

GOVERNMENT OF KARNATAKA**KARNATAKA LOKAYUKTA**

No.LOK/INQ/14-A/16/2013/ARE-11

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560001
Date: 26th May, 2022.

RECOMMENDATION

Sub: Departmental Inquiry against Shri Raghavendra son of Gajanana Hegade, Panchayath Development Officer, Salakoda Grama Panchayathi, Honnavara Taluk, Uttara Kannada District-reg.,

Ref: 1) Government Order No.ಗೃಅಪ/727/ಗೃಪಂಕಾ/2012, Bengaluru, dated: 03/01/2013.

2) Nomination Order No.LOK/INQ/14-A/16/2013, Bengaluru, dated: 09/01/2013 of Upalokayukta, State of Karnataka, Bengaluru.

3) Inquiry Report dated: 23/05/2022 of Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru.

The Government by its order dated: 03/01/2013 initiated the disciplinary proceedings against Shri Raghavendra son of Gajanana Hegade, Panchayath Development Officer, Salakoda Grama Panchayathi, Honnavara Taluk, Uttara Kannada 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/16/2013, Bengaluru, dated: 09/01/2013 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently, by Order No.ಕಲೋ/ಸಿಬ್ಬಂದಿ-1/54/2013-14, dated: 01/03/2014, the Additional Registrar of Enquiries-5, Karnataka Lokayukta, Bengaluru was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGO. Again, by Order No.UPLOK-1/DE/2016, dated: 03/08/2016, the Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGO.
3. The DGO, Shri Raghavendra son of Gajanana Hegade, Panchayath Development Officer, Salakoda Grama Panchayathi, Honnavara Taluk, Uttara Kannada District was tried for the following charges:

ANNEXURE NO.I
CHARGE

That, you Shri Raghavendra the DGO, while working as Panchayath Development Officer of Salkoda Gram Panchayath, in Honnavar Taluka of Uttara Kannada District, Shri Narayan S/o Krishna Nayak-Contractor R/o Kaanakki Village in Honnavara of Uttara Kannada District (hereinafter referred to as the 'complainant') approached you-DGO stating that he being a contractor had completed the repair works of the houses of Smt Maadevi Mukri and Smt Maari Mukri of Salkoda Village on 21/04/2011 as per agreement. So, requesting for the release of amount of said works done when he had approached you-DGO on 03/05/2011, you DGO told the complainant that you-DGO has received M.B. written by Engineer about said works, for which bill has to be prepared and cheque has to be issued to him and you-DGO demanded 5% on the bill amount i.e., Rs.1,500/- otherwise same will not be done, though no amount was required to be paid for that by him to you-DGO. Not only that, when the complainant approached you-DGO again on 17/05/2011 in that regard, you-DGO had put forward said demand of money from the complainant telling that two cheques have been made ready but they will be given, if Rs.1,500/- demanded earlier is paid. For that, when the complainant asked you-DGO to give cheques telling that he will make payment on the next day as he has no amount then, you-DGO refused to give those cheques to him and asked him to come and pay money on 19/05/2011 telling that you-DGO will not be in the office on 18/05/2011. On 19/05/2011, you-DGO demanded and accepted tainted (bribe) amount of Rs.1,500/- from the complainant in your office at Salkoda for giving the said cheques, thereby failing to maintain absolute integrity and devotion to duty, the act of which is un-becoming of a Government Servant and thereby committed misconduct as enumerated under Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

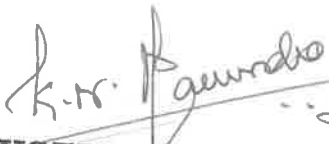
4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has 'proved' the charges leveled against DGO, Shri Raghavendra son of Gajanana Hegade, Panchayath Development Officer, Salakoda Grama Panchayathi, Honnavara Taluk, Uttara Kannada District.
5. On perusal of the Inquiry Report, in order to prove the guilt of the DGO, the Disciplinary Authority has examined four witnesses i.e., PW-1 to PW-4 and Ex. P-1 to P-10 documents were marked.
6. On careful perusal of the oral and documentary evidence produced in the case it is clear that, PW-1, who is the complainant; PW-2, shadow witness have fully supported the case of the Disciplinary Authority with regard to demand of Rs.1,500/- by the DGO and also regarding laying the trap by the police. They also supported that, on the date of the trap, DGO has discussed with PW-1 with regard to the existence of work of the complainant and thereafter demanded and accepted the said tainted currency notes. They also supported the factum of recovery of tainted currency notes from the possession of the DGO. PW-3, another panch witness, who has also supported

pre-trap and post-trap proceedings and stated about the recovery of the tainted currency notes from the possession of DGO. The DGO in fact has taken up a contention that, he has not received any bribe as there was no work pending pertaining to the complainant and he had already completed the said work of the complainant much prior to the date of trap. The Inquiry Officer has very effectively discussed this particular aspect and came to the conclusion that, the DGO has admitted the existence of the work and he has not established that the complainant was very much aware of completion of any of his work. Therefore, the said defence of the DGO was rightly not accepted by the Inquiry officer.

Looking from any angle, the Disciplinary Authority has proved the case against the DGO. Hence, there is no ground to deviate from the opinion expressed by the Inquiry Officer.

7. On re-consideration of Inquiry Report and taking note of the totality of the circumstances of the case, 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 the Inquiry Officer.

