

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO: LOK/INV(G)/14-A/79/2013/ARE-4

Multi Storied Building,  
Dr. B.R. Ambedkar Veedhi,  
Bengaluru-560 001,  
Date: 06/12/2018

RECOMMENDATION

Sub:- Departmental inquiry against Sri B.S.Jagannath, the then Block Education Officer, Jagaluru Taluk, Davanagere District (Presently working as Senior Lecturter, DIET, Ilakal, Bagalkot District)

Ref:- 1) Government Order No. 56 ದಿವಿ 2011, Bengaluru dated 2/1/2013

2) Nomination order No. LOK/INQ/14-A/79/2013, Bengaluru dated 11/2/2013 of Upalokayukta-1, State of Karnataka, Bengaluru

3) Inquiry Report dated 3/12/2018 of Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru

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The Government by its Order dated 2/1/2013, initiated the disciplinary proceedings against Sri B.S.Jagannath, the then Block Education Officer, Jagaluru, Davanagere District (Presently working as Senior Lecturer, DIET, Ilakal, Bagalkot District) (hereinafter referred to as Delinquent Government Official, for short as '**DGO**) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/79/2013, Bengaluru dated 11/2/2013 nominated Additional Registrar of Enquiries-3, 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. Subsequently, by Order No. LOK/INQ/14-A/2014 dated 14/3/2014, the Additional Registrar of Enquiries 8, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO. Again, by Order No. UPLOK-2/DE/2016 dated 3/8/2016 the Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru was re-nominated as Inquiry officer to conduct departmental inquiry against DGO.

3. The DGO Sri B.S. Jagannath, the then Block Education Officer, Jagalur, Davanagere District (Presently working as Senior Lecturer, DIET, Ilakal, Bagalkot District) was tried for the following charge:-

“That you, Sri B.S. Jagannath (hereinafter referred to as Delinquent Government Official, in short DGO), while working as BEO, Jagalur, Davanagere District demanded and accepted a sum of Rs.2,000/- on 16/07/2010 from complainant Sri H. Jayappa S/o.Hanumanthappa, Teacher, Government Junior Primary School, Chikka Arakere, Jagalur Taluk, Davanagere District for transferring him to any one of the school at Jagalur 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 Rule 3(1)(i) to (iii) of KCS (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 B.S. Jagannath, the then Block Education Officer, Jagalur, Davanagere District (Presently working as Senior Lecturer, DIET, Ilakal, Bagalkot District).


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

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 31/8/2022.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri B.S. Jagannath, it is hereby recommended to the Government for imposing penalty of compulsory retirement from service on DGO Sri B.S. Jagannath, the then Block Education Officer, Jagalur, Davanagere District (Presently working as Senior Lecturer, DIET, Ilakal, Bagalkot District) and also for imposing penalty of permanently withholding 30% of pension payable to DGO Sri B.S. Jagannath.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA)  
Upalokayukta-2, 8/12  
State of Karnataka,  
Bengaluru



**KARNATAKA LOKAYUKTA**

No.LOK/INQ/79/2013/ARE-4

M.S. Building  
Dr.B.R.Ambedkar Road  
Bangalore-560 001  
Date: 03/12/2018

**:: INQUIRY REPORT ::**

**Sub:** Departmental Inquiry against,  
Sri B.S. Jagannath  
The then Block Education Officer  
Jagaluru  
Davanagere District  
(presently working as Senior  
Lecturer, DIET, Ilakal  
Bagalkot District)

**Ref:**

- 1) Report u/s 12(3) of the K.L Act, 1984 in Compt/Uplok/BD/352/2011/DRE-1  
Dated:10/10/2012
- 2) Government Order. No. ED 56  
DGO 2011, Bengaluru dated:  
02/01/2013
- 3) Order No.LOK/INQ/14-A/79/13  
Bangalore dated:11/02/2013  
of the Hon'ble Upalokayukta

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This Departmental Inquiry is directed against Sri B.S. Jagannath, the then Block Education Officer, Jagaluru, Davanagere District, (presently working as Senior Lecturer, DIET, Ilakal, Bagalkot District)(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: 11/02/2013 cited above at reference-3, nominated Additional Registrar of Enquiries-3 of the office of the Karnataka Lokayukta as the Enquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Enquires-3 prepared Articles of Charge, Statement of Imputations of misconduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article of Charges. Copies of same were issued to the DGO calling upon him to appear before this Authority and to submit written statement of his defence.

