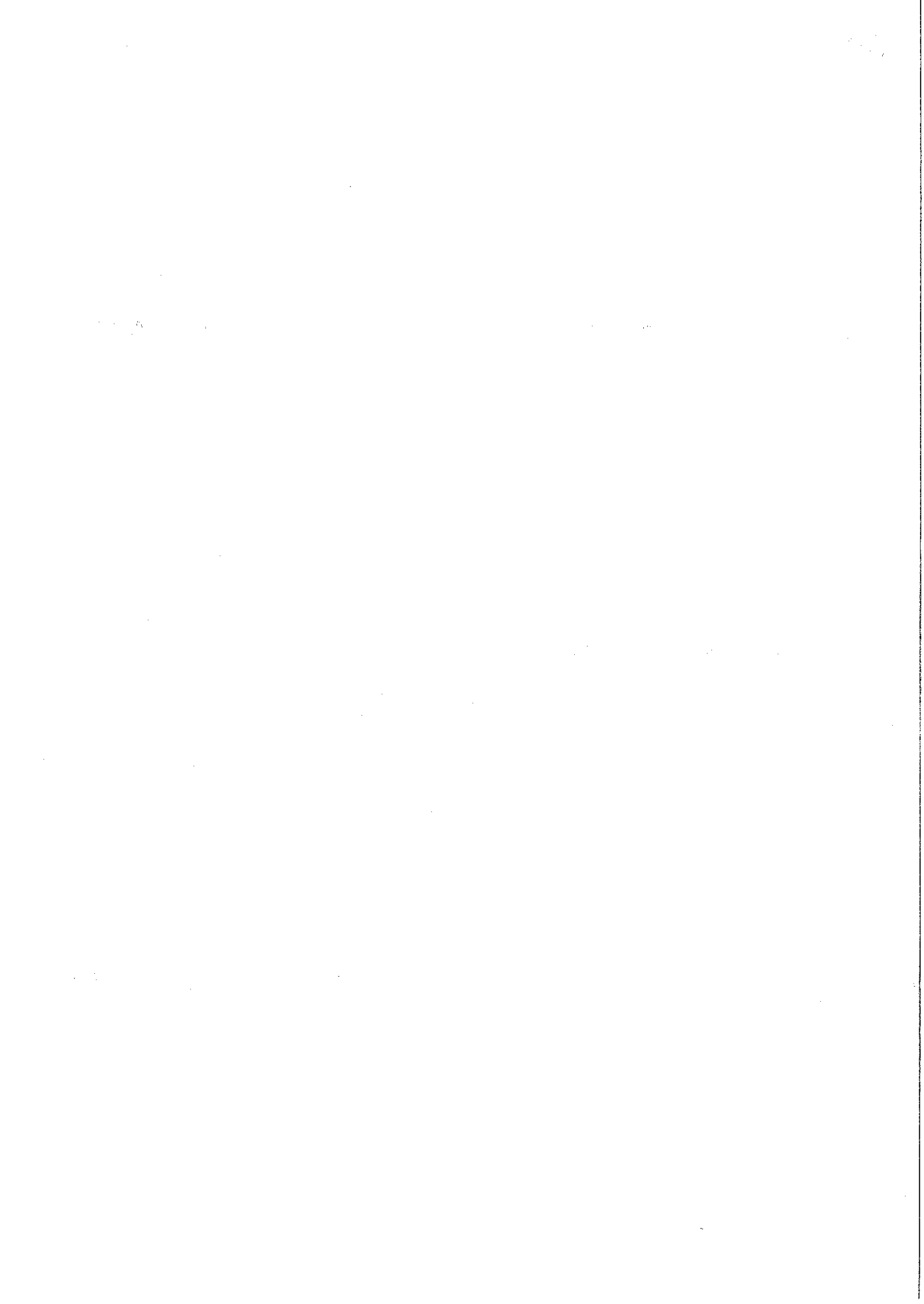
6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 31/10/2023.

