



KARNATAKA LOKAYUKTA, BENGALURU

No:LOK/ARE-4/14-A/ENQ-442/2012

M.S.Building,
Dr.B.R.Ambedkar Veedhi,
Bengaluru. Dated: 26/12/2017

RECOMMENDATION

Sub:Departmental Enquiry against Sriyuths: 1)
G.K.Nagaraj,Village Accountant, Kellodu
Grama, Hosadurga Taluk, Chitradurga Dist.
& 2) Hanumanthappa, Village Assistant,
Kellodu Grama, Hosadurga Taluk,
Chitradurga Dist-reg.

Ref: 1) Government Order No.99 BDP 2012 dtd
16/10/2012

2) Nomination order by Hon'ble Upalokayukta
dtd 5/11/2012

The Government by order dtd 16/10/2012 initiated the disciplinary proceedings against the Delinquent Government Servants Sriyuths: 1) G.K.Nagaraj,Village Accountant, Kellodu Grama, Hosadurga Taluk, Chitradurga Dist. & 2) Hanumanthappa, Village Assistant, Kellodu Grama, Hosadurga Taluk,Chitradurga Dist. (hereinafter referred to as 'DGO-1' and 'DGO-2' in short) and entrusted the disciplinary enquiry to this institution. Accordingly, by nomination order dtd 5/11/2012, nominated the Additional Registrar Enquiries-4 to conduct departmental enquiry against the DGO-1 and DGO-2 for the alleged charge of misconduct alleged to have been committed by them.

Sjdt

The said enquiry officer, after completing the departmental enquiry, submitted his report dtd 21/12/2017, inter-alia holding that, the disciplinary authority has satisfactorily proved the charge of misconduct as alleged against the DGO-1 and DGO-2.

The charges alleged against the DGO-1 and DGO-2 was that, while DGO-1 and DGO-2 were working as Village Accountant and Village Assistant, respectively, at Kellodu Grama Panchayath, Hosdurga Taluk, Chitradurga Dist, one Bokikeri Parameshwarappa, s/o Sanna Thimmappa of Lingadahalli in Hosadurga Taluk, (hereinafter referred to as 'complainant' in short) had filed an application for a certificate as a small land holder for the benefit of Irrigation under "Ganga Kalyana Scheme". After the application was forwarded to DGO-1 the complainant approached the DGO-1 for issue of certificate. However, DGO-1 demanded bribe amount of Rs.10,000/- from the complainant, on negotiation he reduced the amount to Rs.4,000/- and on 11/6/2010 DGO-1 received bribe amount of Rs.4,000/- and the same was received through DGO-2 and thereby, the DGO-1 and DGO-2 have failed to maintain absolute integrity and devotion to the duty, the act of which is unbecoming of Government servants and thereby have committed misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1968.

The disciplinary authority, to prove the charge of misconduct against the DGOs, has examined complainant as PW1, shadow witness as PW2, panch witness as PW3 and IO as PW4 and got marked Ex.P1 to P13 in their evidence. Whereas, the DGO-1 himself did not led any evidence nor produced any documents.

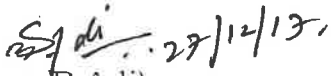
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The enquiry officer, after considering the entire evidence on record, found that, the evidence led by the disciplinary authority probabalises and satisfactorily proved the charge of misconduct alleged against DGO-1 and DGO-2 and accordingly, submitted his findings.

Hence, having regard to the findings of the enquiry officer and the nature and gravity of misconduct alleged against the DGOs, **it is hereby recommended to the Government that the 1) G.K.Nagaraj, Village Accountant, Kellodu Grama, Hosadurga Taluk, Chitradurga Dist. & 2) Hanumanthappa, Village Assistant, Kellodu Grama, Hosadurga Taluk, Chitradurga Dist. be punished with the penalty of 'dismissal from service ' in exercise of powers under Rule 8(viii) of the Karnataka Civil Service (Classification, Control and Appeal) Rules, 1957.**

Action taken in the matter is to be intimated to this Authority.

Connected records are enclosed herewith.