4. When the matter was pending for enquiry in recording the evidence of the witnesses of Disciplinary Authority, this matter was transferred to Addl. Registrar of Enquiries-8 vide Order No.LOK/INQ/14-A/2014, Bangalore dated: 14/03/2014 of the Hon'ble Uplokayukta Addl. Registrar of Enquirie-8 proceeded with the enquiry in recording the evidence of PW1 to PW3. When the matter pending for recording of evidence of DW1, again transferred to this Addl. Registrar of Enquiries-4 vide O.M. No. Uplok-2/DE/2016 Bengaluru, dated: 03/08/2016 of the Hon'ble Registrar issued with the concurrence of the Hon'ble Upalokayukta. Hence, this enquiry case proceeded by this Addl. Registrar of Enquiries-4 in accordance with law.

5. The Article of Charges framed by ARE-3 against the DGO is as below:

**ANNEXURE NO.I**  
**CHARGE**

*That you, Sri B.S. Jagannath (herein after referred to as Delinquent Government Official, in short DGO), while working as the BEO Jagalur, Davavanagere District demanded and accepted a bribe of Rs. 2,000/- on 16/07/2010 from complainant Sri H. Jayappa s/o Hanumanthappa, Teacher, Government Junior Primary School, Chikka Arakere, Jagalur Taluk, Davanagere District for transferring him to any one of the school at Jagalur 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 Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.*

**ANNEXURE NO.II**  
**STATEMENT OF IMPUTATIONS OF MISCONDUCT**

*The complainant Sri H. Jayappa s/o Hanumanthappa, Teacher, Government Junior Primary School, Chikka Arakere, Jagalur Taluk, Davanagere District filed a complaint on 16/07/2010 before the Police Inspector, Karnataka Lokayukta, Davanagere alleging that he was working as a Teacher in Government Junior Primary School at Chikka Arakere Village he was on medical leave till 05/04/2010 as his leg was fractured in January 2010 and on returning to duty he was facing difficulty to travel every day from his residence at Jagalur to Chikka-Arakere, so on his request made to Sri B.S. Jagannath, the then BEO, Jagalur, Davanagere District, (herein after referred to as Delinquent Government Servant, in short DGO) he was transferred on deputation to Santhepete*

*School at Jagalur on 07/07/2010 after taking Rs. 1,000/- from him. Thereafter on getting relieved from school at Chikka-Arakere on 08/07/2010, when he had been to the school at Santhepete for reporting to duty, the Head master of that school told him that they do not require any teacher. So on 09/07/2010 the complainant approached the DGO and informed about it, then the DGO issued another transfer order for reporting to duty in Government Junior Primary School at Maalammanahalli, there also complainant was told that there are sufficient teachers in that school. Again on 15/07/2010 when complainant approached the DGO for his transfer, DGO put a demand of bribe for Rs.3,000/- and agreed for Rs. 2,000/- on the request made by the complainant and asked him to bring the said bribe amount on 16/07/2010.*

*As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta, Davanagere on 16/07/2010 and lodged a complaint. On the basis of the same a case was registered in Davanagere Lokayukta Police Station in Cr. No. 3/2010 for offences punishable under Sections 7, 13(1)(d) r/w sections, 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 the DGO was trapped on 16/07/2010 by the Investigating Officer after demanding and accepting the bribe amount of Rs. 2,000/- from the complainant in the presence of shadow witness and the said bribe amount which DGO had received from the complainant was seized from his possession under the seizure 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 the DGO, demanded and accepted bribe of Rs. 2,000/- from the complainant on 16/07/2010 for doing an official act i.e., for transferring him to any one of the school at Jagalur. Thus the DGO has failed to maintain absolute integrity and devotion to duty and this act on his part is unbecoming of a Government Servant. Hence, DGO has committed an act which amounted to misconduct as stated under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.*

