

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. UPLOK-1/DE/116/2016/ARE-14

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date:18/10/2019

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Sri S.M. Rafeeq, Chief Officer (Basically Office Manager), Town Municipal Council, Bhatkal, Uttara Kannada District.
- 2) Smt. Kavitha, Accountant, Town Municipal Council, Bhatkal, Uttara Kannada District.

Ref:-1) Government Order No.ನಅಇ 25 ಡಿಎಂಕೆ 2016 Bengaluru dated 13/04/2016 and its Corrigendum dated 09/06/2016.

- 2) Nomination order No.UPLOK-1/DE/116/2016 Bengaluru dated 28/04/2016 of Upalokayukta-1, State of Karnataka, Bengaluru.
- 3) Inquiry Report dated 16/10/2019 of Additional Registrar of Enquiries-14, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 13/04/2016 read with its Corrigendum dated 09/06/2016 initiated the disciplinary proceedings against (1) Sri S.M. Rafeeq, Chief Officer (Basically Office Manager), Town Municipal Council, Bhatkal, Uttara Kannada District and (2) Smt. Kavitha, Accountant, Town Municipal Council, Bhatkal, Uttara Kannada District (hereinafter referred to as Delinquent Government Official's 1 and 2 for short as 'DGO-1 and DGO-2 respectively') and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/116/2016 dated 28/04/2016 nominated Additional Registrar of Enquiries-7, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 & 2 for the alleged charge of misconduct, said to have been committed by them. Subsequently by Order No. UPLOK-1&2/DE/Transfers/2018, dated 06/08/2018, Additional Registrar of Enquiries-14 was re-nominated as Inquiry Officer to conduct Departmental inquiry against DGOs 1 and 2.

3. The DGO-1 Sri S.M. Rafeeq, Chief Officer (Basically Office Manager), Town Municipal Council, Bhatkal, Uttara Kannada District and DGO-2 Smt. Kavitha, Accountant, Town Municipal Council, Bhatkal, Uttara Kannada District were tried for the following charge:-

That you-DGO No.1) Sri.S.M. Rafeeq, Chief Officer (originally designated as Office Manager), TMC, Bhatkal, Uttara Kannada District and 2) Smt. Kavitha, Accountant, TMC, Bhatkal, Uttara Kannada District while discharging your duties:

a) The Education qualification of the workers to be supplied by the bidder was prescribed in condition No.8 of the tender publication dated 25/11/2013. But the tender was accepted even though the bidder had not furnished the education qualification of the workers proposed to be supplied to work and the bid offered by Sri. Govinda Nayaka was accepted disregarding non-furnishing the education qualification of the workers.

b) You-DGO Nos.1 and 2 have made payment of Rs.28,74,372/- to Sri. Govinda Nayaka - Contractor through cheque deducting only an amount of Rs.14,280/- towards income tax as against Rs.28,744/- and thereby caused loss of Rs.14,464/- to the Government.

and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants 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-14) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO-1 Sri S.M. Rafeeq, Chief Officer (originally designated as Office Manager), Town Municipal Council, Bhatkal, Uttara Kannada District and DGO-2 Smt. Kavitha, Accountant, Town Municipal Council, Bhatkal, Uttara Kannada 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-1 and DGO-2;

i) DGO-1 Sri S.M. Rafeeq has retired from service on 30/04/2016.


ii) DGO-2 Smt. Kavitha is due to retire from service on 31/05/2051.

7. Having regard to the nature of charge proved against DGO-1 Sri S.M. Rafeeq and DGO-2 Smt. Kavitha;

- i) it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO-1 Sri S.M. Rafeeq, Chief Officer (Basically Office Manager), Town Municipal Council, Bhatkal, Uttara Kannada District for a period of 10 years and also for recovering a sum of ₹7,232/- from the pension payable to DGO-1 Sri S.M. Rafeeq;
- ii) it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO-2 Smt. Kavitha, Accountant, Town Municipal Council, Bhatkal, Uttara Kannada District with cumulative effect and also for recovering a sum of ₹7,232/- from the salary and allowances payable to DGO-2 Smt.Kavitha.