8. As per the First Oral Statement of DGO furnished by the Inquiry Officer, DGO is due to retire from service on 31/07/2043.
9. Having regard to the nature of charge 'proved' against DGO, Shri Raghavendra son of Gajanana Hegade, Panchayath Development Officer, Salakoda Grama Panchayathi, Honnavara Taluk, Uttara Kannada District and on consideration of the totality of circumstances:-
- "It is hereby recommended to the Government to impose penalty of dismissal from the service to DGO, Shri Raghavendra son of Gajanana Hegade, Panchayath Development Officer, Salakoda Grama Panchayathi, Honnavara Taluk, Uttara Kannada District".
10. Action taken in the matter shall be intimated to this Authority.
- Connected records are enclosed herewith.


26/05/22
(JUSTICE K.N.PHANEENDRA)
UPALOKAYUKTA-2,
STATE OF KARNATAKA.

KARNATAKA LOKAYUKTA

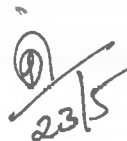
NO. LOK/INQ/14-A/16/2013/ARE-11

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 23/05/2022.**:: ENQUIRY REPORT ::**

Sub: Departmental Enquiry against Sri. Raghavendra son of Gajanana Hegade, Panchayath Development Officer, Salkoda Grama Panchaythi, Honnavara Taluk, Uttara Kannada District -reg.

Ref: 1. Government Order No. ಗ್ರಾಅಪ 727 ಗ್ರಾಪಂಕಾ 2012 Bengaluru, dated 03/01/2013.
2. Nomination Order No. LOK/INQ/14-A/16/2013, Bengaluru, dated 09/01/2013.

1. The Departmental Enquiry is initiated against Sri. Raghavendra son of Gajanana Hegade, Panchayath Development Officer, Salkoda Grama Panchaythi, Honnavara Taluk, Uttara Kannada District (hereinafter referred to as the Delinquent Government Official, in short DGO on the basis of the complaint dated 18/05/2011 filed by the complainant, Shri. Narayana S/o Krishna Nayak-Contractor R/o Kaanakki Village in Honnavara Taluka of Uttar Kannada District, the allegations in the complaint is that the complainant being a contractor had completed the repair works of the houses of Smt. Mahadevi Mukri and Smt. Maari Madev Mukri of Salkoda Village on 21/04/2011 as per agreement. Then he approached the DGO on 03/05/2011 for the release of amount of said works done and the DGO told him that he has received M.B. written by Engineer about said works and for


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preparing the bill and issuance of cheque to the complainant he had demanded bribe of 5% on the bill amount i.e., Rs.1,500/-. As the complainant was not willing to pay the amount, lodged complaint before Police Inspector, Karnataka Lokayukta Police Station, Karwar (hereinafter referred to as "Investigating Officer"). On the said complaint Investigating Officer registered case in Cr.No.2/2011 against the DGO for the offences punishable under section 7,13(1)(d) r/w 13(2) of P.C.Act, 1988.

2. The Investigating Officer took up investigation and on 19/05/2011 the DGO was caught red-handed in his office at Salkoda Grama Panchayath while demanding and accepted the tainted amount of Rs.1,500/-. The Investigating Officer seized the tainted amount from the DGO after following post trap formalities. The DGO failed to give satisfactory explanation about possession of the tainted amount. After completion of investigation the investigating officer has filed charge sheet against the DGO in the concerned jurisdictional Court.

3. Hon'ble Upalokayukta invoking power vested under section 7(2) of the Karnataka Lokayukta Act, 1984, took up investigation and on perusal of complaint, FIR, Mahazars, FSL report and other documents, found prima facie case and forwarded report dated 21/11/2011 U/s 12(3) of Karnataka Lokayukta Act, 1984 recommended the competent authority to initiate disciplinary proceedings against the DGO and to entrust the enquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of the KCS (CC& A) Rules 1957. The Government by order dated 03/01/2013 entrusted the matter to the Hon'ble Upalokayukta.

4. The Hon'ble Upalokayukta by order dated 09/01/2013, nominated Additional Registrar Enquiries-4 to conduct the enquiry.

A handwritten signature in blue ink, followed by the date '23/5' written below it.

5. The Articles of charge as framed by Additional Registrar Enquiries-4 is as follows:

ANNEXURE NO.I

CHARGE

That, you Sri.Raghavendra the DGO, while working as Panchayath Development Officer of Salkoda Gram Panchayat, in Honnavar Taluka of Uttar Kannad District. Sri Narayan s/o Krishna Nayak-Contractor r/o Kaanakki village in Honnavra of Uttar Kannada District (herein after referred to as the 'complainant') approached you-DGO stating that he being a contractor had completed the repair works of the houses of Smt. Maadevi Mukri and Smt. Maari Mukri of Salkoda village, on 21-04-2011 as per agreement. So, requesting for the release of amount of said works done when he had approached you-DGO on 03-05-2011, you-DGO told the complainant that you-DGO has received M.B. written by Engineer about said works, for which bill has to be prepared and cheque has to be issued to him and you-DGO demanded 5% on the bill amount i.e., Rs.1,500/- otherwise same will not be done, though no amount was required to be paid for that by him to you-DGO. Not only that, when the complainant approached you-DGO again on 17/05/2011 in that regard, you-DGO had put forward said demand of money from the complainant telling that two cheques have been made ready but they will be given, if Rs.1,500/- demanded earlier is paid. For that, when the complainant asked you-DGO to give cheques telling that he will make payment on the next day as he has no amount then, you-DGO refused to give those cheques to him and asked him to come and pay money on 19-05-2011 telling that you-DGO will not be in the office on 18-05-2011. On 19-05-2011, you-DGO demanded and accepted tainted (bribe) amount of

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Rs.1,500/- from the complainant in your office at Salkoda for giving the said cheques, thereby failing to maintain absolute integrity and devotion to duty, the act of which is un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