*In this connection an observation note was sent to the DGO and DGO has submitted his 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 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 the DGO and to submit report. Hence, the charge.*

6. DGO appeared before this Inquiry Authority on 24/04/2013 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.

7. DGO has not filed his written statement. Bu after the completion of the evidence on the side of the Disciplinary Authority he has filed his defence statement as follows:-

The DGO has not accepted any bribe amount from anybody much less from the complainant. The DGO has no power to transfer any of his sub-ordinate including the complainant which fact has been admitted by the complainant in his evidence. The complaint given by the complainant is not voluntary and it is at the instance of the I.O. the complainant had borrowed an amount of Rs. 2,000/- in January 2010 from the DGO for treatment of his broken leg caused due to the accident. The DGO has declared the loan amount of Rs. 2,000/- given to the complainant in his APR for the year 2009-2010. The complainant quarreled with the DGO when he asked him to repay the loan amount and one Sri Mahanthesh, Block Resources Center Co-ordinator and Sri Anandappa, Block Resource person pacified the complainant and at that time the complainant told that he would teach a lesson to the DGO. The charge framed against the DGO is false and unnatural. The entire case is concocted and created and the DGO received the amount of Rs. 2,000/- from the complainant believing it to be the loan amount. But the Lokayukta police have made false allegations that the DGO has received the bribe amount. The DGO has not committed any misconduct as alleged. Hence, he has prayed to exonerate him from the charges leveled against him in this case.

8. 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 P5. After closing the evidence of the Disciplinary Authority, on behalf of the DGO four witnesses have been examined as DW1 to DW4 and got marked documents at Ex.D1 to Ex.D11 and closed their evidence. Thereafter, questioning of this DGO was recorded as required u/Rule 11(18) of KCS (CC&A) Rules, 1957.

9. 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 and the learned counsel for the DGO was heard. The points, that arise for the consideration of this inquiry authority are:-

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

2) What order?

10. My finding on the above points are as follows

Point No.1: In the “**AFFIRMATIVE**”

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

**:: REASONS ::**

**11. Point No.1:** It is the case of the Disciplinary Authority that the DGO while working as BEO, Jagalur, Davanagere District demanded and accepted the bribe amount of Rs. 2,000/- on 16/07/2010 from the complainant Sri H. Jayappa s/o Hanumanthappa, Teacher, Government Junior Primary School, Chikka Arakere, Jagalur Taluk, Davanagere district for transferring him to one of the school at Jagalur that is for doing an official act and thereby committed misconduct.

12. By going through the evidence adduced by both the parties it is not in dispute that at the relevant point of time the DGO was working as BEO of Jagalur taluk and the complainant was working as a teacher in Government Junior Primary School, Chikka Arakere, Jagalur taluk. The complainant was deputed to Santhepete school Jagaluru but he was not able to join that school and he was deputed to Malammanahalli school and that school also refused to take him. It is also not in dispute that the tainted currency notes of Rs.2,000/- was recovered from the DGO and his hand wash and shirt wash was positive. But it is the contention of the DGO that the amount of Rs. 2,000/- received by him from the complainant on 16/07/2010 is not the bribe amount and it was the loan amount which he had given to the complainant.

13. Complainant has been examined as PW2 and the copy of the complaint lodged by him in Lokayukta police station is at Ex.P3. The gist of Ex.P3 is to the effect that in January 2010 he sustained fracture of his leg and hence it was difficult for him to attend his school in Chikka Arakere, from Jagalur town and on 6/07/2010 he met the DGO and requested for deputing him to any school in Jagaluru. On 07/07/2010 the DGO received Rs. 1,000/- from him and made the deputation order to Santhepete school of Jagaluru and on 08/07/2010 the DGO got relieved from Chikka Arakere and on 09/07/2010 he went to Santhepete school for reporting to the duty and the head master of the said school told that there is no necessity of any additional teacher to the said school and sent him back. On 09/07/2010 PW2 again met the DGO and told the matter and the DGO gave the deputation order to