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

Connected records are enclosed herewith.


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

18/60

KARNATAKA LOKAYUKTA

No. UPLOK-1/DE/116/2016/ARE-14

M.S.Building
Dr.B.R. Ambedkar Road
Bangalore-560 001
Date: 16/10/2019**ENQUIRY REPORT****Present :** Smt. K.Bhagya, Additional
Registrar of Enquiries-14
Karnataka Lokayukta
Bangalore.**Sub:** Departmental Enquiry against 1. Sri.S.M.Rafeeq, Chief
Officer(originally designated as Office Manager). TMC,
Bhatkal, Uttara Kannada District and 2. Smt. Kavitha,
Accountant, TMC, Bhatkal, Uttara Kannada District-reg.**Ref:** 1. Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/BGM-7629/2015/ARE-6,
Dtd.,19.2.2016.2. Government Order No.ನೃೃೃ 25 ಡಿವಂಕೆ 2016,
ಬೆಂಗಳೂರು, ದಿ:13.4.2016 Corrigendem Dt:9.6.2016.3. Nomination Order No.Uplok-1/DE/116/2016,
Bangalore, dtd:28.4.2016 of Hon'ble Upalokayukta.4. Note No.Uplok-1&2/DE/Transfers/2018
Dt: 6.8.2018

* * * *

The complainant by name Sri. Anilkumar Jettappa Naik, Durga Parameshwari Road, Mundalli Village & Post. Bhatkal Taluk, Uttara Kannada District has filed the complaint against 1. Sri.S.M.Rafeeq, Chief Officer (originally designated as Office Manager). TMC, Bhatkal, Uttara Kannada



District and 2. Smt. Kavitha, Accountant, TMC, Bhatkal, Uttara Kannada District alleging misconduct.

2. After completion of the investigation, a report was sent to the Government u/s 12(3) of the Karnataka Lokayukta Act as per reference No.1. In pursuance of the report the Government of Karnataka was pleased to issue the G.O. Dtd., 13.4.2016 and corrigendum Dt: 9.6.2016 authorizing the Hon'ble Upalokayukta to hold enquiry as per reference No.2. In pursuance of the G.O., the nomination was issued by the Hon'ble Upalokayukta-1 on 28.4.2016 authorizing ARE-7 to hold enquiry and to report as per reference No. 3 and this file is transferred from ARE-7 to ARE-14 as per reference No.4.

3. On the basis of the nomination, the Articles of Charge against 1. Sri.S.M.Rafeeq, Chief Officer (originally designated as Office Manager). TMC, Bhatkal, Uttara Kannada District and 2. Smt. Kavitha, Accountant, TMC, Bhatkal, Uttara Kannada District framed by the then Additional Registrar of Enquiries-7 which includes Articles of Charge at Annexure-I and Statement of Imputation of Misconduct at Annexure No.II are the following and the same was sent to 1. Sri.S.M.Rafeeq, Chief Officer (originally designated as Office Manager). TMC, Bhatkal, Uttara Kannada District and 2. Smt. Kavitha, Accountant, TMC, Bhatkal, Uttara Kannada District on 5.7.2016.

ANNEXURE-I
CHARGE:

4. While you DGO No.1 Sri. Sri.S.M.Rafeeq, Chief Officer (originally designated as Office Manager). TMC, Bhatkal, Uttara Kannada District and 2) Smt. Kavitha, Accountant, TMC, Bhatkal, Uttara Kannada District while discharging your duties:



a. The Education qualification of the workers to be supplied by the bidder was prescribed in condition No. 8 of the tender publication dated 25.11.2013. But the tender was accepted even though the bidder had not furnished the education qualification of the workers proposed to be supplied to work and the bid offered by Sri. Govinda Nayaka was accepted disregarding non-furnishing the education qualification of the workers.

b. You-DGO Nos.1 and 2 have made payment of Rs.28,74,372/- to Sri. Govinda Nayaka – Contractor through cheque deducting only an amount of Rs.14,280/- towards income tax as against Rs.28,744/- and thereby caused loss of Rs.14,464/- to the government.