6. The statement of imputations of misconduct as framed by Additional Registrar Enquiries-4 is as follows:

ANNEXURE NO.II

STATEMENT OF IMPUTATIONS OF MISCONDUCT

The complainant, who is a contractor had completed the repair works of the houses of Smt. Maadevi Mukri and Smt. Maari Madev Mukri of Salkoda village, on 21-04-2011 as per agreement. So, requesting for the release of amount of said works done when he had approached the DGO on 03-05-2011, the DGO told the complainant that the DGO has received M.B. written by Engineer about said works, for which bill has to be prepared and cheque has to be issued to the DGO and demanded 5% on the bill amount i.e., Rs.1,500/- otherwise same will not be done, though no amount was required to be paid for that by him to the DGO. Not only that, when the complainant approached the DGO again on 17/05/2011 in that regard, the DGO had put forward said demand of money from the complainant telling that two cheques have been made ready but they will be given, if Rs.1,500/- demanded earlier is paid. For that, when the complainant asked the DGO to give cheques telling that he will make payment on the next day as he has no amount then, the DGO refused to give those cheques to him and asked him to come and pay money on 19-05-2011 telling that the DGO will not be in the office on 18-05-2011. The complainant was not willing to pay the bribe demanded by the DGO,.


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Therefore, the complainant lodged a complaint before the Lokayukta Police Inspector, Karwar (herein after referred to as the Investigating Officer, for short " the I.O"). The I.O. registered the complaint in Cr. No. 2/2011 for the offences punishable U/S 7, 13(1)(d) R/W 13(2) of Prevention of Corruption Act 1988. The I.O. took up the investigation and on 19-05-2011 the DGO was trapped in his office at Salkoda Grama Panchayath while receiving the tainted (bribe) amount of Rs.1,500/- from the complainant. The I.O. seized the tainted (bribe) amount from the DGO after following post-trap formalities. The DGO failed to give satisfactory or convincing reply about possession the tainted amount. The I.O. recorded statement of the complainant and panch witnesses. The record of investigation and materials collected by the I.O. showed that the DGO has committed misconduct failing to maintain absolute integrity and devotion to duty and acted in a manner un-becoming of Government Servant. As the materials on record showed prima facie case about DGO receiving bribe for discharging duty as Government Servant, a suo-motu investigation was taken up U/S 7(2) of the Karnataka Lokayukta Act against the DGO. An Observation Note was sent to the DGO calling for her explanation. DGO submitted his reply to the observation note but the same was not convincing to drop the proceedings. As there is a prima facie case showing that the DGO has committed mis-conduct as per Rule 3(1) of KCS (Conduct) Rules 1966, a report U/S 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate the disciplinary proceedings against the DGO. Accordingly, the Competent Authority initiated Disciplinary Proceedings against the DGO and entrusted the enquiry to the Hon'ble Upalokayukta U/R 14-A of KCS (CCA) Rules. Hence, the charge.

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7. Notice of Articles of charge, statement of imputation of misconduct with list of witnesses and documents was served upon the DGO. In response to the service of articles of charge, DGO entered appearance before this authority on 10/04/2013 and engaged advocate for defence. In the course of first oral statement of the DGO recorded on 10/04/2013 he pleaded not guilty and claimed to be enquired. As per order of Hon'ble Upalokayukta dated 03/08/2016 this file was transferred to this ARE-11. **The date of Birth of DGO in his First Oral Statement is 28/07/1983. Hence his Date of Retirement should be on 31/07/2043.**

8. The DGO has filed Written Statement dated 12/08/2013 contending that he was Panchayath Development Officer of Kadle village and he has already signed the cheques on 05/05/2011. So there is no question of asking the bribe from the complainant when he had already submitted the cheques to the secretary. Further contended that he is not having the final authority to sign the cheque and after his sign to the cheque the Adhyaksha has to sign the cheque and give it to the secretary who is the final authority to give the cheque. So there is no question of asking bribe and hence there was no work pending before him and all the allegations and charge framed in the articles of charges are totally false and completely denies the allegations of the complainant and contended that he is falsely implicated with ulterior motive to harass him with malafide intention. Hence on these grounds prays to drop the proceedings against him.

9. The points that arise for consideration are as follows:-

1. Whether the disciplinary authority proves that the DGO demanded bribe of Rs.1,500/- on

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19/05/2011 to release the cheque to the work completed by the complainant who is a contractor and on the same day i.e., on 19/05/2011 in his office situated at Salkoda at 11.05 a.m., demanded and accepted Rs.1,500/- bribe from complainant for said purpose and by this the DGO has committed misconduct, dereliction of duty, acted in a manner unbecoming of a Government Servant and not maintained absolute integrity, violating Rule 3(1)(i) to (iii) of K.C.S.(conduct) Rules, 1966?

2. What findings?

10. (a) The disciplinary authority has examined 4 witnesses and got 10 documents exhibited.
- (b) The DGO has not examined himself and no documents are exhibited.
- (c) Since DGO has not adduced evidence by examining himself or other witness, incriminating circumstances which appeared against him in the evidence of PWs 1 to 4 are put to him by way of questionnaire.