(Justice Subhas B Adi)
Upalokayukta
Karnataka State, Bengaluru

KARNATAKA LOKAYUKTA

No.LOK/ARE-4/14-A/ENQ-442/2012

M.S. Building,
Dr.B.R. Ambedkar Road
Bangalore-560 001
Date: 21/12/2017

ENQUIRY REPORT

Present : Sri. S. Gopalappa
Additional Registrar of Enquiries-4 (Incharge)
Karnataka Lokayukta
Bangalore

Sub: Departmental Enquiry against

1. Sri. G.K. Nagaraj,
Village Accountant,
Kellodu Grama,
Hosadurga Taluk,
Chitradurga District.
2. Hanumanthappa,
Village Assistant,
Kellodu Grama,
Hosadurga Taluk,
Chitradurga District-reg.

Ref: 1. Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/BD-665/2011/ARE-8 dt. 13/8/2012.
2. Government Order No. 99 BDP 2012 dt. 16/10/2012.
3. Nomination Order by Hon'ble Upalokayukta-II,
dt. 05/11/2012.

1. On the basis of materials placed by ADGP, KLA, Bengaluru an investigation was taken up against DGO-1 Sri G.K. Nagaraj, Village Accountant and DGO-2 Sri Hanumanthappa, Village Assistant both working at Kellodu Village Panchayath in Hosadurga Taluk of Chitradurga District.

2. After completion of the investigation, a report u/s 12(3) of the K.L Act, 1984 in No. Comp/Uplok/BD-665/2011/ARE-8 dt. 13/14.08.2012 was sent to the Government.

3. In pursuance of the report, the Government was pleased to issue order dt. 16/10/2012 authorizing Hon'ble Uplokayukta to hold enquiry as per reference no.2. Hence in pursuance of Government order nomination was issued by Hon'ble Upalokayukta on 05/11/2012 authorizing ARE-4 to hold enquiry and report as per reference no. 3.

4. On the basis of nomination articles of charge was prepared under Rule 11(3) of KCS (CCA) Rules 1957 and sent it to the DGO-1 & 2 on 21/12/2012.

ANNEXURE NO. I
CHARGE

Sri G.K. Nagaraj-DGO-1 and Sri Hanumanthappa- DGO-2, while working as Village Accountant and Village Assistant respectively at Kellodu Village Panchayath in Hosadurga Taluk of Chitradurga District, the complainant namely Bokikere Parameshwarappa of Lingadahalli had filed application for small land holder certificate to get benefit of irrigation under "Ganga Kalyana Scheme" and after his application was forwarded to DGO-1, the complainant asked for necessary certificate and then DGO-1 asked for bribe of Rs. 10,000/- and after request reduced the demand to Rs. 4,000/- and on 11/06/2010 DGO-1 received said bribe of Rs. 4,000/- and gave the same to DGO-2 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/R 3 (1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE II
STATEMENT OF IMPUTATIONS OF MISCONDUCT.

The complainant namely Sri Bokikeri Parameshwarapp son of Sanna Thimmappa of Lingadhalli in Hosadurga taluk filed application for small land holder certificate for the purpose of getting benefit of Irrigation to his land under "Ganga Kalyana Scheme". That application was forwarded to DGO-1. Then, the

complainant met DGO-1 and then dGO-1 asked for bribe of Rs. 10,000/- to deliver certificate. After request DGO-1 reduced the demand to Rs. 4,000/-. The complainant was not willing to pay the bribe demanded by the DGO. Therefore, the complainant lodged a complaint before the Lokayukta Police Inspector at Chitradurga (hereinafter referred to as the Investigating Officer, for short "the I.O."). The I.O. registered the complaint in Cr.no. 05/2010 for the offences punishable u/s 7, 13(1)(d) R/W 13(2) of Prevention of Corruption Act 1988. The I.O. took up the investigation and on 11/06/2010, the DGO-1 was trapped at his house in Vinayaka extension of Hosadurga while receiving tainted amount of Rs. 4,000- from the complainant and handing over the same to dGO-2 who in turn gave the same to one Sri. B. Basavaraj. The I.O. seized the tainted amount after following post-trap formalities. The DGO's failed to give satisfactory or convincing reply about possession of the tainted amount. The I.O. recorded statement of the complainant and panch witnesses. The record of investigation and materials collected by the I.O. showed that the DGOs have committed misconduct failing to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Government servant. As the materials on record prima facie showed that the DGO's receiving bribe for discharging their duty as Public servant, a suo-moto investigation was taken up u/s 7(2) of Karnataka Lokayukta Act against DGO's. An observation note was sent to the DGO's calling for their explanation. The reply given by the DGO's were not convincing and not satisfactory to drop the proceedings. As there was a prima facie case showing that the DGO's have committed misconduct as per Rules 3(i) 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 disciplinary proceedings against the DGO's and to entrust enquiry to the Hon'ble Upalokayukta U/R 14-A of KCS(CCA) Rules 1957. Accordingly, the Competent Authority initiated disciplinary proceedings against DGO-1 and DGO-2 and entrusted the enquiry to the Hon'ble Upalokayukta, Hence, this charge.

