



KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/491/2012/ARE-3

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 03.11.2018

RECOMMENDATION

Sub:-Departmental inquiry against Shri Liyakath Ali Khan, the then in charge Section Officer, BESCO, Chikkajajuru Sub-Division, Holalkere, Chitradurga - reg.

Ref:- 1) Order No. KPTCL/B21/32323/2012-13 dated 26.11.2012.

2) Nomination order No. UPLOK-2/DE/491/2012 dated 06.12.2012 of Upalokayukta, State of Karnataka.

3) Inquiry Report dated 31.10.2018 of Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru.

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The Director (Administration and Human Resources) Karnataka Power Transmission Corporation Limited, Bengaluru by his Order dated 26.11.2012, initiated the disciplinary proceedings against Shri Liyakath Ali Khan, the then in charge Section Officer, BESCO, Chikkajajuru Sub-Division, Holalkere, Chitradurga [hereinafter referred to as Delinquent Board Employee, for short as 'DBE'] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. UPLOK-2/DE/491/2012 dated 06.12.2012 nominated Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DBE for the alleged charge of misconduct, said to have been committed by him.

3. The DBE - Shri Liyakath Ali Khan, the then in charge Section Officer, BESCO, Chikkajajuru Sub-Division, Holalkere, Chitradurga was tried for the following charge:-

**Charge:**

That you, Shri Liyakath Ali Khan, (hereinafter referred to as Delinquent Government Official, in short DGO), while working as the in charge Section Officer, BESCO, Chikkajajuru Sub-Division, Holalkere Taluk, Chitradurga, demanded and accepted a bribe of ₹2500/- on 10/05/2010 from complainant Shri M.S.Rajappa s/o Siddappa Hirekandawadi village, B Durga Hobli, Holalkere Taluk, Chitradurga District for shifting three electric poles to some other place which were in the middle of the road of his village Hirekandawadi, that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under

Regulation number 3(1) (i) to (iii) of the Karnataka Electricity Board Employees Service (Conduct) Regulations, 1988".

4. The Inquiry Officer (Additional Registrar of Enquiries-3) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has '*proved*' the above charge against the DBE - Shri Liyakath Ali Khan, the then in charge Section Officer, BESCOM, Chikkajajuru Sub-Division, Holalkere, Chitradurga.


5. On re-consideration of report of inquiry, 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 DBE furnished by the Inquiry Officer, the DBE - Shri Liyakath Ali Khan has retired from service on 31.03.2017.

7. Having regard to the nature of charge (demand and acceptance of bribe) '*proved*' against DBE - Shri Liyakath Ali Khan, the then in charge Section Officer, BESCOM, Chikkajajuru Sub-Division, Holalkere, Chitradurga, it is hereby recommended to the Government to impose penalty of 'permanently withholding 50% of the pension payable to the DBE - Shri Liyakath Ali Khan.'

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) 2/11  
Upalokayukta,  
State of Karnataka.

**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/491/2012/ARE-3

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

Date: 29.10.2018

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

Sub: Departmental Enquiry against Sri Liakath Ali Khan, the then in charge Section Officer, BESCO, Chikkajajuru Sub-Division, Holakete Taluk, Chitradurga

- Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/BD/497/2011/DRE-5 dated 21.7.2012
2. Order No. KPTCL/B21/32329/2012-13 dated 26.11.2012
3. Nomination Order No.LOK/INQ/14-A/491/2012 dated 06.12.2012 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

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1. One Sri. M.S.Rajappa S/o Siddappa R/o Hirekandawadi village, Holalkere Taluk, Chitradurga District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Chitradurga on 10.5.2010 against Sri Liakath Ali Khan, In charge Section Officer, BESCO, Chikkajajuru Sub-Division, Holalkere Taluk, Chitradurga (hereinafter referred to as 'DGO' for short) making allegations against him that, he/DGO is demanding bribe of Rs. 2500/-, in order to process the file pertaining to shifting of electric poles, which are obstructing the easy movement of vehicles, tractors etc., since erected in the middle of the village road of Hirekandawadi village.