11. Heard both side arguments and perused all the documents.

12. The answers to the above points are:

1. In the Affirmative
2. As per final findings. for the following


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REASONS

13. (a) **Point No. 1:-** P.W.1 Sri. Narayan who is the complainant has deposed that he knows the DGO who is present today and he was the PDO of Salkoda Village. Panchayath of Honnavara Taluk in Uttara Kannada District. That he knows the panch witnesses by name Udayananda and Shankar Nayak and Gajanana Ramachandra Bhat. PW1 further stated that, in the month of April, the Village Panchayath Salkoda has given the work order to him for carrying out the repairs of two houses belonging to Mahadevi Kaniya Mukri, Mari Mahadeva Mukri the S.C. persons and an amount of Rs.15,000/- was sanctioned for the repair of the each house. That as per the estimate prepared by the Engineer he has carried out the repair work in the month of March 2011 and the Village Panchayath Salkoda has issued work order to him for repair of the said 2 houses and he completed the said work in the month of April 2011. P.W.1 further stated that, after completion of the work the Engineer has written the Measurement book and sent it to the PDO i.e., the DGO. Thereafter, he approached the DGO and asked for the payment of the said repair work and at that time the DGO demanded the commission amount of 5% on Rs.30,000/- from him which comes to Rs. 1,500/-. PW1 further stated that, he told the DGO that he will not pay the bribe amount for which the DGO told that the cheque will not be issued to him for the bill payment of the said commission amount and he asked the DGO 2-3 times for payment of the amount but the DGO gave the same answer of payment of Commission amount and finally he asked the DGO on 17/05/2011 for payment of the amount, then the DGO gave the same answer of demanding of commission amount and he went away by telling that he will pay thereafter. PW1 further stated that on 18/05/2011 he approached the Lokayukta police at Karawar and narrated the said demand of commission amount by the DGO


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and on the same day he lodged the complaint against the DGO in Lokayukta office as per Ex.P-1 and signed in the complaint and it bears his signature as per Ex.P-1(a). PW1 further stated that, after lodging the complaint the Lokayukta police called 2 panchas by name, Dayanand Shankar Nayak and Gajanana Hegde and Lokayukta police introduced him and panchas to each other and narrated about the complaint lodged and then Lokayukta police took Rs. 1,500/- from him which were in denomination of Rs. 500/- 2 currency notes and Rs. 100/- each five currency notes and applied the powder. P.W.1 further deposed that, after applying the powder the said currency notes were handed over to the panchas and the panchas after touching them gave the same to him and he kept the said amount in his shirt pocket and thereafter, the Lokayukta police prepared the mixture containing sodium carbonate and water and washed the hands of both the panchas in mixture which turned into red colour and accordingly the panchanama was drawn from 5 p.m to 7 p.m and he signed in the panchanama. P.W.1 further stated that, the Lokayukta police noted the currency note numbers and told that on touching the said currency notes if the hands are washed the same red colour will come and the Lokayukta police told him to come on the next day for the raid on the DGO. PW-1 further stated that, he went to Honnavar on his bike the panchas and police also came and Lokayukta police told him to call to the DGO and he called the DGO informing about bringing of the amount by him for that the DGO told him to come to the Panchayath office and he went on his bike to Salkoda and the panchas and police came in the jeep to Salkoda. P.W.1 has further stated that, Lokayukta police stopped the jeep at Karikalamma street and sent him and panch Dayanand Nayak towards Panchayath office and the police were waiting near the jeep. P.W.1 has further stated that, while going towards Panchayath office Lokayukta police informed him to pay the amount if demanded by the

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DGO and give signal to them and they went to the chamber of the DGO inside the Panchayath office. P.W.1 has further stated that, he asked the DGO to deliver the cheque to him, the DGO asked him to pay the amount and he paid the amount of Rs. 1,500/- to the DGO and at that time Dayanand Nayak was little ahead from him and he gave signal to Dayanand Nayak and Dayanand came towards him. PW-1 has further stated that, after Dayanand Nayak came near the door he paid Rs. 1,500/- to the DGO and the DGO took the amount with his right hand and kept it in his front shirt pocket and after payment of the amount he came out of the Panchayath office and gave signal to the Lokayukta police by wiping his face with kerchief and immediately the Lokayukta police came there and caught hold both the hands of the DGO and asked him about the payment of the amount and he told that he had paid the amount to the DGO. Further he has stated that the Lokayukta police took out the amount from the shirt pocket of the DGO through his hands only and called another panch Gajanana Hegade and washed the hands of the DGO in the mixture containing sodium carbonate, further the shirt pocket of the DGO was also washed in the said mixture which turned into red colour. Further he has stated that the Lokayukta police counted the said currency notes which tallied with the number of the currency notes which were already noted and they found that they are one and the same and Lokayukta police prepared the panchanama in this regard from 11 or 11-30 am to 1-30 to 2-00 pm and the Lokayukta police also seized the cheque, bill form, M.B.Estimate, agreement etc., Further he has stated that after one week after preparing panchanama the Lokayukta police called him to Karwar and also the panchas for preparing the panchanama in respect of making the C.D and photographs and C.D. was prepared regarding the conversation recorded by him between himself and DGO and he has identified the documents seized and he has signed the panchanama and the

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panchas had also signed in the panchanama and he saw the experimental panchanama shown to him and also identified and stated that it was drawn in his presence and his signature is on each page and identified the panchanama as Ex.P-2 and his signature on the last typed 4th page as Ex.P-2(a). Further he has stated that he saw the seized documents and they are Ex.P-3 which are 23 pages and the Lokayukta police had also recorded his statement regarding the demand of amount by the DGO and caught hold of the DGO and he identifies the trap panchanama as Ex.P-4 drawn in his presence and his signature on each page and his signature at typed page number 5 as Ex.P-4(a) and he identifies another CD seizure panchanama which is drawn in his presence as Ex.P-5 and his signature on each page and his signature at typed page number 3 as Ex.P-5(a).