5. The said AOC was served on DGO 1 & 2. The DGO's appeared before the Enquiry officer, and then their First oral statement under Rule 11(9) of KCS

(CCA) Rules was recorded. DGO 1 & 2 have not filed the written statement. Subsequently DGO's remained absent, hence they were placed ex-parte.

6. In support of the disciplinary authority, PW 1 to 4 are examined. Ex. P1 to 13 are marked. Then the Learned Presenting Officer filed his written brief and he was also heard orally.

7. Points for consideration

- i. Whether the charge is proved by the Disciplinary Authority?
- ii. What order ?

8. My answers to the above points are as follows;

- i. In the affirmative.
- ii. As per final order

for the following.

REASONS

9. **Point no.1 :-** The complainant who is examined as PW-1 has deposed that about 6 years back, he had submitted an application to Tahasildar to issue Small Land holder certificate (ಸಣ್ಣ ಹಿಡುವಳಿದಾರ). The said application was forwarded to DGO-1. DGO-1 demanded bribe amount of Rs. 10,000/- to issue certificate. He was not willing to pay the bribe amount, therefore he approached Lokayukta Police. Lokayukta Police handed over a tape recorder to him and gave instructions. Again he met the DGO-1 and enquired about his work. At that time, DGO demanded for minimum bribe amount of Rs. 4,000/- to do his work. Therefore he has lodged the complaint. Ex.p.1, the IO secured the presence of namely Kiran Babu and Ramesh, introduced to him and explained the contents of the complaint. He presented Rs. 4,000/- (1000 X 1, 500 X 6) before I.O. Panchas noted down the numbers. Police staff applied phenolphthalein powder to the notes. Kiran Babu counted the money and kept into his shirt pocket. Hand wash of Kiran Babu was taken in sodium carbonate solution and it turned

into pink colour. The I.O. gave instructions to Panchas and drawn the pre-trap mahazar Ex.P.2

10. Further PW-1 has deposed that all of them went near old Taluk office, Hosadurga. The DGO's were not there, therefore they went to the private office of DGO at Vadarahatti first floor. Pancha Kiran Babu also had come along with him. The DGO-1 was taking bath, when he called him, DGO informed to him to give the money to DGO-2. But he waited for DGO-1. After DGO-1 came out he handed over the money to DGO-1. DGO-1 received the same and handed it over to DGO-2. DGO-2 inturn handed over the money to Basavaraj. Basvaraj received the same and kept it in the Knicker pocket. Then he gave a signal to I.O. Immediately the IO, his staff and another pancha came there. He informed the IO that he handed over the money to DGO-1, inturn the DGO-1 handed over the money to DGO-2 and inturn DGO-2 handed over the money to Basavaraj. The IO has taken the hand wash of DGO 1 & 2 in sodium carbonate solution and it turned into pink colour. On verification of the money found in the knicker pocket of the Basvaraj, was tallied with the money entrusted to him. The knicker pocket portion of Basvaraj was dipped into sodium carbonate solution and it turned into pink colour. DGO-1, DGO-2 and Basavaraj gave the statements before I.O. I.O. seized the documents as per Ex.P3, taken the photographs at each and every stage and drawn the trap mahazar Ex.P.4.
11. PW-2 & 3 have deposed that on 11/06/2010 Lokayukta Police summoned them to their police station. At that time Police Inspector and complainant were present. I.O. introduced the complainant to them and explained the contents of complaint. The complainant presented Rs. 4,000/- (1000 X 1, 500 X 6), they noted down the numbers. Police staff applied phenolphthalein powder to the notes. PW-2 kept the money into the shirt pocket of the complainant. Hand wash of PW-2 was taken in sodium carbonate solution and it turned into pink colour. The I.O. gave

instructions to themselves and complainant, taken the photographs and drawn the pre-trap mahazar Ex.P.2.