2. On registering a case on the basis of the said complaint, a trap was held on 10.5.2010 in the chamber of the Section Officer of BESCO, Chikkajajur wherein, the DGO having demanded bribe from the complainant, received the said bribe amount of Rs. 2500/- from him and the tainted money of Rs. 2500/- was recovered from the possession of the DGO, during the trap proceedings. Since it was revealed during investigation that, the DGO has demanded bribe of Rs.2500/- from the complainant and received the same, in order to show an official favour i.e., to process the file pertaining to shifting of electric poles, the Police Inspector having conducted investigation, filed charge sheet against the DGO.
  
3. The ADGP, Karnataka Lokayukta, Bengaluru has forwarded the copy of the charge sheet to the Hon'ble Upalokayukta. On the basis of the materials collected during investigation and materials placed before this authority, an investigation was taken up under Section 7(2) of the Karnataka Lokayukta Act. An observation note was served on the DGO providing him an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating disciplinary proceedings against him. DGO submitted his reply dated 11.11.2011 denying the allegations made against him contending that, the allegations are false. According to him, he has already forwarded his detailed reply vide his reply dated 14.10.2011, through courier and requested for dropping the proceedings against him. Since the explanation offered by the DGO was not satisfactory, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary enquiry against DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Disciplinary Authority, i.e., the Director

(Administration and Human Resources) KPTCL, Bengaluru by its Order No. KPTCL/B21/32329/2012-13 dated 26.11.2012 initiated disciplinary proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against DGO, the Hon'ble Upalokayukta issued a nomination order dated 6.12.2012 nominating ARE-3 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-3 against the DGO as under.

**“Charge:**

That you, Sri Liakath Ali Khan, (here in after referred to as Delinquent Government Official, in short DGO), while working as the I/c Section Officer, BESCO, Chikkajajuru Sub-Division, Holalkere Taluk, Chitradurga, demanded and accepted a bribe of ₹2500/- on 10/05/2010 from complainant Sri. M.S.Rajappa S/o Siddappa Hirekandawadi village, B Durga Hobli, Holalkere Taluk, Chitradurga District for shifting three electric poles to some other place which were in the middle of the road of his village Hirekandawadi, that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Regulation number 3(1) (i) to (iii) of the Karnataka Electricity Board Employees Service (Conduct) Regulations 1988.

**STATEMENT OF IMPUTATION OF MISCONDUCT:**

The complainant Sri. M.S.Rajappa S/o Siddappa Hirekandawadi village, B-Durga Hobli, Holalkere Taluk, Chitradurga District filed a complaint on 10/05/2010 before the

Police Inspector, Karnataka Lokayukta, Chitradurga alleging that, there were three electric poles on the road of his village Hirekandawadi and that he along with Basajjara Gurushanthappa, Surappara Thippeswamy and others for shifting those three electric poles and collected money from his villagers and deposited a sum of Rs.5607/- in the O/o the Assistant Executive Engineer, BESCO on 27/04/2010 towards the expenses of shifting those poles and had obtained receipt for having deposited a sum of Rs.5607/- and that in that connection he met Sri. Liakath Ali Khan, I/c Section Officer, BESCO, Chikkajajuru Sub-Division, Holalkere Taluk, Chitradurga (here in after referred to as Delinquent Government Servant, in short DGO) about a week prior to 10/05/2010 and showed him the receipt for having deposited Rs.5607/-, as estimated by the O/o the Assistant Executive Engineer, BESCO, Holalkere and requested the DGO for shifting the electric poles which were causing obstacle and hindrance for the passing of vehicles, tractors and agricultural implements and that the DGO told that the work was not over by mere paying the estimated fees and the DGO demanded a bribe of Rs.2500/- and thus the DGO demanded and insisted for the bribe of Rs.2500/-.