Malammanahalli school and on 09/07/2010 itself when PW2 went to the above said school the Head Master of the school was not available and hence on 10/07/2010 he went to the Malammanahalli school and the Head Master and SDMC and villagers told him that in their school there are only 43 students and there are already two teachers and two teachers are sufficient and send him back. On 11/07/2010 it was Sunday and on 12/07/2010 he took the treatment for his leg, on 13/07/2010, he went to BEO office and BEO was not present and he gave an application for deputation in the BEO office and on 14/07/2010 also the BEO was not in the office and in view of the DGO giving the deputation order to the above said two schools by receiving bribe amount apprehending that the DGO may demand nor bribe amount to give deputation order again. On 14/07/2010 at 4 p.m. he met the Lokayukta police inspector and informed the matter and the Lokayukta Inspector told him to meet the DGO again and request for his work on 15/07/2010 and on that day he will also sent the police constable with him and gave a voice-recorder to record the conversation. On 15/07/2010 at 4.20 p.m. the DGO came to the office and he met the DGO and requested for deputation and the DGO demanded Rs. 3,000/- as bribe amount and when PW2 told that he will give Rs. 2,000/- and DGO agreed and asked him to come on 16/07/2010 and the conversation has been recorded. The complaint has been lodged on 16/07/2010 at 9.15 p.m. as per the shara made in Ex.P3.

14. PW2 has reiterated all the above said averments mentioned in Ex.P3 in his deposition. PW2 has deposed that

he met with an accident on 23/01/2010 and his leg was broken and he was on leave and reported for duty on 05/04/2010. He has deposed that he requested the DGO for deputation to Jagaluru and he was given deputation to Santhepete school in Jagaluru. He has deposed that he got relieved from GLPS of Chikka Arakere and went Jagaluru Santhepete school. But the Head Master of the said school told him that there is no vacancy and he reported the matter to the DGO and DGO issued fresh order posting him to GLPS Malammanahalli. He has deposed that when he went to the said school he was told that there is no vacancy in that school also. He reported the same to the DGO and told the DGO that there is vacancy in Urdu School at Jagaluru and DGO demanded the bribe of Rs.3,000/- and when pleaded his inability the DGO agreed to receive Rs. 2,000/-. He has deposed that as he was not willing to pay the bribe amount he went to the Lokayukta police station at Davanagere and reported the matter and Lokayukta inspector gave him a digital voice-recorder and asked him to record the conversation and also sent his staff by name Sri Veerabhadrappa. He has deposed that DGO was on leave and after DGO came to duty he met the DGO in his office and told him that he is ready to give Rs. 2,000/-and recorded the conversation with the DGO. He has deposed that the copy of the complaint lodged by him is at Ex.P3 and the voice-recorder was also played and the conversation recorded in the same was heard.

15. PW2 has deposed that the Police Inspector secured two panchas by name Sri Ravi and Sri Jagadeesh and he produced

the amount of Rs. 2,000/- consisting of four currency notes of the denomination of Rs. 500 (Rs.500x4). He has deposed that the pancha witness noted down the numbers of the currency notes in a separate sheet and the phenolphthalein powder was applied by the staff to the notes and those notes were kept in his shirt pocket through one of the panch witness and afterwards the hands of that pancha witness when washed in the solution that solution turned to pink colour and it was seized. He has deposed that he was given the voice-recorder, with instructions to record the conversation when he meets the DGO. He has deposed that entrustment mahazar was drawn in the police station and copy of the same is at Ex.P1.