12. Further PW-1 & 2 have deposed that all of them went near Hosadurga old taluk office, but DGO-1 was not there. On information they went near the private office of DGO's. The complainant and PW-2 went to the private office of DGO. The I.O, his staff and PW-3 were waiting outside.
13. Further PW-2 has deposed that the DGO-1 was having bath and informed the complainant to hand over the money to DGO-2. They waited for DGO-1, after DGO-1 came out, the complainant asked for agricultural certificate, at that time the DGO-1 demanded and received the money, counted in both hands and handed over to DGO-2. Inturn the DGO-2 handed over the money to Basavaraj. Basavaraj received the money and kept in his knicker pocket. Then the complainant gave a signal to I.O. Immediately the IO, his staff and another pancha came there.
14. PW-3 also has deposed that 10 minutes later they received the signal from the complainant. At that time the Police Inspector his staff and himself went inside the private office of DGO-1. Further PW-2 & 3 have deposed that the complainant & PW-2 narrated the incident to I.O. Then the hand wash of DGO 1 & 2 was taken in sodium carbonate solution and it turned into pink colour. On enquiry DGO-1 informed that the money is in the knicker pocket of Basavaraj. On verification of the notes it was tallied with the money entrusted to the complainant. Knicker pocket portion of Basavaraj was taken in sodium carbonate solution and it turned into pink colour. The IO seized the money, knicker, solution, received the statement of DGO 1 & 2 and Basavaraj as per Ex.P.5 to 7. The statement of DGO-1 is false according to PW-1 & 2. The I.O seized the documents pertaining to the complainant as per Ex.P.3, drawn the rough sketch Ex.P.8 taken the photographs at each and every stage. Arrested DGO 1, 2 & Basavaraj and drawn the trap mahazar Ex.P.4. Further PW-3 has deposed that on

13/06/2010 Lokayukta Police summoned to the police station and shown the photographs.

15. The I.O. who is examined as PW-4 has deposed that on 11/06/2010 he received the complaint Ex.P.1, registered in crime no. 05/2010 and forwarded the FIR Ex.P.10 to the concerned authorities. He secured the presence of panchas namely PW-2 and 3, introduced the complainant to him and explained the contents of complaint. The voice recorder was played and heard. The complainant presented Rs.4,000/- (1000 X 1, 500 X 6). After following the pre- trap procedure he has drawn the pre-trap mahazar Ex.P.2 at that time photos were taken. All of them went near the Hosadurga old taluk office, but DGO-1 was not there and then all of them went near the private office of DGO-1 & 2. The complainant and PW-2 went to the private office of DGO's. They were waiting outside. After sometime the complainant gave a signal. Immediately himself, staff and another pancha went inside the private office of DGO's. At that time private person Basavaraj was present. The complainant informed that DGO-1 received Rs. 4,000/-, handed it over to DGO-2 and inturn DGO-2 handed it over to private person Basavaraj. Basavaraj received the same and kept it in his knicker pocket. He introduced himself to the DGO's. Took the Hand wash of DGO-1, 2 and Basavaraj was taken in sodium carbonate solution and it turned into pink colour. He collected the solution.
16. Further PW-4 has deposed that on enquiry Basavaraj presented the tainted amount. On verification of the amount, it was tallied with the money entrusted to the complainant. knicker pocket portion was dipped into the solution and it turned into pink colour. He seized the tainted amount, solution and knicker. Hand wash of complainant also taken in sodium carbonate solution and it turned into pink colour. DGO-1, DGO-2 and Basavaraj have given their statements as per Ex.P.5 to 7. The statement given by the DGO-1 is false according to the complainant and

PW-2. He seized the documents pertaining to the complainant as per Ex.P.3. He has taken the photographs at each and every stage and drawn the trap mahazar Ex.P.4. Then he received FSL report Ex.P.12, sketch Ex.P.13 and completed the investigation and sought for Prosecution Sanction Order. On his transfer he handed over further investigation to Sri Murthunajaya.