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Chitradurga on 10/05/2010 and lodged a complaint. On the basis of the same a case was registered in Chitradurga Lokayukta Police Station Cr. No. 04/2010 for offences punishable under sections 7, 13(1) (d) r/w section 13(2) of the P.C. Act, 1988 and FIR was submitted to the concerned learned special judge.



After registering the case, investigating officer observed all the pre trap formalities and entrustment mahazar was conducted and you, the DGO was trapped on 10/05/2010 by the Investigating Officer after your demanding and accepting the bribe amount of ₹ 2500/- from the complainant in the presence of shadow witness and the said bribe amount which you had received from the complainant was seized from your possession under the seizure/trap mahazar after following the required post trap formalities. During the investigation the I.O has recorded the statements of Panchas and other witnesses and further statement of the complainant. The I.O during the investigation has sent the seized articles to the chemical examiner and obtained the report from him and he has given the result as positive.

The materials collected by the I.O. during the investigation prima facie disclose that you, the DGO, demanded and accepted bribe of ₹ 2500/- from the complainant on 10/05/2010 for shifting three electric poles to some other place which were in the middle of the road of his village Hirekandawadi. Thus you, the DGO, have failed to maintain absolute integrity and devotion to duty and this act on your part is unbecoming of a Government servant. Hence, you have committed an act which amounted to misconduct as stated under Regulation number 3(1) (i) to (iii) of the Karnataka Electricity Board Employees Service (Conduct) Regulations 1988.

In this connection an observation note was sent to you, the DGO and you have submitted your reply which, after due

consideration, was found not acceptable. Therefore, a recommendation was made to the Competent Authority under Section 12(3) of the Karnataka Lokayukta, Act 1984, to initiate Departmental Proceedings against you, the DGO. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against you, the DGO and to submit report. Hence the charge."

4. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared in response to the notice issued to him and First Oral Statement of the DGO was recorded. DGO has denied the charges framed against him. He has engaged the services of an advocate to appear on his behalf and to defend him, in the enquiry.
5. DGO has filed his written statement on 11.7.2013, denying the allegations made against him contending that, he never demanded or received any bribe from the complainant. It is his further contention that, a false case of trap has been booked against him falsely implicating him in the said case. He has taken up a further contention that, since Lokayukta police having investigated the case charge sheeted him which is pending for trial in Spl. Case No. 4/2011 before the Special Court, Chitradurga, no parallel proceedings by way of disciplinary proceedings can be initiated against him. Hence, the defense of the DGO is one of total denial.
6. During enquiry, on behalf of disciplinary authority, 3 witnesses have been examined as PW1 to PW3 and 12 documents came to be

marked as Ex-P1 to Ex-P12. After closure of the evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since, DGO desired to lead defence evidence, permission was granted to him accordingly. But subsequently, learned counsel for DGO filed a memo stating that, DGO has no defence evidence to lead and he has no witnesses to be examined on his behalf. Hence Statement of the DGO under Rule 11(18) of KCS(CCA) Rules, was recorded.

7. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has submitted his oral arguments and produced citations. Thereafter, this matter is taken up for consideration.

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

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

**Point No.2:** What order?

9. The above points are answered as under:

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

**Point No.2:** As per Conclusion.

### **REASONS**

#### **Point No.1:-**

10. DGO was working as incharge Section Officer, BESCO, Chikkajajuru Sub-Division, Holalkere Taluk, Chitradurga during the relevant period.