7. Having regard to the nature of charge proved against DGO Sri M.N. Narasimha Murthy, it is hereby recommended to the Government for imposing penalty of Compulsory retirement from service on DGO Sri M.N.Narasimha Murthy, Second Division Assistant, Office of the Deputy Conservator of Forests, Aranya Bhavan, Malleshwaram, Bengaluru and also for permanently withholding 40% of pension payable to DGO Sri M.N. Narasimha Murthy.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA)  
Upalokayukta-1, 27/8  
State of Karnataka,  
Bengaluru



## **KARNATAKA LOKAYUKTA**

No.LOK/INQ/14-A/442/2011/ARE-4

M.S. Building  
Dr.B.R.Ambedkar Road  
Bengaluru-560 001  
Date: 25/08/2020

### **:: INQUIRY REPORT ::**

**Sub:** Departmental Inquiry against,

Sri M.N. Narasimha Murthy  
Second Division Assistant  
Office of the Deputy Conservator  
of Forests  
Aranya Bhavan, Malleshwarm  
**Bengaluru**

**Ref:**

- 1) Report u/s 12(3) of the K.L Act, 1984 in No. Compt/Uplok/BCD/5/2011/ ARE-10, Dated:22/08/2011
- 2) Government Order No. FEE 82 FDE 2011, Bengaluru, dated: 17/11/2011
- 3) Order No.LOK/INQ/14-A/442/2011, Bengaluru dated:30/11/2011 of the Hon'ble Upalokayukta

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This Departmental Inquiry is directed against Sri M.N. Narasimha Murthy, Second Division Assistant, Office of the Deputy Conservator of Forests, Aranya Bhavan, Malleshwarm, **Bengaluru** (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: 30/11/2011 cited above at reference-3, nominated Additional Registrar of Inquiries-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 Inquires-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 the same were issued to the DGO calling upon him to appear before this Authority and to submit his written statement of defence.

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

**ANNEXURE -I**  
**CHARGE**

*That, you Sri M.N. Narasimha Murthy, the DGO, while working as Second Division Assistant in the O/o the Deputy Conservator at Forests of Aranya Bhavan in Malleshwaram, Bengaluru, the complainant namely Sri V. Rajesh s/o G. Lingareddy of Yeshwanthpuram in Bengaluru having purchased "M/s Sri Laxmi Venkateshwar Saw Mill (Timbers)" in the year 2008*

*from Sri G.V. Diwakar applied for renewal of license in his name for the year 2010-2011 along with necessary D.D. and documents and you being the case worker asked for payment of bribe of Rs. 17,000/- from the complainant to issue license, changing the name and on 10/05/2010 received the said bribe amount from the complainant through one Sri Gopal, a group "D" employee of your office to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Government Servant and thereby committed misconduct as enumerated u/Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.*

**ANNEXURE-II**

**STATEMENT OF IMPUTATIONS OF MISCONDUCT**

*In the year 2008, the complainant namely Sri V. Rajesh s/o G. Lingareddy of Yeshwanthpuram in Bengaluru had purchased "M/s Sri Laxmi Venktateswar Saw Mill (Timbers)" from Sri G.V. Diwakar. In that connection, the complainant applied for renewal of the license for the year 2008, 2009, 2010. The complainant had filed application for renewal of license for the year 2010-2011 to the Deputy Conservator of Forest, Bengaluru Urban Division, Bengaluru on 22/03/2010 along with necessary DD and documents. In that regard the complainant approached the DGO on 31/03/2010 as he was the case worker. On 07/05/2010, DGO told the complainant to pay bribe of Rs. 17,000/- to issue license and also to change his name from the name of*

*Sri Diwakar. The complainant was not willing to pay bribe as demanded by the DGO. Therefore, on 10/05/2010, the complainant lodged a complaint before the Lokayukta Police Inspector of City Division, Bengaluru (herein after referred to as the Investigating Officer, for short, "the I.O."). The I.O. registered the complaint in Cr. No. 16/2010 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. 17,000/- was given by the complainant in the hands of Sri Gopal, a group "D" employee of the O/o the DGO as asked by the DGO, the I.O. trapped the DGO on 10/05/2010 in the presence of the complainant, the panch witnesses and his staff in the O/o the DGO near vehicle parking place of Aranya Bhavanin Bengaluru and seized the tainted amount from the said Sri Gopal 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 sowed 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 enquiry to the Hon'ble Uplokayukta 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 enquiry u/ Rule 14-A of the KCS (CCA) Rules, 1957 to the Hon'ble Upalokayukta. Hence, this charge.*