(b) PW1 is treated partly hostile by the Learned Presenting Officer and is cross examined suggesting the disciplinary authority case that the name of one of the panch witness in Ex.P-2, 4 and 5 is Udayananda and not Dayananda and the amount after applying the Phenolphthalein powder was given in the hands of Udayananda panch witness and Udayananda kept the same in his pocket and thereafter, the police washed the hands of said panch Udayananda and not both panchas and the police sent him and another panch Udayananda towards Panchayath office while drawing Ex.P-3 but not Dayananda Nayak for which he has admitted the same.

(c) In spite of giving sufficient opportunity to the DGO, PW1 is not cross examined by the advocate for DGO and the cross examination of PW1 by the DGO advocate is taken as nil.

14. (a) PW-2 Sri.Udayananda who is the shadow witness has stated that he knows the DGO Raghavendra Hegde of this case and he can identify him if shown to him and he knows the complainant

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Narayana Krishna Naik and another panch Gajanana and prior to 19/05/2011 the Lokayukta police called him and another panch to the Lokayukta police station and complainant and police staff were there in the Lokayukta police station and the police introduced them to each other. Further PW-2 has stated that the police also told about the filing of the complaint by the complainant against the DGO for causing trouble to him in issuing cheque and also about demand of bribe of Rs. 1,500/- by the DGO for issue of said cheque relating to the work and complainant paid Rs. 1,500/- to the Lokayukta police and the police showed the application of the powder to the currency notes and also by putting in the cover gave it to him and the police gave the said amount to the complainant and the police told to come on next day. Further PW-2 has stated that they have been to Salkoda in a jeep and vehicle was stopped near Honnavara and thereafter he and the complainant went to Salkoda Grama Panchayath office and the others were waiting near jeep and distance between the Grama Panchayath Salkoda and the place of stopping jeep may be 2-3 furlong. Further PW-2 has stated that police told him to watch the complainant and DGO and the DGO was present in the panchayath office and the complainant enquired with the DGO about issue of cheque and DGO in turn asked the complainant whether the amount demanded by him is brought and then the complainant paid Rs.1,500/- to the DGO who has received it from his right hand and kept it in his left side shirt pocket and thereafter as per the instruction of the police the complainant gave signal to the police and immediately another panch came there and the DGO was caught hold and checked. Further PW-2 has stated that the police asked him to take out the amount from left side shirt pocket of the DGO and accordingly he took out the amount from the shirt pocket of the DGO and it was Rs. 1,500/- and the said amount was the same amount which was given by the complainant to the DGO and thereafter the


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police washed the right hand of the DGO in the water and it turned to sky blue colour and by providing alternative shirt the shirt worn by the DGO was taken and the left side shirt pocket was washed and it turned to sky blue colour. Further PW-2 has stated that the washed content was taken in a bottle sealed and seized and the police have not enquired with him and the complainant, but the DGO was questioned about the said amount found with him and the DGO told that he has received the said amount for attending the marriage and the police took the documents from the DGO and he has identified the same as ExP3. Further he has stated that the mahazar was also drawn and his signature was also taken and the police had called him for making survey.

(b) PW2 is treated partly hostile by the Learned Presenting Officer and is cross examined suggesting the disciplinary authority case that after receiving the amount from the complainant the number of currency notes were noted by the police and they were 2 currency notes of Rs. 500/- each and 5 currency notes of Rs. 100/- each and after applying the powder the amount was given to him and in turn he has kept the said amount in the left side shirt pocket of the complainant and thereafter his hands were washed in the chemical mixture which turned to rose colour and washed contents were taken in a bottle sealed and seized and Ex.P-2 mahazar was drawn and his signature was taken for which he has admitted the same. Further it is suggested by the Presenting Officer to PW-2 that a voice recorder was given to the complainant for recording the conversation and Ex.P-2 mahazar dated 18/05/2011 was drawn in his presence and bears his signature on each page and his signature at Sl.No.1 and page no. 4 is Ex.P-2(b) for which he has admitted the same. Further PW-2 has stated that he heard Ex.P-4 the trap mahazar read over to him. Further it is suggested by the Presenting Officer to PW-2 that on

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the next day of Ex.P-2 i.e., on 19/05/2011 PW2 and another panch had been to the Lokayukta police station, Karwar, the complainant was also present in the station and the police directed the complainant to make a call to the DGO for ascertaining his presence and accordingly the complainant made a call and at that time the DGO was present in the office and after going to Honnavara the police again directed the complainant to make a call to the DGO and accordingly call was made to the DGO and the DGO told to the complainant if the bribe amount as demanded by DGO is paid the DGO will issue the cheque on that day itself for which he has admitted the same. Further it is suggested by the Presenting Officer to PW-2 that they had been to Salkoda village and stopped the vehicle near a temple and after sending him and the complainant the police came behind them and were in the surrounding and the complainant by showing the DGO took him inside the office of the DGO and when asked by the complainant about the work the DGO asked the complainant for payment of the amount as demanded by him and accordingly the complainant gave Rs. 1,500/- to the DGO who received the same from his right hand and kept it in his left side shirt pocket and after giving signal by the complainant the police came and the complainant shown the DGO about receiving the bribe amount by DGO and he was also questioned by the police about receipt of the amount by the complainant and he also confirmed the receipt of the amount by the DGO for which he has admitted the same. Further it is suggested by the Presenting Officer to PW-2 that that when the right hand of the DGO was washed in the water it turned to rose colour and when the right side shirt pocket of the DGO was washed it also turned to rose colour and when police questioned the DGO about the said amount DGO has given in writing stating that DGO has demanded the amount from staff members for going to the marriage and DGO gave the amount and his signature was also taken in the statement of


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the DGO for which he has admitted the same. Further PW2 identifies the copy of the statement given by the DGO dated 19/05/2011 as per Ex.P-6 and his signature on the next page at Sl.No.1 i.e., Ex.P-6(a). Further it is suggested by the Presenting Officer to PW-2 that he and the complainant denied Ex.P 6 and by demanding the amount from the complainant the DGO has received the amount and when the voice recorder was played the conversation was not properly recorded and CD was prepared and seized and mahazar was drawn as per Ex.P-5 on 22/11/2011 and in Ex.P-5 sl.no.1 his signature is Ex.P-5(b) and the police have prepared seizure panchanama Ex.P-4 and took his signature as per Ex.P-4(b) for which he has admitted the same.