11. The complainant in his complaint has narrated in detail the circumstances under which he has filed this complaint against the DGO. According to him, 3 electric poles at Hirekandawadi village have been erected in the middle of the village road and those electric poles are causing obstruction for the easy movement of vehicles and tractors and hence, he and certain villagers have contributed and filed an application to BESCO office of Chikkajajuru with a request to shift those 3 electric poles towards the side of the road. The Section officer has prepared an estimate for such shifting and the shifting charges of Rs. 5,607/- has been remitted by the complainant on 27.4.2010 under a receipt. The complainant approached the DGO and showed him the receipt and requested him to take early action in shifting the 3 electric poles. DGO told the complainant that, by simply remitting the shifting charges is not sufficient and if the said work of shifting is to be attended, he/complainant should pay Rs. 2500/- by way of bribe and then only the said work will be taken up for shifting the electric poles. The complainant since not willing to pay any bribe, approached Lokayukta police on 10.5.2010 and filed a complaint as per Ex-P1.
12. On the basis of the complaint so filed by the complainant on 10.5.2010 the Police Inspector, Karnataka Lokayukta, Chitradurga has registered a case in Cr. No. 4/2010 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
13. An entrustment proceedings was conducted in the Lokayukta Police Station on 10.5.2010 in the presence of two panch witnesses viz., Sri Bhomappa, SDA, Health and Family Welfare Department and Sri S. Raviprakash, SDA O/o Chief Engineer Upper Bhadra Project Division and in the said proceedings, the bait money of Rs. 2500/- consisting of 5 currency notes of Rs. 500/- denomination each,

given by the Complainant, were smeared with phenolphthalein powder making it as tainted money, and the said tainted notes were entrusted to the Complainant asking him to give that money to the DGO when he meets him and only in case if the DGO demands for bribe. Panch witness Sri Bhomappa was sent along with the complainant, as a shadow witness. Complainant was entrusted with a voice recorder asking him to switch on the same when he meets the DGO and to record the conversation with him, while paying money to him.

14. The complainant and the shadow witness were taken to the office of the Section Officer, BESCO, Chikkajajuru. Complainant went inside the chamber of DGO and the shadow witness was standing near the window of the said chamber. The complainant enquired DGO about his work of shifting of electric poles and DGO enquired him as to whether he has brought Rs. 2500/- as demanded by him. The complainant having admitted bringing of Rs. 2500/- with him handed over the tainted notes of Rs. 2500/- to the DGO. DGO having received the said amount from the complainant, holding that money in his hand and the complainant went out of the chamber of the DGO and gave pre-arranged signal to the Police Inspector.
15. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant and the complainant took them inside the said office and showed the DGO who was sitting in his chamber, claiming that, he is the concerned Section Officer, and he has received money from him.
16. The Police Inspector introduced himself to the DGO and explained to him about the registration of a case against him and asked him to co-operate in the investigation. DGO disclosed his name Sri Liakath

Ali Khan, in charge Section Officer, BESCOM, Chikkajajuru Sub-Division, Holalkere Taluk, Chitradurga.

17. Since the DGO was holding the tainted notes in his hand, on seeing the Police Inspector kept the money on the table. The hand wash of DGO was obtained asking him to wash his both hand fingers separately in two separate bowls containing sodium carbonate solution. When DGO washed his right hand fingers and left hand fingers separately in two separate bowls containing sodium carbonate solution, the solution in both the bowls turned into pink colour. Those pink coloured solution of right hand wash and left hand wash of the DGO, were collected in two separate bottles and sealed the same.
18. Thereafter, since DGO showed the money on the table, when he was enquired about the money he has received from the complainant, the said notes were taken possession by the Police Inspector and on verification of those notes with reference to its serial numbers, it was confirmed that, those were the notes entrusted to the complainant during the entrustment proceedings. Those notes were kept in a separate cover and sealed the same.
19. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P5 claiming that, the complainant himself voluntarily gave that money to him requesting him to get the 3 electric poles shifted by engaging the services of a contractor and the amount paid by him is towards the labour charges for such shifting. The complainant has denied the correctness of the version of explanation given by the DGO claiming it as false and incorrect. Police Inspector also seized the records pertaining to the shifting of electric poles as per Ex-P6 since DGO

produced those documents when he was enquired about the relevant documents relating to the shifting of the electric poles pertaining to the complainant.