16. He has further deposed that after the entrustment mahazar himself, panchas, police inspector and his staff left the station in two vehicles and went to Jagaluru and parked the vehicles near the office of the DGO. He has deposed that himself and the pancha witness Sri Jagadeesh went inside the office of the DGO and thereafter he went alone inside the chamber of the DGO and Sri Jagadeesh was standing outside. He has deposed that he met the DGO and enquired about his deputation and the DGO asked him by signs whether he has brought the money and he gave the tainted currency notes to the DGO and the DGO received the same from his right hand and kept the same in his left side shirt pocket using his left hand. He has deposed that afterwards he gave the signal and Police Inspector came to the chamber of the DGO with his staff and he identified the DGO to the police inspector. He has deposed that he told the Inspector that the DGO received the amount and kept the same in his shirt pocket and the hand

wash of the DGO was positive. He has deposed that the DGO himself produced the bribe amount from his shirt pocket and the panchas verified the same and those notes were the same notes mentioned in the entrustment mahazar. He has deposed that the shirt pocket of the DGO was washed in the solution and that solution also turned to light pink colour. He has deposed that the trap panchanama was drawn and the copy of the same is at Ex.P2

17. PW2 has been cross-examined at length. He has deposed that Ex.D1 is the copy of the application which was given by him for deputing him to the school in Jagaluru. In Ex.D1 there is mention about his deputation to Santhepete and Malammanahalli school. But there was no vacancy in those schools and hence he has prayed for transfer to any other school at Jagaluru. The later portion of Ex.D1 is not clearly visible. As stated above the DGO admits about receiving the amount of Rs. 2,000/- (tainted currency notes) from PW2. But it is his contention that it was the loan amount and not the bribe amount and the burden lies on the DGO to prove his defence stated above.

18. PW2 in his cross-examination has denied the suggestion of the learned counsel for the DGO to the effect that as he was in need of money for his treatment and he borrowed the loan of Rs. 2,000/- from the DGO in the month of February or March 2010 and that the DGO was asking him to return the amount. He has also denied the suggestion of the learned counsel for the DGO to the effect that in that respect there was quarrel between himself and the DGO on 12/07/2010



and Sri Mahanthes and Sri Anandappa pacified them. He has deposed that when he has not at all taken any loan amount from the DGO the question of DGO asking him to return the loan amount does not arise at all. Thus PW2 denies the above said contention of the DGO that he had lent an amount of Rs. 2,000/- to the PW2 and the amount which he received on 16/07/2010 in his office from PW2 is the loan amount and not the bribe amount. It is also pertinent to note that office premises should not be used for personal transactions which fact also goes against the above said defence of the DGO.

19. PW2 has deposed that the DGO had no power to transfer any official and on that ground only the case of the disciplinary authority cannot be rejected as PW2 had prayed for deputation only and not for transfer. It is not the case of the DGO that he had no power for deputing any teacher <sup>from</sup> ~~for~~ one school to another school temporarily within Jagalur taluk. In his cross-examination the copies of the photographs taken at the time of the trap mahazar have been marked as Ex.D3 to D10. PW2 admits that he is not seen in any of the above said photographs. But on that ground only the case of the disciplinary authority cannot be discarded. The above said photographs are regarding the hand wash and shirt wash of the DGO and only on the above said ground the case of the disciplinary authority cannot be doubted. It is also pertinent to note that the DGO himself admits that he had received the amount from the complainant and that amount was seized from him. Nothing is made out in his cross-examination to discard the evidence of PW2 and as per the evidence of PW2

no ground is made out as to why he has deposed falsely against the DGO in case the DGO had not demanded and accepted the bribe amount of Rs. 2,000/- .

20. PW1 is the shadow witness by name Sri H.N. Jagadeesh and he has deposed that in the year 2010 he was working as SDA in the office of KGID at Davanagere. He has deposed that on 16/07/2010 as per the directions of his higher officer he had been to the Lokayukta police station at Davanagere and in the police station the police inspector another pancha witness Sri Ravi and the complainant were present and he was introduced to the complainant and the complaint was also read over to the panchas. He has deposed that the complainant produced the amount of Rs. 2,000/- consisting of four currency notes of Rs. 500/- denomination. He has deposed about all other averments mentioned in the entrustment mahazar the copy of which is at Ex.P1. He has deposed that the conversation which was recorded in the tape-recorder was played and that conversation was copied to C.D. through computer. He has deposed that after the entrustment mahazar himself, Sri Ravi, complainant, police inspector and his staff left the Lokayukta police station and went to Jagalur and the vehicle was parked at a little distance from the office of the DGO and himself and the complainant were sent inside that office. He has deposed that himself and PW2 went to the office of the BEO and he stood by the side of the compound wall. He has deposed that the complainant went inside the room of the DGO and he was able to see the complainant and the DGO through the southern side window. He has deposed that he was not able to hear the conversation between the