(c) In spite of giving sufficient opportunity to the DGO, PW2 is not cross examined by the advocate for DGO and the cross examination of PW2 by the DGO advocate is taken as nil.

15. (a) PW.3 Sri. T.R.Bhat who is the panch witness has stated that on 18/05/2015 at about 5 p.m. he went to Lokayukta Police Station, Karwar and PW1 & PW2 were there and the complainant has produced Rs.1500/-. The note numbers were listed on a sheet of paper and they applied some power to the said notes and the notes were handed over to the complainant by PW2. The hand fingers of PW2 were washed in solution and the solution turned to pink colour and the said solution was seized by Lokayukta Police. The Lokayukta police made him hear the conversation recorded in the C.D. and drawn a mahazar as per Exp2 on the said proceedings. Further he has stated that on 19/05/2011, he, complainant, P.W.2 and Lokayukta staff went to the office of Salkoda Gram Panchayath at 10.30 p.m. Complainant and PW2 went inside the office and he and Lokayukta Police stood outside the office. That at about 11 a.m. Lokayukta police took him inside the office and there complainant,


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PW2 and DGO were present. That PW2 has removed the tainted notes from the right side pocket of the DGO. The said notes were powder smeared notes which were shown to him. That the lokayukta police prepared solution in two bowls. The DGO has washed his left hand fingers in the said solution kept in one bowl, the solution did not turn any colour and the DGO washed his right hand fingers in another bowl for which the solution turned to light pink colour. The solution and the notes were seized by the Lokayukta Police. The left side shirt pocket of the DGO was washed in the solution by the lokayukta police and the solution turned to light pink colour. The lokayukta police seized the shirt. The DGO gave his written statement as per Ex.P6 and he signed on Ex.,P6. The police seized some documents and drawn panchanama as per Ex.P4. Then they all brought the DGO to the Karwar Lokayukta Police station.

(b) In the cross examination of PW3, he has deposed that he went to the office of DGO along with complainant. He did not hear the conversation between the complainant and DGO. When he entered the office of DGO, there he saw one Secretary, shadow witness Udayananda Shankar Naik. He found some currency notes kept in a cover in the shirt pocket of DGO and stated that he does not know what other things were kept in the shirt pocket of DGO. The currency notes kept in the cover were powder smeared notes. Further he has deposed that the right hand wash solution of DGO turned to pink colour and left hand wash solution did not change the colour. That the DGO himself removed the currency notes kept in his shirt pocket.

16. (a) PW4 Sri. B.A. Biradar who is the I.O. has stated that he worked in Lokayukta Police Station, Karwar as Police Inspector from 2010 December to 2013 April. On 18/05/2011, complainant came to


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Lokayukta Police Station at 3.45 p.m and stated before him that the DGO was asking Rs.1,500/- related to a cheque. His oral complaint was typed in computer and the sign of the complainant was taken. On that basis he has registered a complaint in Cr.No.2/2011 under section 7,13(1)(d)r/w 13(2) of P.C.Act, 1988 and submitted FIR to Principal District and Sessions Judge, Karwar. The said FIR was got marked as per Ex.P7. PW4 has further stated that he called two panchas namely Udayanand as shadow witness and Gajanana R.Bhat as panch witness. Complainant has produced 5 notes of Rs.100/- denomination and 2 notes of Rs.500/- denomination each. His staff has applied phenolphthalein powder to the said notes prepared solution by using water and sodium carbonate and sample of the said solution was seized in bottle. He further stated that as per his instructions shadow witness kept the tainted notes in the left side shirt pocket of the complainant and his left hand fingers were washed in the solution and the said solution turned to pink colour and said solution was seized in a bottle. PW4 has further deposed that he gave one voice recorder to the complainant and instructed him how to operate it and told him to go along with voice recorder to meet the DGO and asked him to switch on the same and if DGO demands money then only give the tainted notes to DGO and after he receives the same come out side the office of DGO and to give signal by wiping the face with kcrchief. He instructed the shadow witness to follow the conversation between the complainant and DGO and for all these proceedings he has drawn pre-trap mahazar in Lokayukta Police Station, Karwar as per Ex.P2 at 7.30 p.m. and asked the shadow witness and panch witness to come next day. PW4 has further stated that on 19/05/2011 after arriving of shadow witness, complainant and panch witness to the police station he along with them and his staffs left Lokayukta Police Station at about 8.40 a.m. That they reached Honnavara and as per his instruction complainant