20. The voice recorder entrusted to the complainant was taken back from him and when played in the presence of panchas at the time of conducting trap proceedings, the conversation recorded in it was not clearly audible. A detailed mahazar was got prepared as per Ex-P7 incorporating all these details of trap proceedings and photographs of these proceedings were also obtained.
21. During enquiry, the complainant has been examined as PW1. He in his evidence has narrated in detail regarding the circumstances which forced him to file complaint against the DGO since he demanded him to pay bribe of Rs. 2500/- in order to take steps in shifting of 3 electric poles as requested by the complainant and other villagers of Hirekandawadi village. According to him, he has paid the requisite shifting fee as per the estimate made by the DGO for such shifting and showed the said receipt to the DGO, he/DGO has asked him to pay another sum of Rs. 2500/- as <sup>illegal gratification</sup> in addition to the shifting charges of Rs. 5607/- already remitted by him, in order to take steps for shifting of the 3 electric poles. He further stated that, he approached Police Inspector on 10.5.2010 and filed a complaint as per Ex-P1.
22. He further gave details regarding the entrustment proceedings conducted in the Police Station and entrustment of tainted notes of Rs. 2500/- to him and preparation of entrustment mahazar as per Ex-P2. He further stated that, the Police Inspector took him and shadow witness to the Section office of BESCO of Chikkajajuru and sent them to meet the DGO. He has further stated that, when

he went inside the chamber of the DGO and met him there, the shadow witness Bhomappa was standing near the window of the said chamber watching the happenings taken place between him and the DGO inside the chamber. It is his further evidence that, when he enquired the DGO about the work of shifting of electric poles, DGO enquired him as to whether he has brought money and when he gave tainted notes of Rs. 2500/- to the DGO, DGO asked him to keep the money on the table and DGO told him that, he would give instructions to the contractor to shift the electric poles at an earliest. Thereafter, the complainant came out of the chamber of DGO and gave pre-arranged signal to the Police Inspector.

23. He further gave details regarding the arrival of the Police Inspector on receiving his signal and conducting proceedings of obtaining of hand wash of both the hands of the DGO which gave positive result and recovery of tainted notes of Rs. 2500/- from the possession of the DGO, since DGO produced the same.
24. The complainant also gave evidence regarding giving of written explanation by DGO as per Ex-P5, preparation of trap mahazar as per Ex-P7 and other details of trap proceedings.
25. PW2 is the shadow witness who accompanied the complainant and went along with him and when the complainant went inside the chamber of the DGO, he was standing near the window of the said chamber watching the happenings taken place between the complainant and DGO inside the chamber of DGO. He has narrated in detail about the said happenings claiming that, when the complainant went inside the chamber of DGO and spoke with him about shifting of electric poles and gave the money to the DGO and DGO having received that amount from the complainant, was



holding those notes in his hands and told the complainant that, he would do the needful and thereafter, the complainant came out of the chamber of the DGO and gone out of the office and gave pre-arranged signal to the Police Inspector.

26. He further gave details regarding arrival of Police Inspector on receiving the signal from the complainant, obtaining of hand wash of both hands of the DGO which gave positive result regarding presence of phenolphthalein and seizure of tainted notes and gave other details of the trap proceedings including giving of written explanation by the DGO as per Ex-P5, seizure of documents as per Ex-P6 and preparation of trap mahazar as per Ex-P7. He has also claimed that, subsequently he accompanied PWD Engineer and showed him the spot and the said Engineer prepared a sketch as per Ex-P10.
27. Since this witness has omitted to give evidence with regard to certain material particulars of the trap, regarding what transpired between the complainant and the DGO, he has been treated as partly hostile witness and he has been cross examined only to that extent. PW2 has admitted during his cross examination that, when the complainant enquired the DGO about his work of shifting of electric poles, DGO enquired the complainant as to whether he has brought money as told to him and when the complainant gave the money to the DGO and DGO having received the said notes from the complainant, held that money in his hand and assured the complainant that, the said work of shifting will be attended at an earliest, by securing a contractor.
28. The learned counsel for DGO has thoroughly cross examined both PW1 and PW2 at length. Various suggestions were put to PW1

during his cross examination and all those suggestions have been categorically denied by him. Even PW2/shadow witness during his cross examination having denied all the suggestions put to him, reiterated his contention that, he was standing near the window of the chamber of the DGO and he has seen DGO demanding money from the complainant and received tainted notes of Rs. 2500/- from him.