complainant and DGO and he saw BEO asking the complainant for the amount by signs and the complainant (PW2) gave the tainted currency notes to the DGO and DGO received it from his right hand and kept the same in his shirt pocket with his left hand. He has deposed that afterwards the complainant came out and gave the signal and immediately the police inspector, his staff and another pancha witness Sri Ravi came there. He has deposed that all of them went inside the room of the DGO and police inspector introduced himself to the DGO and the hands of DGO were washed in the solution separately and the solutions turned to pink colour. He has deposed that when the Police Inspector asked the DGO to produce the bribe amount the DGO removed the amount from his shirt pocket and kept it on the table and himself and Sri Ravi verified those notes and those notes tallied with the currency notes mentioned in the mahazar. He has deposed that even the shirt wash of the DGO was positive (pocket portion). He has deposed that the trap mahazar was drawn and copy of the same is at Ex.P2.

21. In his cross-examination PW1 has deposed that the southern window of the room of the DGO was not covered with any curtain. Even in his cross-examination he has deposed that even though he had not gone inside the chamber of the DGO he was able to see both the DGO and the complainant through the southern window of that room. As stated above he has also deposed about the DGO asking for the same by way of signs and PW2 giving the tainted currency notes and the DGO receiving the same and keeping the same in his shirt

pocket. Nothing is made out in his cross-examination to discard his evidence.

22. PW3 is the Police Inspector and he has deposed that he has worked as Police Inspector, in Karnataka Lokayukta police station, Davanagere from 25/12/2007 to 05/07/2011. He has deposed that on 14/07/2010 at 4 p.m. PW2 came to the police station and reported that the DGO working as the BEO is demanding bribe for giving posting order. He has deposed that he instructed PW2 to go to the office of the DGO on the next day and that he will sent his staff Sri Veerabhadrappa with voice-recorder to record the conversation. He has deposed that on the next day he sent Sri Veerabhadrappa near the BEO Office with voice-recorder to give the same to PW2. He has deposed that at 4.30 PW2 contacted him through mobile phone and told him that he had recorded the conversation with DGO and he asked him to come on the next day. He has deposed that on 16/07/2010 at 9 a.m. PW2 came to the police station and gave the written complaint and returned the voice-recorder. He has deposed that he registered the case and submitted the FIR to the court. He has deposed about securing two panchas and the complainant producing the amount of Rs. 2,000/- and all other details mentioned in the entrustment mahazar. He has also deposed that the voice-recorder was played and the conversation recorded in the same was copied to C.D. He has deposed about all the averments made in the entrustment mahazar the copy of which is at Ex.P1.

23. PW3 has further deposed that after the entrustment mahazar they left the Lokayukta police station and went to Jagaluru in the office jeep and the vehicle was stopped near the office of the BEO and PW2 and PW1 were sent inside that office by reminding them of the instructions that was given to them mentioned in Ex.P1. He has deposed that at 1.40 p.m. PW2 gave the signal and himself, his staff and another pancha went inside the office of the DGO and PW2 identified the DGO and told that the DGO asked for the bribe amount and received the same. He has deposed about the hand wash and shirt wash of the DGO being positive. He has deposed that the DGO himself produced the tainted currency notes from his shirt pocket and he seized the same. He has deposed that the DGO gave his explanation in his hand writing and copy of the same is at Ex.P4. In Ex.P4 it is mentioned that PW2 had taken hand loan of Rs. 2,000/- for his treatment from him and he returned the same and it is not the bribe amount. PW3 has deposed that PW1 and PW2 denied the above said explanation given by DGO as false. He has deposed that the FSL report copy is at Ex.P5.