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called DGO over mobile and in turn the DGO told to the complainant that only after giving amount related to cheque then only he will hand over the cheque to him. That on the same day, at 10.40 a.m he along with his staff, shadow witness, panch witness and complainant reached a tower near Karikhan Parameshwari temple at Salkoda Gram. On his instructions the shadow witness and complainant went to the office of DGO situated near the tower and he and his staff along with panch witness waited near the office of Primary Health Centre. PW4 has further stated that on the same day at about 11.05 a.m the complainant came outside the office of DGO and wiped his face with kerchief and thereafter he and his staff went inside the office of DGO. The complainant showed the DGO and told the tainted notes are accepted by the DGO and at that time PW4 showed his identity and told purpose of his visit. PW4 has further stated that his staff prepared sodium carbonate solution in two bowls and seized sample solution in a bottle. On his instructions the right hand fingers of DGO were washed in a bowl and washed left hand fingers of DGO in another bowl. The wash of right hand fingers turned to light pink colour and the wash of left hand fingers did not change the colour and the said solutions were seized in a separate bottles. PW4 has further stated that on enquiry about the tainted money the DGO told the said amount is in his left side shirt pocket. On his instructions shadow witness recovered the tainted notes from the left side shirt pocket of DGO. The said tainted notes was kept in a cover and seized by him. He further stated that DGO was given an alternative shirt and through his staff prepared a solution by using water and sodium carbonate powder and washed the left side shirt pocket of DGO in the said solution and the said solution turned to light pink colour and the said solution was seized in a bottle. On his instructions the DGO gave a written explanation about the said tainted amount which is as per Ex.P6. He prepared rough sketch of the spot as per Ex.P8. PW4 has

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further stated that, on enquiring about the documents related to complainant, DGO produced the file which was kept on his table. The said documents were certified by the Officer of Salkoda Gram Panchayath which are 46 sheet and got marked as per Ex.P9. Further he seized the documents marked as Ex.P3 and later on he has drawn trap mahazar in the office of DGO as per Ex.P4. PW4 has further stated that after doing the proceedings of arresting of DGO he brought him to the Lokayukta Police Station and on his instructions his staff produced the DGO before Principal District Judge and Sessions Court, Karwar. On 22/11/2011 on the presence of shadow witness and panch witness he has drawn panchama about two compact discs which covers the conversation of DGO and complainant which is got marked as Ex.P5. PW4 has further stated that the seized articles were sent to chemical examiner and he received the report. That he recovered some more documents during his investigation. The DGO has not given any satisfactory explanation about the tainted money recovered from him. That after completing his investigation he submitted report to the higher officer and accorded sanction order to prosecute the DGO and submitted charge sheet before Principal District and Sessions Judge, Karwar.

(b) In the cross examination by Learned Counsel for DGO PW4 deposed that at the time of lodging complaint, no evidence was given other than the complaint about DGO demanding bribe. The complainant had called DGO on the trap day. He further deposed that he has not sent the voice recorder or CD to FSL. In the conversation between complainant/PW1 and DGO, there was no talk about cheque number or amount or the contract work. PW1 denies the suggestion that the mobile number to which PW1 had called does not belong to the DGO. that he had collected the call details records as per Ex.P10.

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(c) He further stated that he had collected the Xerox copies of the cheques. He denies the suggestions of learned counsel for DGO that he did not know who is authorized to sign the cheques. He had collected copies of 2 cheques along with the documents recovered then. He deposed that he did not know whether the DGO and another person have to sign the cheque. He further stated that in both cheques which are part of Ex.P3, the signature was put prior to the time of trap. He further denies the the suggestion of counsel for DGO that he did not know whether the DGO had signed the cheques on 05/05/2011 and given for signature to the President of Gram Panchayath. Further deposed that he did not know whether PW1 was already given 4 cheques out of 6 cheques. He further denies the he had not produced the CD containing conversation of DGO in the criminal proceedings.

17. From the evidence of P.W.1 complainant, P.W.2 shadow witness, P.W.3 panch witness and P.W.4 Investigating Officer it is seen that complainant has produced 5 notes of Rs.100/- denomination each and two notes of Rs.500/- denomination for the trap and there numbers were noted in a sheet and phenolphthalein powder was smeared to them and complainant was instructed to give the tainted notes only if demanded by DGO and after doing so to give signal to P.W.4 by wiping his face with hand kerchief and pre-trap proceedings were conducted as per Ex.P2 and further there evidence also reveals that P.W.1 complainant and P.W.2 shadow witness along with P.W.3 panch witness and Investigating Officer i.e.,PW.4 left the Lokayukta Police Station and reached the DGO's office and P.W.1 and P.W.2 went inside the office of DGO and the evidence of P.W.1 and P.W.2 clearly goes to show that when P.W.1 enquired about his cheque, DGO asked whether amount demanded by him is brought and P.W.1 gave Rs.1,500/- tainted notes to the DGO who received the same with his right hand and kept it in the left side shirt pocket. Further the evidence of PW1 to PW4 reveals that as

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per the instructions, P.W.1 gave signal to P.W.4 and he along with his staff and other panch witness entered the office of DGO and on questioning the complainant and P.W.2 they have confirmed the receipt of amount by DGO and DGOs hand and shirt was washed as a result the right hand wash solution and right side shirt pocket wash have changed the colour and Investigation Officer has drawn mahazar as per Ex.P4 and later on the DGO has given explanation as per Ex.P6. On perusal of the same the DGO has stated that the complainant came to the office and gave money to the DGO stating that he is returning the loan taken from him on 13/05/2011. Further he told to P.W.1 that he has completed the records related to complainant's work and placed the cheque before Secretary and asked to P.W.1 why he has not taken the cheque written on 05/05/2011 or whether the Secretary has not given the cheque to him. Then the Secretary told him that P.W.1 himself has not come and taken the cheque. Then the Secretary handed over the cheque to P.W.1 and took the signature of the complainant/PW1 on the receipt and at that time police entered his office and informed him that he has received the tainted amount from complainant/PW1 and he is trapped. Thus he gave his explanation to the Investigating Officer and co-operated to the proceedings.