5. DGO appeared before this Inquiry Authority on 31/03/2012 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 Hon'ble Upalokayukta has no power to make any recommendation to the Government. The order of the Government authorizing the Hon'ble Upalokayukta to conduct the enquiry is neither legal nor proper. Hence, the entire process of conducting the enquiry is illegal. The DGO needs service of learned advocate to defend his case. This enquiry is without authority of law. The DGO neither demanded nor accepted any illegal gratification. The

Lokayukta police just for statistical purpose have registered the case and concocted the trap mahazar. The DGO has been made a scrape-goat and victim of circumstance for no fault of his. The DGO never abused his position in discharge of his duty. There is no material to show that the DGO demanded and accepted the illegal gratification to show official favour. The DGO has not committed any misconduct as alleged. The DGO denies the article of charge and the statement of imputations of misconduct. Hence, the DGO 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 three witnesses as PW1 to PW3 and got marked documents at Ex.P1 to P21. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of the DGO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, the DGO himself examined as DW1 and got marked documents as Ex.D1 to D4 and closed his side. Hence, recording the answer of DGO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

8. The Disciplinary Authority has not filed the written brief, but on the side of the DGO written brief has been filed. Oral arguments of the Presenting Officer was heard. The points, that arise for the consideration of this inquiry authority are:-

1. Whether the Disciplinary Authority has satisfactorily proved the charge framed against DGO?

2. What order?

9. 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 ::**

**10. Point No.1:** It is the case of the Disciplinary Authority that, the DGO while working as Second Division Assistant, in the office of the Deputy Conservator of Forest, Aranya Bhavan in Malleshwaram, Bengaluru, the complainant having purchased "M/s Sri Laxmi Venkateshwar Saw Mill (Timbers)" in the year 2008 from Sri G.V. Diwakar applied for renewal of license in his name for the year 2010-2011 along with necessary D.D. and the documents and the DGO being the case worker asked for payment of bribe of Rs. 17,000/- from the complainant to issue the license and on 10/05/2010 received the said bribe amount from the complainant through one Sri Gopal a Group "D" employee of the office of the DGO and thereby the DGO has committed the misconduct. In the charge the name of the complainant is mentioned as Sri B. Rajesh instead of Sri Venkatesh L. It is a typographical error and the DGO has defended this enquiry knowing fully well the complainant is Sri Venkatesh .L. In fact the correction is also made in respect of the name of CW1 as Sri Venkatesh

from Sri V. Rajesh in the list of witnesses in support of Disciplinary Authority.

11. The complainant has been examined as PW1 and the copy of the complaint lodged by him before the Lokayukta police is at Ex.P1. The gist of Ex.P1 is to the effect that in the year 2008 PW1 purchased "M/s Sri Laxmi Venkateshwar Saw Mill (Timbers)" from Sri G.V. Diwakar and obtained renewal license and on 22/03/2010 applied for renewal of license for the year 2010-2011 and even though PW1 contacted the DGO personally and over phone the license was not renewed for the above said year and on 07/05/2010 PW1 met the DGO and requested for renewal of license and the DGO demanded bribe amount of Rs. 17,000/- and PW1 recorded that conversation in his mobile phone and copied the same to the CD and not willing to get his work done by paying the bribe amount he is lodging the complaint along with the copy of the application given for renewal of license and the C.D. The complaint has been lodged on 10/05/2010 at 12.45 p.m.

12. PW1 has reiterated all the averments made in his complaint in his deposition. He has deposed that till the end of April he was not issued with the license. He has deposed that on 07/05/2010 he met the DGO and requested for the renewal of the license of the saw-mill for the year 2010-2011 and the DGO demanded the bribe amount of Rs. 17,000/- and not willing to get his work done by paying the bribe amount he lodged the complaint on

10/05/2010 and the copy of his complaint is at Ex.P1. He has deposed that he had recorded the conversation with the DGO in his mobile and that conversation was copied to the C.D. and he gave that C.D. also along with the complaint. He has deposed that he gave the copy of his application given for renewal of license along with his complaint and the copy of the same is at Ex.P2.