and therefore, you DGO 1 and 2 have failed to perform your official duty properly and did not maintain absolute integrity and devotion to duty and committed an act which is unbecoming of Government Servants and therefore you DGOs 1 and 2 are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT

5. An investigation was taken up under section 9 of Karnataka Lokayukta Act 1984, on the complaint filed by Sri. Anilkumar Jetteppa Naik – Durga Parameshwari Road, Mundalli Villge and Post. Bhatkal Taluk, Uttara Kannada District(hereinafter referred to as complainant for short against 1 Sri. Sri.S.M.Rafeeq, Chief Officer (originally designated as Office Manager). TMC, Bhatkal, Uttara Kannada District and 2) Smt. Kavitha, Accountant,

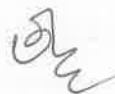


TMC, Bhatkal, Uttara Kannada District (herein after referred to as Delinquent Government Officials, in Short "DGO No.1 & 2) alleging that they being Government Servants, have committed misconduct.

6. **According to the Complainant:** Chief Officer and Junior Engineer of Bhatkal TMC have misused their powers and appointed the Supervisors and works without following the prescribed conditions of Education qualification under in UGD work and have given tender to Vishwasi Security Services though they do not have the VAT registration and they have paid less EPF amount for workers and created bills by using the names of workers.

7. Thereafter, the complaint was referred to the Chief Engineer, TAC in Karnataka Lokayukta i.e., our institution for investigation and report. Sri. H.R.Narayanarao, Audit Officer-II, TAC, KLA, Bangalore (who will be hereinafter referred to as I.O. for short). After investigation, the I.O. submitted his report and stated that, the bid offered by Sri. Govinda Nayaka was accepted though education qualification of workers was not furnished though minimum qualification of workers to be supplied was prescribed and while making payment an amount of Rs. 14,280/- only was deducted as against Rs.28,744/- towards income tax for the payment of Rs.28,74,372/- and DGO No.1 and 2 are responsible for the misconduct.

8. Thereafter comments/objections have been called for from the DGOs on the said report and they have submitted their reply.



9. Consideration of material on record shows that:

- a. The Education qualification of the workers to be supplied by the bidder was prescribed in condition No.8 of the tender publication dated 25.11.2013. But, the tender was accepted even though the bidder had not furnished the education qualification of the workers proposed to be supplied to work and the bid offered by Sri. Govinda Nayak was accepted disregarding non-furnishing the education qualification of the workers.
- b. The DGO Nos.1 and 2 have made payment of Rs.28,74,372/- to Sri. Govinda Nayak -Contractor through cheque deducting only an amount of Rs.14,280/- towards income tax as against Rs.28,744/- and thereby caused loss of Rs.14,464/- to the government.

10. In view of the facts stated above and on considering the material on record, comments of the DGOs have not been found satisfactory to drop the proceedings.

11. Said facts supported by the material on record show that the DGOs, being public servants, have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Government servants, and thereby committed misconduct and made themselves liable for disciplinary action.

12. Since said facts and material on record prima facie show that the DGOs have committed misconduct under Rule 3(1) of the KCS Conduct Rules, 1966, recommendation is made under Section 12(3) of the Karnataka Lokayukta Act, to the Competent Authority to initiate disciplinary proceedings against the DGOs and to entrust the inquiry to this Institution under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.



13. 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 Nos.1 and 2 and to submit report.

14. The said Articles of Charge served on the DGO No. 1 and 2, and the DGOs appeared before this authority on 16.8.2016 and their First Oral Statement under Rule 11(9) of the KCS(CCA) Rules, 1957 was recorded. The DGOs had denied the charges.

15. The DGO., No. 1 and 2 had filed their written statement. The DGO No.1 had contended that, the appointment of the alleged Supervisors or workers is not made by him. But, had been done by the Dy. Commissioner of Uttara Kannada District after considering the tender conditions. Further, the investigation by the Lokayukta Audit Officer has disclosed that, all the allegations of VAT registration or paying less EPF etc., are not substantiated. Regarding the first charge, there was compliance to the said condition No. 8 of the published tender notification. Regarding the second charge, the total income tax of Rs. 28,744/- has been recovered from Sri. Govinda Nayak – the contractor and credited to the concerned Government Authority.