24. DW1 is one Sri S. Anandappa. DW2 is Sri Mahanthesh B.M. and both of them have deposed that they were working in Education Department Resource Centre, situated by the side of the BEO office. They have deposed that in the month of July 2010 they heard the sound of galata in the evening in the chamber of the DGO and they went there and saw PW2 and DGO verbally quarrelling and DGO was demanding for repayment of Rs. 2,000/- given by him. DW2 has deposed the date of quarrel as 12/07/2010.

25. DW1 and DW2 have deposed that in the year 2010 they were working in BEO office Jagalur under the DGO. They also admits that the office of the BEO should not be used for personal matters. It is pertinent to note that as the DGO was their higher officer DW1 and DW2 giving evidence in support of the above said case of the DGO to help the DGO cannot be ruled out. As stated above even the DGO was the higher officer of PW2 and PW2 has clearly denied the above said contention of the DGO mentioned in Ex.P4. He has also denied the suggestion of the learned counsel for the DGO to the effect that on 12/07/2010 there was galata between himself and the DGO and that DW1 and DW2 pacified them. It is pertinent to note that as on 12/07/2010 PW2 had been relieved from GLPS of Chikka Arakere and he was not able to join Santhepete school or Malammanahalli school and it is hard to believe that PW2 who wanted his deputation to Urdu School, Jagalur from the DGO will quarrel with the DGO on 12/07/2010 as deposed by DW1 and DW2.

26. DW3 is one Sri R. Manjappa, has deposed that he knows both the DGO and PW2 and on 10/01/2010 the DGO approached him and requested him for an amount of Rs. 2,000/- urgently and he gave the amount of Rs. 2,000/- and on the same day at 5.30 p.m. DGO returned the amount of Rs. 2,000/- and at that time he came to know that the DGO had taken Rs. 2,000/- from him to give the same to PW2 for his treatment. It is pertinent to note that in case the DGO had no money with him when PW2 asked for the same and he could have directed PW2 to approach DW3 and to take the loan

instead of DGO approaching DW3 and getting the amount of Rs. 2,000/- from him and giving the same to PW2.

27. DW4 is one Sri T.N. Kamalakar, who is working in the Commissioner office, Bangalore. He has deposed that Ex.D4 is the copy of the assets and liabilities of the DGO for the year 2009-2010. Ex.D11 discloses that it is the assets and liabilities statement of the DGO for the year 2009-2010 (as on 31/03/2010). In the same the date on which the assets and liabilities statement was submitted by the DGO is not at all mentioned. Hence there is every possibility of the DGO giving his assets and liabilities statement for the above said year after the incident of this case and obtaining the copy of the same. No doubt in Ex.D11 it is mentioned that Rs. 2,000/- loan has been given to PW2 in January 2010. But for the above said reasons the same cannot be given much weight. It is also pertinent to note that in the cross-examination of PW2 it is suggested that in the month of February <sup>or</sup> ~~and~~ March 2010 PW2 had taken the loan of Rs. 2,000/- from the DGO. But in Ex.D11 it is stated that the loan has been given in the month of January 2010 and no specific date is mentioned in the same. Even in the cross-examination of PW2 the specific date of lending the amount is not suggested. Thus even the month of lending mentioned in Ex.D11 is contrary to the suggestion made to PW2 as stated above.

28. It is also pertinent to note that DGO gave deputation order to Santhepete and PW2 got relieved from the school where he was working and went to Santhepete school on 09/07/2010 and he was not allowed to joint that school,

which is not in dispute that afterwards the DGO gave the deputation order to Maalammanahalli, school and PW2 was also not allowed to join that school. At the time of lodging the complaint namely on 16/07/2010, PW2 was not able to join any school even though he had been relieved from the school where he working (Chikka Arakere school). The said facts only supports the contention of the complainant that for posting him to some other school in Jagaluru the DGO had demanded and accepted the illegal gratification of Rs. 2,000/- from PW2 and it was not the loan amount that was given by the DGO to PW1 as contended by the DGO. The facts and circumstances of this case stated above only probablises the case of the disciplinary authority and not the contention of the DGO stated above.