13. PW1 has further deposed that after he lodged the complaint, I.O. secured the panchas by name Sri Venkatesh Babu and Sri Shivaji Rao and he produced the amount of Rs. 17,000/- (Rs. 1,000x2+Rs.500x30) and the panchas verified the numbers and denomination of the notes and got typed the same on a sheet of paper and the copy of the same is at Ex.P3. He has deposed that powder was smeared to the notes and those notes were given to the hands of Sri Shivajirao who kept them in his right side pant pocket and afterwards the hands of Sri Shivajirao were washed in the sodium carbonate solution and that solution turned to pink colour and that solution was seized. He has deposed that the C.D. produced by him was played and the conversation recorded in the same was transcribed and the copy of the same is at Ex.P4. He has deposed about the instructions given to him and to the shadow witness Sri Venkatesh Babu by the I.O. He has deposed that the entrustment mahazar was drawn and the copy of the same is at Ex.P5.

14. PW1 has further deposed that after the Entrustment Mahazar they went to the office of the DGO. He has deposed

that himself and Sri Venkatesh Babu were sent inside the office and he met the DGO who was in the first floor and the DGO called a person who was working in his office and instructed that person to receive the amount from him. He has deposed that afterwards he came to the ground floor and near the canteen the above said person was present and that person asked him to give the amount and he gave the tainted currency notes. He has further deposed that, that person by name Sri Gopala counted the notes and told that powder is smeared to the notes and he told that it is his hard earned money and Sri Gopal kept the amount in his underwear pocket which he was wearing inside his pant. He has deposed that afterwards he gave the pre-instructed signal to the I.O. and immediately the I.O. and others came there and caught hold of Sri Gopal and by that time the DGO also came near the canteen situated in the ground floor and he showed him to the I.O. He has deposed that the DGO and Sri Gopal were taken inside the office of the DGO and the hands of Sri Gopal were washed separately in sodium carbonate solution and both the solutions turned to pink colour. He has further deposed that as per the instruction of the I.O. the pancha witness Sri Venkatesh Babu removed the amount which was in the underwear pocket of Sri Gopal and those notes were the same notes mentioned in Ex.P5-Entrustment Mahazar and those notes were seized. He has deposed that the DGO produced the file of the complainant and the certified copy of the same was seized along with the certified copy of the

attendance register of the office of the DGO and the copies of the same are at Ex.P6.

15. PW1 has deposed that at the time of the Entrustment Mahazar he was given the microcassette recorder and digital camera and he returned them to the I.O. and the same was played and the Manager of the office of the DGO identified the voice of the DGO in the conversation and also identified the DGO and Sri Gopal in the video. He has deposed that even the wash of the under wear of Sri Gopal (pocket portion) was positive. He has deposed that the I.O. enquired Sri Gopal about the amount recovered from him and Sri Gopal gave his explanation in writing and the copy of the same is at Ex.P8. He has deposed that Ex.P9 is the copy of the explanation given by the DGO. He has deposed that in Ex.P8 Sri Gopal has admitted that he received the amount from PW1 as per the instructions of the DGO. At this stage itself I would like to state about the gist of the Ex.P8. The gist of Ex.P8 is to the effect that Sri Gopal is working as Assistant to the DGO and on 10/05/2010 at about 4 p.m. a person was standing in front of the DGO and that person was enquiring something with the DGO and the DGO told that person to give the amount to him and he came down to the ground floor, near the parking area and after about 5 minutes the person who was enquiring with the DGO as stated above came there and he asked that person to give the amount and that person gave the amount and he received the amount and afterwards one person caught hold of him and told that he is the

Lokayukta police. Thus in Ex.P8 it is clearly mentioned that Sri Gopal had received the tainted currency notes from PW1 as per the instructions of the DGO. Thus Ex.P8 clearly supports the case of the Disciplinary Authority Ex.P8 bears the signature of Sri Gopal also.