16. The DGO No. 2 had contended that, she has been appointed as Accounting Consultant in TMC, Bhatkal as per the order of the Dy. Commissioner in O.M. dated:5.10.2012 on contract basis and have reported at Bhatkal TMC before DGO No.1 on 10.10.2012. She had also contended that, an income tax amount of Rs. 28,744/- has been recovered and the necessary TDS Annexure also furnished.

17. Hence, DGO No.1 and 2 have prayed to exonerate them from the present proceedings.



18. The Disciplinary Authority has examined the complainant as PW-1 and the I.O. as PW-2, Ex.P1 to P9 got marked. The DGO No.1 and 2 got examined as DW1 and DW2 and Ex.D1 to D4 got marked on behalf of DGOs.

19. The points that arise for my consideration are:

Point No.1 : Whether the charges framed against the DGO No. 1 and 2 are proved by the Disciplinary Authority?

Point No.2 : What order?

20. Heard, perused the entire case record and the written brief filed by the learned Defence Assistant.

21. My answer to the above points is as hereunder:

Point No. 1 : In the Affirmative

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

REASONS

22. **Point No.1:** The Complainant by name Sri. Sri. Anilkumar Jettappa Naik, Durga Parameshwari Road, Mundalli Village & Post. Bhatkal Taluk, Uttara Kannada District has filed the complaint against 1. Sri.S.M.Rafeeq, Chief Officer(originally designated as Office Manager). TMC, Bhatkal, Uttara Kannada District and Junior Engineer of TMC, Bhatkal U.K.District, alleging misconduct and dereliction of duty.

23. The allegation of the complainant is that, the Chief Officer and Junior Engineer of Bhatkal TMC have misused their powers and appointed the



Supervisors and Workers without following the prescribed conditions of Education qualification under in UGD work and they gave tender to Viswasi Security Services, though, they do not have the VAT registration and they have paid the less EPF amount for workers and created the bills by using the names of workers and there by misappropriated the amount.

24. **In the complainant, the complaint was made against the Chief Officer as well as the Junior Engineer Venkatesh Navuda.** But, after investigation by this institution, the investigation report revealed that, the bid offered by Sri. Govinda Naik was accepted though education qualification of workers was not furnished, though minimum qualification of workers to be supplied was prescribed and while making payment of Rs.28,74372/- to Sri. Govinda naika, the Contractor, through cheque only deducted an amount of Rs.14,280/- towards Income Tax as against Rs. 28,744/- and thereby caused loss of Rs.14,464/- to the Government. **So, on the basis of the investigation report, a report under Sec. 12(3) of Karnataka Lokayukta Act, 1984 was sent against the present DGOs i.e., S.M. Rafeeq, Chief Officer, TMC, Bhatkal and Smt. Kavitha, Accountant, TMC, Bhatkal, Uttarakannada District.**

25. The Defence of the DGO No.1 is that, the appointment of the alleged Supervisors or workers is not made by him. But, had been done by the Dy. Commissioner of Uttara Kannada District after considering the tender conditions. Further, the investigation by the Lokayukta Audit Officer has disclosed that, all the allegations of VAT registration or paying less EPF etc., are not substantiated. Regarding the first charge, there was compliance to the said condition No. 8 of the published tender notification. Regarding the second charge, the total income tax of Rs. 28,744/- has been recovered from Sri. Govinda Nayaka – The contractor and credited to the concerned Government Authority.



26. The Defence of the DGO No.2 is that, she has been appointed as Accounting Consultant in TMC, Bhatkal as per the order of the Dy. Commissioner in O.M. dated:5.10.2012 on contract basis and have reported at Bhatkal TMC before DGO No.1 on 10.10.2012. She had also contended that, an income tax amount of Rs. 28,744/- has been recovered and the necessary TDS Annexure also furnished.

27. Here, the complainant by name, Anil Kumar Naik got examined as PW1. he had deposed before this authority in his chief examination saying that, in the year 2015 the underground drainage work was given to viswas Security Services on tender. But, the Viswas Security Services has given the employment for non-qualified persons. Without obtaining VAT certificate, tender was given to the said viswas Security Services. The DGO No. 1 and 2 Venkatesh Navada and Govinda Naik are responsible officers for these discrepancies. Hence, he had lodged this complaint against them.