29. The learned counsel for the DGO has filed the certified copy of the judgment passed in Special (Lokayukta) Case No. 04/2011 dated: 28/03/2017 to show that in the criminal case filed against him by the Lokayukta police he has been acquitted. No doubt in the criminal case the DGO has been acquitted. But this enquiry has to be decided on the basis of the evidence adduced by the parties in this enquiry.

30. It is pertinent to note that only on the ground that the DGO has been acquitted in the criminal case it cannot be held that, the disciplinary authority has not proved its case in this departmental inquiry. It is well established principle of law that, in the criminal case the prosecution has to prove its case beyond all reasonable doubt. Where as in the departmental inquiry the evidence has to be scrutinised on the basis of the



preponderance of probabilities. In the decision reported in 1997(2) SCC 699 in case of Depot Manager, APSRTC V/S Mohammed Yosuf Miya and others, (2005)7 SCC 764 between Ajit Kumar Nag v/s General manager (P) Indian Oil Corporation Limited, Haldia and others and recent decision of Hon'ble Supreme Court in (2012)13 Supreme Court Cases 142 in a case of Avinash Sadashiv Bhosale (dead) V/S Union of India and others made out very clear that, the purpose of departmental inquiry and the prosecution are too different and distinct aspect though the two proceedings relates to the same set of facts. The nature of evidence in criminal case is entirely different from the departmental proceedings and in the criminal case the prosecution is required to prove the guilt of the accused beyond all reasonable doubt on the touch-stone of human conduct and where as the evidence required in a departmental inquiry is not regulated by the Evidence Act. Therefore, misconduct of the DGO required to be taken into consideration on the basis of preponderance of probabilities and merely the DGO has been acquitted in the criminal case by the judgment in Special Case No.04/2011 by the Principal Sessions Judge, Davanagere, by itself is not sufficient to overlook the evidence placed on record by the Disciplinary Authority in this inquiry. The facts and circumstances of the case probablises the case of the Disciplinary Authority and not the defence of the DGO.

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

Government Servant. Hence, I answer this point in the **AFFIRMATIVE.**

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

**:: ORDER ::**

*The Disciplinary Authority has satisfactorily proved the charge in this case that, DGO- Sri B.S. Jagannath, the then Block Education Officer, Jagalur, Davanagere District, (presently working as Senior Lecturer, DIET, Ilakal, Bagalkot District) and thereby committed mis-conduct as enumerated U/R 3(1) (i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.*

33. Hence this report is submitted to Hon'ble Upalokayukta-2 for kind perusal and for further action in the matter.

Dated this the 3<sup>rd</sup> day of December, 2018

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

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

- PW-1 : Sri H.N. Jagadeesh (shadow panch witness)  
PW-2 : Sri H. Jayappa (complainant)  
PW-3:Sri Sudhir M. Hegde (I.O.)

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

- DW-1:Sri S. Anandappa (witness)  
DW-2:Sri Mahanthesh B.M. (witness)  
DW-3:Sri R. Manjappa (witness)  
DW-4:Sri T.N. Kamalakar (witness)

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

- Ex.P-1: Entrustment Mahazar  
Ex.P-2: Trap Mahazar  
Ex.P-3: Complaint  
Ex.P-4: Explanation of DGO  
Ex.P-5: FSL report

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

- Ex.D1:-Certified copy of the letter of Jayappa addressed to  
BEO, Public Education Department, Jagaluru  
Ex.D2:-Certified copy of the letter of the villagers addressed to  
the BEO, Jagaluru dated; 10/07/2010  
Ex.D3 to D10: Xerox copies of the photos on the white sheet  
Ex.D11:-Xerox copy of the assets and liabilities of the DGO for  
the year 2009-2010

Dated this the 3<sup>rd</sup> day of December, 2018

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