16. PW1 has been cross-examined at length by the learned counsel for the DGO. He has been cross-examined by showing a document and asked whether it is not the copy of the renewal license of the year 2010-2011. PW1 has admitted the same and it is marked as Ex.D1. Ex.D1 is the copy of the renewal license for the year 2010-2011. In the same the date mentioned is 31/03/2010. He has deposed that the Deputy Conservator of Forest is the person who is authorized to renew the licence. But he has clearly deposed that the DGO is the concerned case worker. He has deposed that even though the date mentioned in Ex.D1 is 31/03/2010 he was not informed that the license has been renewed for the year 2010-2011 by the DGO. He has clearly deposed that he was not at all aware about the renewal of the license when he filed the complaint and also when the trap was laid. Hence, only on the ground that in the renewal license the date mentioned is 31/03/2010 the case of the Disciplinary Authority cannot be disbelieved. He has denied the suggestion that the application for renewal of the license should have been given one month earlier to 31/03/2010. It is pertinent to note that even according to the records Ex.P6 is the application given by PW1 for renewal of license on 22/03/2010 and it has been



considered and the license has been renewed and the date mentioned on the renewal license is 31/03/2010. He has clearly deposed that he was not at all aware about the renewal of the license when he filed the complaint and the DGO had also not told him that the renewal license has been signed on 31/03/2010 when he met the DGO after 31/03/2010. He has also denied the suggestion that a false case is filed against the DGO even though the work of the complainant was not pending with the DGO. At this stage itself I would like to state that the DGO has been examined as DW1 and in his cross-examination he has clearly deposed that there is no ill-will between himself and the complainant. He has deposed that there is no ill-will between himself and Sri Gopal also and likewise there is no ill-will between himself and the I.O. also. Thus there is absolutely no reason as to why PW1 has to file the false complaint against the DGO. Nothing is made out in the cross-examination of PW1 to disbelieve his evidence.

17. PW2 is Sri Venkatesh Babu N.K. the shadow witness. He has deposed that on 10/05/2010 as per the instructions of his higher officer himself and his colleague Sri Shivajirao went to Lokayukta police station and reported before PW3-I.O. He has deposed that PW1 was present in the Lokayukta Police station and he had given the complaint and the contents of that complaint was also told to them. He has deposed that PW1 produced the amount of Rs. 17,000/- (Rs. 1,000x2+Rs. 500x30). He has deposed that the denomination and numbers of the notes was typed and the

copy of the same is at Ex.P3. The entire evidence given by PW2 clearly shows that he has deposed about the proceedings that took place in Lokayukta police station as mentioned in the Entrustment Mahazar, the copy of which is at Ex.P5 and I feel it is not necessary to repeat the same.

18. PW2 has deposed that after the Entrustment Mahazar they went to the office of the DGO and himself and PW1 went near the canteen and the other persons stayed at a little distance. He has deposed that PW1 made a phone call and talked with the person to whom he had made the call. He has deposed that afterwards they went near the parking area and the guard Sri Gopal was there and that Sri Gopal told PW1 that he has been sent by the DGO Sri Gopal asked PW1 to give the amount and PW1 gave the tainted currency notes and the said Sri Gopal counted the notes and kept them in his underwear pocket and immediately afterwards PW1 gave the pre-instructed signal. He has further deposed that immediately the I.O. and others came there and caught hold of Sri Gopal and they went to the office of the DGO. He has deposed that the hands of Sri Gopal were washed separately in the solution and the solutions turned to pink colour. He has deposed that Sri Gopal told the I.O. that, he has kept the amount received from PW1 in his underwear pocket and I.O. instructed him (PW2) to remove the notes and he removed the notes and those notes were the same notes mentioned in Ex.P3. He has deposed that in the underwear pocket of Sri Gopal totally Rs. 18,500/- was there and Rs.1,500/- was returned back to Sri Gopal as Sri