28. The said complaint is got marked as Ex.P1 and form No. I and II are got marked as Ex.P2 and P3 respectively and the details of bill furnished along with the complaint is marked as Ex.P4, the UGD works attendance register is marked as Ex.P5, copy of employees PF list is marked as Ex.P6. These are all the documents on which the complainant had relied upon.

29. As already observed above, the complainant had complained against the Chief Officer of TMC, Bhatkal and the Jr. Engineer Venkatesh Navada in the complaint. Before this authority, he had complained against the Engineer, Venkatesh Navada and the contractor Govinda Naik. But, after investigation by this authority, a report under Sec. 12(3) of the Karnataka Lokayukta Act had sent against these two DGOs only.



30. Here, the I.O. H.R.Narayana Rao, Accounts Superintendent got examined as PW-2. He had deposed before this authority in his Chief Examination saying that, on 3.8.2015 he had obtained all certified copies of the documents pertaining to this complaint. (The said documents which are in 436 pages got marked as Ex.P7). The objection filed by DGO No.1 dated 6.3.2015 is got marked as Ex.P8. The I.O. had deposed that, in the objection statement, the DGO had stated that, there was no such condition of education qualification for the workers as per the tender notification. But, the tender notification dated 25.11.2013 says about the educational qualification of the workers(The said portion is got marked as Ex.P7(a)). I have gone through this Ex.P7. It reads as, “ 8. ಬಿಡ್ ದಾರರು ಪೂರೈಸುವ ಕಾರ್ಮಿಕರು/ಸಿಬ್ಬಂದಿಗಳು ನಿಗದಿ ಪಡಿಸಿದ ಹುದ್ದೆಗೆ ಅನುಗುಣವಾಗಿ ವಿಧ್ಯಾರ್ಹತೆ ಹೊಂದಿರತಕ್ಕದ್ದು”. Thus, the I.O. had deposed as, “1ನೇ ಆ.ಸ.ನೌರವರು ಟೆಂಡರ್ ಷರತ್ತಿನಲ್ಲಿ ವಿಧ್ಯಾರ್ಹತೆಯ ಬಗ್ಗೆ ನಮೂದು ಮಾಡಿಲ್ಲ” Further regarding the deduction of tax, the I.O. had deposed in his chief examination as, “ಟೆಂಡರ್ ಷರತ್ತು ಕ್ರ.ಸಂ.17ರಲ್ಲಿ ಆದಾಯ ತೆರಿಗೆ ಒಳಗೊಂಡಿರತಕ್ಕದ್ದು ಎಂದು ನಮೂದಿಸಲಾಗಿದೆ. ಈ ಬಗ್ಗೆ ಕಾಮಗಾರಿ ಬಿಲ್‌ಗಳನ್ನು ಪರಿಶೀಲನೆ ಮಾಡಿದಾಗ 5 ಬಿಲ್ಲುಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ನಿಗದಿತ ಆದಾಯ ತೆರಿಗೆಯನ್ನು 1%ರಂತೆ ಕಡಿತ ಮಾಡಿದ್ದಾರೆ. ಉಳಿದ 5 ಬಿಲ್‌ಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ನಿಗದಿತ ಆದಾಯ ತೆರಿಗೆಯನ್ನು ಕಡಿತ ಮಾಡಿಲ್ಲ. 5 ಬಿಲ್ಲುಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ 14,464/- ರೂ. ಹಣವನ್ನು ಆದಾಯ ತೆರಿಗೆಯನ್ನು ಬಿಲ್ ಪಾವತಿಸುವ ಸಂದರ್ಭದಲ್ಲಿ ಕಡಿತ ಮಾಡಬೇಕಿತ್ತು. ಈ ಬಗ್ಗೆ ನನ್ನ ತನಿಖಾ ವರದಿಯ ಪ್ಯಾರಾ ನಂ.5.03ರಲ್ಲಿ ವಿವರವಾಗಿ ನಮೂದಿಸಿದ್ದೇನೆ. ಆರೋಪಿತ ನೌಕರರು ಟೆಂಡರ್ ಷರತ್ತುಗಳನ್ನು ಉಲ್ಲಂಘನೆ ಮಾಡಿದ ಪರಿಣಾಮ ಆದಾಯ ತೆರಿಗೆ ಬಾಬು 14,464/- ರೂ. ಸರ್ಕಾರಕ್ಕೆ ನಷ್ಟ ಆಗಿದೆ. ಅದೇ ಕಾರಣ 1 & 2ನೇ ಆ.ನೌ.ರರು ಕರ್ತವ್ಯಲೋಪ ಮತ್ತು ಕರ್ತವ್ಯಚ್ಯುತಿ ಮಾಡಿದ್ದಾರೆ. ಈ ಬಗ್ಗೆ ನಿ.ಪಿ.9ರಂತೆ ವಿವರವಾದ ತನಿಖಾ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದೇನೆ”. Thus, as per I.O. report as well as his oral evidence, the DGO No. 1 had not mentioned the education qualification for the workers in the tender notification. Further the DGO No.1 and 2 have not deducted the Income Tax amount of Rs. 28,744/- but deducted only Rs.14,464/-. Of course, this I.O. has been thoughrrolly cross examined by the advocate for DGO's. In the cross examination the I.O. had deposed as, “ ಟೆಂಡರ್ ಷರತ್ತಿನಲ್ಲಿ ಕಾರ್ಮಿಕರ ವಿಧ್ಯಾರ್ಹತೆ ನಮೂದು ಮಾಡುವ ಅವಶ್ಯಕತೆ ಇರಲಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. ಆದಾಯ ತೆರಿಗೆ ಬಗ್ಗೆ ದೂರಿನಲ್ಲಿ ಆಪಾದನೆ ಇರಲಿಲ್ಲ ಎಂದರೆ ಸರಿ. ನಾನು ತನಿಖಾ ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿದ ನಂತರ 5 ಬಿಲ್‌ಗಳಿಗೆ