18. It is pertinent to note that except minor discrepancies in the evidence of P.W.1 who says the name of P.W.2/shadow witness is Dayanand instead of Udayananda and the evidence of P.W.2 who says that the colour of the right hand wash solution of DGO turned to sky blue colour there is no other contradictions. The Learned Presenting Officer treated them hostile and cross examined them suggesting their version wherein they have clearly admitted suggestion put forth by Presenting Officer. The evidence of P.W.1/complainant, P.W.2/ shadow witness is not subjected to cross examination by the counsel for DGO inspite of giving sufficient opportunities. As such there evidence remains

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unchallenged. There is no reason to disbelieve the unchallenged testimony of PWs 1 and 2. Nothing material is elicited from the cross examination of PW3 and P.W.4 to discredit their testimony with respect to conduct of trap proceedings, Pre-trap mahazar Ex.P2 and post trap mahazar Ex.P4. The explanation given by the DGO with respect to possession of tainted notes as per ExP6 is not proved and substantiated by leading cogent convincing evidence by DGO. P.W.1 and 2 have specifically denied Ex.P6 explanation given by DGO. Under such circumstances the same cannot be accepted. The DGO has not even taken pain to suggest his explanation to PW1 and 2 in the form of cross examination as they are not at all subjected to cross examination by the advocate for the DGO.

19. It is sought to contend in the course of argument of DGO that DGO had already completed the work of the complainant and therefore the question of demand and acceptance of illegal gratification from the complainant is out of picture. At this juncture it needs to be remembered that nothing worthy is brought on record to hold that the complainant was very much aware that DGO had completed the work of the complainant on 05/05/2011 and therefore, it needs to be inferred that keeping the complainant under darkness of the completion of work DGO must have thought of demanding illegal gratification. It needs to be further remembered that even acceptance of cash even after completion of work attracts misconduct. It needs to be inferred that since the cheque to be issued to the complainant was attended by DGO he must have insisted to fulfil the demand for illegal gratification.

20. Nothing is found in the evidence of PW1 to PW4 that DGO herein was not found in possession of tainted cash. In these circumstances, the DGO has not lead any oral or documentary evidence to lend assurance to the defence put forward by him and would not lend support to his defence.


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21. It is well settled that in the criminal trial proof beyond reasonable doubt is the yardstick which needs to be applied while appreciating evidence. Preponderance of probabilities is the yardstick which needs to be applied while appreciating evidence in the inquiry of this nature. In order to establish the charge for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988, prosecution has to establish demand and acceptance of illegal gratification in order to extend official favour. Mere possession of tainted cash in the absence of demand will not attract the charge for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988. Evidence of PW1 & PW2 establishes demand of bribe by DGO. Evidence of PWs 1 to 4 establishes possession of tainted cash by DGO. Evidence of PWs 1 to 4 establishes change of colour of finger wash of DGO and also recovery of tainted cash from the possession of DGO. Mere possession of tainted cash in the absence of satisfactory explanation attracts misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966. In the presence of evidence of PWs 1 to 4 as discussed above I am not persuaded to accept the defence put forward in the course of written statement of DGO and also contentions raised in the course of written argument of DGO.

22. Thus, this Additional Registrar Enquiries, finds that, excluding the transcription in Ex P2, pre-trap panchanama, as it is not supported by certificate under section 65 B of Indian Evidence Act, the evidence of P.Ws 1 to 4, Ex.P1 to P10, as reasoned above, proves that the DGO had demanded and accepted bribe of Rs.1,500/- from P.W.1 on 19/05/2011. The disciplinary authority has proved the charges against this DGO. The DGO has committed misconduct, dereliction of duty acted in a manner unbecoming of a Government Servant and not maintained absolute

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integrity violating Rule 3(1)(i) to (iii) of K.C.S. Conduct) Rules, 1966. Accordingly, this point is answered in the **Affirmative**.

23. **Point No.2** :- For the aforesaid reasons, this Additional Registrar (Enquiries) proceeds to record the following.

FINDINGS

The disciplinary authority has proved the charges against the D.G.O.

Submitted to Hon'ble Upalokayukta for kind approval, and necessary action in the matter.


23/5/22
(J.P. Archana)

Additional Registrar (Enquiries-11),
Karnataka Lokayukta,
Bangalore.

ANNEXURES

List of witnesses examined on behalf of the Disciplinary Authority:-

PW1:- Sri. Narayan
PW2:- Sri. Udayananda.
PW3:- Sri. T.R.Bhat.
PW4:- Sri. B.A.Biradar.

List of witnesses examined on behalf DGO:-NIL

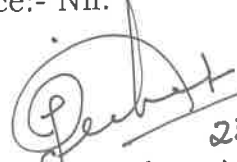
List of documents marked on behalf of Disciplinary Authority:-

Ex P1	Attested copy of complaint dated 18/05/2011.
Ex P2	Attested copy of Pre-trap Panchanama.
Ex P3	Attested copies of documents.
Ex P4	Attested copy of trap panchanama.
Ex P5	Attested copy of C.D.seizure panchanama.
Ex P6	Attested copy of statement of DGO.
Ex P7	Attested copy of FIR.
Ex P8	Attested copy of sketch.
Ex P9	Attested copies of documents related to


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	complainant.
Ex.P10	Attested copy of letter of PI,KLA, Karwar dated 08/09/2011 enclosed with attested copies of call details.

List of documents marked on behalf of Defence:- Nil.


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(J.P. Archana)

Additional Registrar (Enquiries-11),
Karnataka Lokayukta, Bangalore.