29. PW3/IO in his evidence has stated in detail regarding the registration of a case on the basis of the complaint filed by the complainant, conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs. 2500/- to the complainant. He further gave details regarding the trap proceedings he has conducted in the office of the DGO. He gave evidence regarding obtaining of hand wash of both hands of the DGO which gave positive result, seizure of tainted notes from the possession of the DGO, giving of explanation by DGO as per Ex-P5 and preparation of trap mahazar as per Ex-P7 and other details of the trap proceedings and also the steps he has taken at the various stages of his investigation.
30. PW3 has further deposed regarding sending the seized articles for chemical examination and obtaining report of the chemical examiner as per Ex-P12 and getting the sketch of scene of occurrence drawn by PWD engineer as per Ex-P9.
31. The learned counsel for DGO cross examined PW3 at length. But nothing was elicited during the cross examination of PW3, to disbelieve the evidence given by him in this enquiry.

32. On considering the written statement filed by the DGO, he has not taken up any specific defence except denying the allegations made against him, contending that, he is innocent and he has not committed any such misconduct of demanding and receiving any bribe from the complainant. Even he did not chose to adduce his defence evidence by examining himself and thus failed to take any specific defence, to prove his innocence in this enquiry.
33. The giving of explanation in writing by DGO as per Ex-P5 has not been disputed or denied on behalf of DGO. While cross examining PW3/IO, a suggestion was put to him that, though DGO gave true and correct version as to what transpired between him and the DGO when he met him in his chambers and though the DGO gave true and correct version of the happenings in his written explanation, Ex-P5, without taking into consideration the said explanation of the DGO and without taking into consideration the supporting documents as per Ex-P6, the DGO has been falsely implicated and charge sheet has been filed, by making false allegations against him. This suggestion has been categorically denied by PW3. Therefore, DGO is sticking on to the defense version he has taken while giving his written explanation as per Ex-P5, which reads as follows:

“ವಿಷಯ:- ಲೇಬರ್ ಚಾರ್ಜ್ ಹಿರೇಕಂದವಾಡಿ ವಾಸಿ ಶ್ರೀ ರಾಜಣ್ಣ ಇವರು ಮೂರು ಕಂಬಗಳನ್ನು ಶಿಫ್ಟ್ ಮಾಡುವ ಬಗ್ಗೆ ಕುರಿತು

ಹೊಳಲ್ಕೆರೆ ಉಪ ವಿಭಾಗದ ಚಿಕ್ಕಜಾಜೂರು ಶಾಖೆಯ ಹಿರೇಕಂದವಾಡಿ ಗ್ರಾಮದಲ್ಲಿ 3 ಪಿ.ಸಿ.ಸಿ. ಕಂಬಗಳನ್ನು ಶಿಫ್ಟ್ ಮಾಡುವ ಸಲುವಾಗಿ ರಾಜಣ್ಣನವರು ಲೇಬರ್ ಚಾರ್ಜ್ ಕೊಡುತ್ತೇವೆ ನಮಗೆ ಅರ್ಜೆಂಟ್ ಇದೇ ಶಿಫ್ಟ್ ಮಾಡಿಕೊಡಿ ಎಂದು ಶ್ರೀ ಅರುಣ್ ಕುಮಾರ್ ಇವರಿಗೆ ಶಿಫ್ಟ್ ಮಾಡಲು ಲೇಬರ್ ಚಾರ್ಜ್ ಮತ್ತು ಖರ್ಚನ್ನು 2500/-ರೂಗಳನ್ನು ಗುತ್ತಿಗೆದಾರರಿಗೆ ಹೇಳಿ ಮಾಡಿಸಿಕೊಡಿ ಎಂದು ಶ್ರೀ ರಾಜಣ್ಣನವರು ಮಾತನಾಡಿ ಈ ಹಣವನ್ನು ಕೊಟ್ಟಿರುತ್ತಾರೆ. ಆದುದರಿಂದ, ಶ್ರೀ ಅರುಣ್ ಕುಮಾರ್‌ರವರಿಗೆ ಕೊಡಿ ಎಂದು ರಾಜಣ್ಣನವರು