ಸಂಬಂಧಪಟ್ಟಂತೆ ಆದಾಯ ತೆರಿಗೆಯನ್ನು ಕಡಿತ ಮಾಡಿ ಸರ್ಕಾರಕ್ಕೆ ಜಮಾ ಮಾಡಲಾಗಿದೆ ಎಂದು ಗೊತ್ತಿಲ್ಲ. ದಿ:21.8.2015ರಂದು ಅಂತಿಮ ಬಿಲ್ ಆಗಿರಲಿಲ್ಲ. ಪ್ರತ್ಯೇಕ ಬಿಲ್ಲುಗಳಲ್ಲಿ ಕಡಿತ ಮಾಡದೇ ಇದ್ದ ಹಣವನ್ನು ಅಂತಿಮ ಬಿಲ್‌ನಲ್ಲಿ ಕಡಿತ ಮಾಡುವ ಅವಕಾಶ ಇದೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. ನಾನು ವರದಿಯಲ್ಲಿ ನಮೂದಿಸಿದಂತೆ ಆ.ನೌ.ರರಿಂದ ಸರ್ಕಾರಕ್ಕೆ 14,464/- ರೂ ನಷ್ಟ ಆಗಿಲ್ಲ ಎಂದರೆ ಸರಿಯಲ್ಲ. Here, the defence of DGO No.1 and 2 is that, they have recovered Rs. 14,464/- as TDS. But they have done it after lodging the present complaint against them not before that, while discharging their duties.