Gopal told that it is his own amount. He has deposed that Ex.P8 is the copy of the explanation given by Sri Gopal and Ex.P9 is the copy of the explanation given by DGO. He has deposed that Sri Gopal told that he has received the amount from PW1 as instructed by the DGO. He has deposed that the copies of the documents seized are at Ex.P6. he has deposed that the Trap Mahazar was drawn and the copy of the same is at Ex.P12. No doubt PW2 has not deposed that PW1 met the DGO personally on that day before giving the tainted currency notes to Sri Gopal. But on that ground only the case of the Disciplinary Authority cannot be discarded and as stated above, PW2 has clearly deposed that prior to giving the amount to Sri Gopal PW1 talked with some one over phone and Sri Gopal himself told PW1 that the DGO has sent him to receive the amount from PW1 and also received the tainted currency notes from PW1, counted the same and kept it in his under wear pocket. Thus except the above said minor discrepancy PW2 has substantially supported the case of the Disciplinary Authority and the above said minor discrepancy does not go to the root of the case of the Disciplinary Authority.

19. PW2 has been cross-examined by the learned counsel for the DGO after two months and he has deposed that he was not able to hear the conversation between PW1 and Sri Gopal as he was at a distance of 20' from them. It is pertinent to note that PW2 has been cross-examined after two months and his above said evidence is contrary to his examination in chief and it can only be said that PW2 has

given the above said evidence in his cross-examination at the instance of the DGO to help the DGO. At one stage of his cross-examination he has also deposed that, he was at a distance of 5' or 6' from PW1. He has deposed that he has not read the contents of Ex.P12 before signing the same. As stated above, the over all evidence of PW2 to the effect that Sri Gopal received the tainted currency notes from PW1 and gave his explanation in that respect as per Ex.P8 clearly supports the case of the Disciplinary Authority.

20. PW3 is Sri K.C. Lakshminarayana and he has deposed that from 18/03/2009 to 24/06/2011 he was working as Police Inspector in Lokayukta Police Station, Bengaluru City Division. He has deposed that on 10/05/2010 PW1 came to the station and gave the written complaint as per Ex.P1. He has deposed about the gist of Ex.P1 also. He has deposed that on the basis of Ex.P1 he registered the case and sent the FIR to the concerned court and the copy of the FIR is at Ex.P11. He has deposed about securing the panchas and conducting the Entrustment Mahazar in the Lokayukta police station as mentioned in the Entrustment Mahazar, the copy of which is at Ex.P5. PW3 has deposed about all the proceedings mentioned in Ex.P5 and I feel it is not necessary to repeat the same. He has deposed that from 1.05 p.m. to 2.45 p.m. the Entrustment Mahazar was drawn. He has also deposed about Ex.P3 and P4.

21. PW3 has further deposed that after the Entrustment Mahazar they left the Lokayukta police station at 2.50 p.m.

and went to the office of the DGO and PW1 and the shadow witness were sent inside the office. He has deposed that PW1 was fixed with button camera and digital voice-recorder also. He has deposed that himself and others were waiting near the parking area situated by the side of the canteen. He has deposed that at about 4 p.m. PW1 came near the canteen and talked with a person who was standing there and after sometime PW1 gave the tainted currency notes to that person and that person received the same. He has deposed that afterwards PW1 gave the pre-instructed signal and immediately himself and others went there and PW1 showed the person who was with him and told that his name is Sri Gopal and on the instructions of the DGO he has given the amount to Sri Gopal. He has deposed that he showed his Identity Card to Sri Gopal and asked him to co-operate in the investigation. He has deposed that by that time PW1 was talking with a person near the canteen and he enquired Sri Gopal about that person and Sri Gopal told that he is the DGO and hence the DGO was also apprehended and both the DGO and Sri Gopal were brought inside the office of the DGO and at that time the Manager of the DGO Sri B.K. Seetharam Raj, also came there and in his presence the hand wash of Sri Gopal was conducted and Sri Gopal told that the amount received by him from PW1 is in his underwear pocket and through PW2 that amount was removed and those notes were the same notes mentioned in Ex.P3. He has deposed that DGO produced the file of PW1 and the Xerox copy of the same was prepared and certified by the manager stated above as