17. The evidence of PW-1 to 4 remained unchallenged. Though initially DGO-1 & 2 appeared before Enquiry officer. They have not filed the written statement and they have remained ex-parte. This attitude of DGO-1 & 2 strengthens the contention of disciplinary authority.
18. The oral and documentary evidence on record show that the application of the complainant was pending before DGO-1, to do an official favour DGO-1 demanded bribe amount of Rs. 10,000/- and subsequently it was reduced to Rs. 4,000/-. The complainant has lodged the complaint Ex.P.1. I.O registered the crime no. 5/2010, secured the presence of panchas namely-Kiran Babu and Ramesh, introduced the complainant and explained the contents of complaint. The complainant presented Rs. 4,000/-, panchas noted down the numbers, police staff applied phenolphthalein powder to the notes. PW-2 kept the money into the shirt pocket of the complainant. Hand wash of PW-2 was taken in sodium carbonate solution and it turned into pink colour. I.O. gave instructions to complainant and panchas taken the photographs and drawn the pre-trap mahazar Ex.P.2.
19. Further the oral and documentary evidence show that all of them went near the office of Hosadurga old taluk office, DGO's were not there. Then on information they went near the private office of DGO's. The complainant and PW-2 went to meet DGO-1. At that time DGO-1 was taking bath. DGO-1 asked the complainant to hand over the money to DGO-2. But the complainant waited for DGO-1. After DGO-1 came out complainant handed over the money to him. DGO-1 received the money

and handed over to DGO-2. Inturn DGO-2 handed it over to private person Basavaraj. After giving the signal the IO, his staff and another pancha came to the private office of DGO. Hand wash of DGO -1, 2 & Basavaraju was taken in sodium carbonate solution and it turned into pink colour. Basavaraj presented the tainted amount before I.O. On verification it was tallied with the money entrusted to the complainant. The Knicker pocket portion also was dipped into sodium carbonate solution and it turned into pink colour. I.O. seized the tainted amount, knicker and solution, taken the photographs and drawn the trap mahazar Ex.P.4.

20. DGO-1 has not given any satisfactory or acceptable reasons for having the possession of tainted amount. DGO-2 has given his statement Ex.P.6. that the complainant handed over the money to DGO-1, DGO-1 handed over the money to him and inturn he handed over the money to Basavaraj. The said Basavaraj also has given his statement Ex.P.7 stating that DGO-2 gave the money to keep it with him. Therefore I hold that DGO-1 & 2 have failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Government Servants. Hence, I proceed to answer this point in the affirmative.

POINT No.2 :- for the reasons discussed above I proceed to pass the following.

ORDER

The disciplinary Authority has proved the charges as framed against the DGO-1 Sri G.K. Nagaraj, Village Accountant and DGO-2 Sri Hanumanthappa, Village Assistant both working at Kelloodu Village Panchayath in Hosadurga Taluk of Chitradurga District.

Hence, this report is submitted to Hon'ble Upalokayukta II for kind consideration.

Dated this the 21st day of December of 2017

sd/-
(S. Gopalappa)
Additional Registrar Enquiries-4(Incharge),
Karnataka Lokayukta,
Bangalore.

ANNEXURES

LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:

PW-1 :- Sri. Parameshwarappa
PW-2 :-Sri. Kiran Babu
PW-3 :-Sri. Ramesh
PW-4 : Sri. M.N. Rudrappa.

LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY

Ex.P-1 : Complaint.
Ex.P-2 : Pre-trap Mahazar.
Ex.P-3 : Seized documents
Ex.P-4 : Entrustment Mahazar
Ex P-5 : Statement of DGO-1
Ex.P-6 : Statement of DGO-2
Ex.P-7 : Statement of Basavaraj
Ex.P-8 : Copy of Sketch.
Ex P-9 : Note numbers copy
Ex.P.-10 : FIR
Ex.P-11 : Photographs
Ex.P-12 : FSL Report dt. 19/8/2010
Ex.P.13 : Sketch

Dated this the 21st day of December of 2017

sd/-
(S. Gopalappa)
Additional Registrar Enquiries-4 (Incharge),
Karnataka Lokayukta,
Bangalore.