31. Of course, in the complaint, the complainant had complained that, the tender was given to one Viswas Security Services, which do not have the VAT registration and they have paid less EPF amount for the workers and created the bills by using the names of the workers. Regarding these allegations, the I.O. had deposed in his cross examination as, “ವಿಶ್ವಾಸ ಸೆಕ್ಯೂರಿಟಿ ಸರ್ವಿಸ್ ವ್ಯಾಟ್ ನೋಂದಣಿ ಆಗಿತ್ತು ಎಂದರೆ ಸರಿ. ಇಸಿಎಫ್ ಸರಿಯಾಗಿ ಭರಣ ಮಾಡಿದ್ದಾರೆ ಎಂದರೆ ಸರಿ. ಕಾರ್ಮಿಕರ ಹೆಸರಿಗೆ ಬಿಲ್ ಮೂಲಕ ಹಣ ಪಾವತಿ ಆಗಿರುವುದು ಸರಿ ಇದೆ. ಕಾರ್ಮಿಕರಿಗೆ ಸಮವಸ್ತ್ರ ನೀಡಿದ್ದರು ಮತ್ತು ಸರಿ ಇದೆ”. Thus, the said allegations have not been proved. Here, the DGO No.1 and 2 got examined as DW-1 and DW-2 and Ex.D1 to 4 got marked on their behalf. The DGO 1 and 2 have produced the documents such as reply given by them to this authority and other documents relating to the said work and the documents regarding the educational qualification of the workers. But, here it is important to note that, the DGO No. 1 had got collected all these documents after the filing of this complaint and produced before this authority. The charge is only as, “the education qualification of the workers to be supplied by the bidder was prescribed on condition No. 8 of the tender publication dated 25.11.2013 but, tender was accepted even though the bidder had not furnished the education qualification of the workers proposed to be supplied to work”. Here, the DGO No. 1 had not mentioned the education qualification of the workers in the tender notification itself and not obtained the necessary documents relating to educational qualification of the workers by the said Viswas Security Services. But after lodging complaint to this institution, the DGO No.1 had collected the

documents relating to the educational qualification of the workers and produced. Further, regarding charge No. 2, the DGO No.1 and 2 have recovered Rs.14,464/- after lodging this complaint and not before that, while discharging their duty. Hence, under the above said facts and circumstances, it can be said that, the Disciplinary Authority has proved the charges levelled against the DGO No.1 and 2. Hence, I answer Point No.1 in the affirmative and proceed to pass the following order.

ORDER

The Disciplinary Authority has proved the charges framed against the DGO No.1. Sri. S.M.Rafeeq, Chief Officer(originally designated as Office Manager). TMC, Bhatkal, Uttara Kannada District and 2. Smt. Kavitha, Accountant, TMC, Bhatkal, Uttara Kannada District.

This report be submitted to the Hon'ble Upalokayukta-I in a sealed cover forthwith.

Dated this the 16th October, 2019

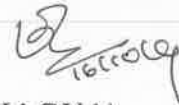

(K.BHAGYA),

Additional Registrar Enquiries-14,
Karnataka Lokayukta,
Bangalore.

ANNEXURES

Sl. No.	Particulars of Documents
1	Witness examined on behalf of the Disciplinary Authority PW-1: Sri.Anil Kumar Naik(Original) PW-2: Sri. H.R.Narayana Rao(Original)
2	Documents marked on behalf of the D. A., Ex.P-1 to Ex.P-7 Ex.P-1: Complaint dated 13.1.2015(original) Ex.P-2: Form No.I (original). Ex. P-3: Affidavit (original). Ex. P-4: Details of Bill (xerox). Ex. P-5: Attendance list of Feb 2014 (xerox) Ex. P-6: Employees P.F. list (xerox) Ex. P-7: Lr. Addressed to Dy. Controller Dt:3.8.15 and enclosures (original) Ex.P-8: Lr. Addressed to ARE-6 dated: 6.3.2015(original) Ex.P-9: Enquiry report Dt: 21.8.2015(original)
3	Witness examined on behalf of the DGO., DW-1: Affidavit dated 31.1.19 & Cross examination (Original) DW-2: Affidavit dated 31.1.19 & Cross examination (Original)
4	Documents marked on behalf of the DGO Ex.D-1: Reply to the notice dated 26.8.2015(original) Ex.D-2: Annexure - II(Blank Format- original) Ex.D-3: Attendance for the month Feb 2014 to Jan 2015 Ex.D-4: Lr. addressed to ARE-6 dt: 14.10.2015(original)

Dated this the 16th October, 2019



(K.BHAGYA)

Additional Registrar Enquiries-14
Karnataka Lokayukta, Bangalore.