ಹೇಳಿರುತ್ತಾರೆ. ಆದುದರಿಂದ ಅರ್ಜಿಯಲ್ಲಿ ಅರುಣ್ ಕುಮಾರ್ ರವರಿಗೆ ಹೇಳಿ ಕೆಲಸ ಮಾಡಿಸಲು 2500/-ರೂ ಹಣವನ್ನು ಅರುಣ್ ಕುಮಾರ್‌ರವರಿಗೆ ಕೊಡಲು ಕೊಟ್ಟಿರುತ್ತಾರೆ ಎಂದು ಹೇಳಿ ಈ ಹಣವನ್ನು ಲೇಬರ್ ಚಾರ್ಜ್‌ಗೆ ಕೊಟ್ಟಿರುತ್ತಾರೆ.”

34. According to his written explanation, the complainant himself told him that, the work of shifting of electric pole should be taken up urgently and he is ready to pay the labour charges payable to the contractor for such shifting and gave Rs. 2500/- to him/DGO asking him to get the said work of shifting of electric pole done with the help of contractor Sri Arun Kumar. It is the specific contention of the DGO, that complainant voluntarily gave that money to him, towards labour charges requesting him to get the said work of shifting done at an earliest.
35. Though DGO has taken up such a contention in his written explanation Ex-P5, he never bothered to adduce his defence evidence to reiterate his contention, probably in order to avoid answering the questions that may be put to him in his cross examination and hence intentionally stayed back, without examining himself to put forth his defence in this enquiry. Further, though he has taken up such a contention in his written explanation, Ex-P5, no such contention was taken by him in his written statement that, the complainant voluntarily gave that money to him asking him to attend the work of shifting urgently and he received that money from the complainant towards labour charges. Further, it is pertinent to note that, while cross examining the complainant, no such suggestion was put to him/PW1 suggesting him that, he voluntarily gave that money of Rs. 2500/- to the DGO asking him to attend the work of shifting urgently and he/complainant giving that money voluntarily towards labour

charges. The complainant would have been proper person either to admit or deny this defence contention taken by the DGO in his written explanation Ex-P5. But, unfortunately no such suggestion was put to the complainant by the learned counsel for DGO during his cross examination. Omission on the part of the DGO and his counsel to put forth this defence contention by way of suggestion to the complainant during his cross examination and omission on the part of the DGO in examining himself to put forth his defence, reiterating his defence contention taken in Ex-P5, are the factors which strengthens the case of the disciplinary authority and I have no hesitation to place reliance on the evidence of PW1 and PW2 to come to the conclusion that, DGO having demanded Rs. 2500/- from the complainant by way of bribe received the same on the day of trap in order to do an official act of shifting of 3 electric poles as requested by the complainant and other villagers of Hirekandawadi village.