true copies and the copies of the same are at Ex.P6. He has deposed that Ex.P6 also contains the copy of the attendance register of the office of the DGO. He has deposed that afterwards he came to know that Sri Gopal is working as the peon in the office of the DGO. He has deposed that even the underwear wash of Sri Gopal was positive (pocket portion) and the copy of the rough sketch of the scene of occurrence prepared by him is at Ex.P10. He has deposed that digital voice recorder and button camera had been given to PW1 at the time of the Entrustment Mahazar and the audio and video had been recorded and it was copied to the C.D. and Sri Seetharam Raj identified the voice of the DGO and also identified the DGO and Sri Gopal in the same. He has deposed that Ex.P8 is the copy of the explanation given by Sri Gopal and Ex.P9 is the copy of the explanation given by the DGO. He has deposed that Ex.P12 is the copy of the Trap Mahazar and Ex.P16 is the copy of work distribution and Ex.P17 is the copy of the FSL report. Ex.P16 clearly shows that, the DGO was entrusted with the work of renewal of license which is not denied by the DGO. Ex.P17 shows that the left hand and right hand wash of Sri Gopal was positive. In the same it is also mentioned that the underwear wash of Sri Gopal was also positive. He has deposed that the copy of the sketch of scene of occurrence prepared by PWD Engineer is at Ex.P18. He has deposed that at that time PW1 was using the mobile phone and its number is 98451 91102 and the DGO was using the mobile bearing No. is 94492 44038 and he has obtained the call details of both the above said mobile phones and the copy

of the call details of the mobile phone of DGO is at Ex.P19 and the copy of the call details of mobile of PW1 is at Ex.P20. He has deposed that Sri Seetharam Raj has given his statement in writing and the copy of the same is at Ex.P11. In Ex.P11 it is stated that the hand wash of Sri Gopal was positive and Sri Gopal told that he received the amount from PW1 as per the instructions of the DGO and the tainted currency notes were seized from the underwear pocket of Sri Gopal.

22. PW3 has been cross-examined at length by the learned counsel for the DGO and nothing is made out in his cross-examination to discard his evidence. He has deposed that there is no certificate as per Sec. 65(b) in respect of the copies of the conversation marked as per Ex.P15 and P7. Even if the Ex.P7 and P15 are not considered for the above said reason there is the believable oral evidence of PW1 to PW3 in support of the case of the Disciplinary Authority.

23. DW1 is the DGO and he has deposed that, he has not demanded any bribe amount from PW1 nor he has received the bribe amount from PW1 through Sri Gopal. He has deposed that on 31/03/2010 itself the renewal license of PW1 was ready and no work of PW1 was pending with him as on the date of the complaint. It is pertinent to note that it is not the case of the DGO that the renewal license had been issued to PW1 before PW1 lodged the complaint nor it is his case that he had told PW1 that, the renewal license has already been signed and PW1 can receive the same. As stated above PW1 has deposed that he was not at all aware

about the renewal license being ready when he lodged the complaint. As stated above, DW1 has deposed that there is no ill-will between himself and the DGO and hence it has to be said that there is no reason for PW1 to lodge the false complaint against the DGO and depose falsely against the DGO. DW1 also admits that on 10/05/2010 the Lokayukta police seized the file concerning PW1 from his almirah.

24. Ex.D1 has been marked twice by oversight. Ex.D1 marked on 09/12/2009 is the certified copy of the judgment in C.C. No. 280/2010. In fact Ex.D3 is also the certified copy of the above said judgment. Ex.D1 and D3 stated above discloses that in the criminal case filed by the Lokayukta police against the DGO, the DGO has been acquitted on the ground that the prosecution has not been able to prove the charge beyond all reasonable doubt. Ex.D4 is the copy of the decision taken by the Home Department to the effect that the Government has decided not to prefer the Appeal against the judgment Ex.D1 stated above. 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 against the DGO. 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** made out very clear that, the purpose of departmental inquiry and the prosecution are too different and distinct aspects though the two proceedings relate 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 such strict rules. Therefore, misconduct of the DGO is required to be taken into consideration on the basis of preponderance of probabilities and merely because the DGO has been acquitted in the criminal case by the judgment in criminal case that itself is not sufficient to overlook the evidence placed on record by the Disciplinary Authority.