36. On perusing the documents seized during the trap as per Ex-P6, the application for shifting of electric poles was filed by the complainant on behalf of the villagers on 12.4.2010. The receipt for having remitted Rs. 5,607/- towards shifting charges on 27.4.2010 is also there in the seized documents which confirms, the remittance of shifting charges as claimed by the complainant. The Assistant Executive Engineer addressed a letter to the complainant dated 27.4.2010 sending him the copy of the estimate asking him to remit the said amount and accordingly the complainant remitted the said amount under receipt no. 1046, on the same day i.e., on 27.4.2010. The said estimate was prepared by the DGO under his signature which he has forwarded to the Assistant Executive Engineer and these documents seized from the office of the DGO during trap are sufficient to conclude that, the work of shifting of electric poles at

Hirekandawadi village was pending in the office of DGO. As per the estimate prepared by the DGO, the amount for shifting, transport and other charges have been assessed and the amount so quantified at Rs. 5,607/- as per the estimate, has been paid by the complainant on 27.4.2010 itself. It is for the DGO to explain as to why no immediate action was taken for shifting of electric poles and in the absence of any explanation offered by the DGO, it can be concluded that, taking advantage of pendency of work of shifting of electric poles in his section office, DGO has demanded and received Rs. 2500/- by way of bribe from the complainant. Though DGO has taken up a specific defence contention, while giving his written explanation as per Ex-P5, that the complainant voluntarily gave that money to him towards labour charges, he has not produced any supporting evidence to substantiate this contention.

37. The Hon'ble Supreme Court in a decision reported in AIR 1968 Page 1292 (Sri S.N. Bose Vs. State of Bihar) have clarified the legal position as to the nature of evidence, an Accused has to produce to prove the contention taken by him by way of his defence and the relevant portion of the observation reads as follows:

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

38. It is pertinent to note that, the DGO has been charge sheeted before Spl. Court, Chitradurga in Spl. C. No. 4/2011 and DGO faced trial in the said case. The learned Spl. Judge having held detailed trial proceeded to convict the DGO/accused holding him guilty of the offence against him vide judgment dated 27.4.2018. Being aggrieved by the said judgment of conviction passed against him, the DGO has challenged the said judgment by preferring appeal before the Hon'ble High Court of Karnataka which is pending consideration in Cr.A. No. 890/2018. This is also another factor which supports the case of the disciplinary authority.
39. Hence, considering the evidence adduced on behalf of the disciplinary authority both oral and documentary and having regard to the fact of omission on the part of the DGO in adducing any defence evidence in support of his defence contention taken in his written explanation, Ex-P5, I have no hesitation to conclude that, DGO has demanded and received Rs. 2500/- by way of bribe from the complainant in order to do an official act of attending the request of the complainant and other villagers of Hirekandawadi village in shifting 3 electric poles thereby, he is guilty of misconduct. Accordingly, I answer point no.1 in the Affirmative.

**Point No.2:**

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

**CONCLUSION**

i) The Disciplinary Authority has proved the charge as framed against the DGO Sri Liakath Ali Khan, the then In charge Section Officer, BESCO, Chikkajajuru Sub-Division, Holalkere Taluk, Chitradurga

ii) As per the first oral statement, the date of birth of the DGO is 12.3.1957 and he has already retired from service on 31.3.2017.



(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 Rajappa M.S.(complainant) (original)             |
| <b>PW-2</b> | Sri Bomappa (shadow witness) (original)              |
| <b>PW-3</b> | Sri M.N. Rudrappa (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 the complaint                                       |
| <b>Ex.P-2</b>         | Certified copy of the sheet containing slnos of currency notes        |
| <b>Ex.P-3</b>         | Certified copy of the entrustment mahazar                             |
| <b>Ex.P-4 &amp; 8</b> | Xerox copy of the photographs                                         |
| <b>Ex.P-5</b>         | Certified copy of written explanation of DGO                          |
| <b>Ex.P-6</b>         | Certified copy of the records seized by IO                            |
| <b>Ex.P-7</b>         | Certified copy of trap mahazar                                        |
| <b>Ex.P-9</b>         | Xerox copy of rough sketch of scene of occurrence                     |
| <b>Ex.P-10</b>        | Certified copy of sketch of scene of occurrence drawn by PWD Engineer |
| <b>Ex.P-11</b>        | Certified copy of the FIR                                             |
| <b>Ex.P-12</b>        | Certified copy of chemical examiner report                            |

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

Nil

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

Nil



(S. Renuka Prasad)

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