25. As stated above, the work of PW1 was pending with the DGO and there is absolutely no ill-will between the PW1 and DGO. There is the believable evidence of PW1 to the effect that the DGO demanded bribe of Rs. 17,000/- and received the same through Sri Gopal to show official favour and there is no reason to discard his above said case. The case of the Disciplinary Authority is also substantially supported by the evidence of PW2 and PW3. There is absolutely no reason as to why PW1 gave the amount to Sri Gopal in case the DGO had not asked PW1 to give the bribe amount to the hands of Sri Gopal. As stated above, Ex.P8 and P11 clearly supports the case of the Disciplinary Authority.

26. As stated above, the facts and circumstances of this case only probalises the case of the Disciplinary Authority and not the defence of the DGO stated above.

27. Thus the charge that the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Government Servant is proved. Hence, I answer the above point No.1 in the **AFFIRMATIVE**.

**28. Point NO.2:-** For the reasons discussed above, I proceed to give the following Report:

**:: REPORT ::**

*The Disciplinary Authority has proved the charge against the DGO- Sri M.N. Narasimha Murthy, Second Division Assistant, Office of the Deputy Conservator of Forests, Aranya Bhavan, Malleshwarm, **Bengaluru**.*

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

Dated this the 25<sup>th</sup> day of August, 2020

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

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

- PW-1:Sri Venkatesh (complainant)  
 PW-2:Sri Venaktesh Babu N.K. (shadow witness)  
 PW-3:Sri K.C. Lakshminarayana (I.O.)

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

- DW-1:Sri Narasimha Murthy (DGO)

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

- Ex.P-1: Certified copy of the complaint  
 Ex.P-2: Certified copy of the letter from Proprietor Sri L.V. Timber dated; 22/03/2010  
 Ex.P-3: Certified copy of the note number and denomination mentioned white sheet  
 Ex.P-4: Certified copy of the conversation  
 Ex.P-5: Certified copy of Entrustment Mahazar  
 Ex.P-5(a); Signature  
 Ex.P-6: Certified copy of saw-mill renewal report (totally consisting of 28 sheets)  
 Ex.P-7: Certified copy of conversation dated; 10/5/2010  
 Ex.P-8: Certified copy of statement of Sri M.S. Gopal  
 Ex.P-9: Certified copy of statement of DGO  
 Ex.P-10: Certified copy of rough sketch  
 Ex.P-10(a): Signature  
 Ex.P-11: Certified copy of letter from Sri B.K. Seetharaj raju addressed to Police Inspector, KLA, Bengaluru city division  
 Ex.P-12: Certified copy of trap mahazar  
 Ex.P-12(a): Signature  
 Ex.P-13: Certified copy of the FIR  
 Ex.P-13(a): signature  
 Ex.P-14: Certified copy of Attendance register  
 Ex.P-15: Certified copy of conversation  
 Ex.P-16: Certified copy of work distribution  
 Ex.P-17: Certified copy of chemical examination report  
 Ex.P-18: Certified copy of letter from A.E.E., to PI Bengaluru City division, KLA, Bengaluru and sketch copy  
 Ex.P-19: Certified copy of call details  
 Ex.P-20: Certified copy of call details  
 Ex.P-20(a): Relevant entry  
 Ex.P-21: Certified copy of service particulars of DGO.

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

- Ex.D-1: Certified copy of Form No. 42 with certified copy of the judgment passed in Special C.C. No. 280/2010
- Ex.D-2: Certified copy of the letter of Deputy Conservator of Forest, Bengaluru dated: 19/05/2010 addressed to Police Inspector, KLA, Bengaluru City Division
- Ex.D-3: Certified copy of the judgment passed in Special C.C. No. 280/2010
- Ex.D-4: Original letter dated; 19/12/2017 of Sri Sharanabasappa, Home Department, Vidhana Southda addressed to DGO

Dated this the 25<sup>th</sup> day of July, 2020

-Sd/-

(Somaraju)

Additional Registrar Inquiries-4,  
Karnataka Lokayukta,  
Bengaluru.