

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO: UPLOK-1/DE/166/2017/ARE-12

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 29/11/2018

RECOMMENDATION

Sub:- Departmental inquiry against Sri D.B. Harijan,
Panchayath Development Officer, Aremallapura Grama
Panchayath, Ranebennur Taluk, Haveri District – Reg.

Ref:- 1) Government Order No. ಗ್ರೂಲಪ 783 ಗ್ರೂಪಂಕಾ 2016,
Bengaluru dated 21/11/2016.

2) Nomination order No.UPLOK-1/DE/166/2017,
Bengaluru dated 2/2/2017 of Upalokayukta-1,
State of Karnataka, Bengaluru

3) Inquiry Report dated 27/11/2018 of Additional
Registrar of Enquiries-12, Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 21/11/2016, initiated the disciplinary proceedings against Sri D.B.Harijan, Panchayath Development Officer, Aremallapura Grama Panchayath, Ranebennur Taluk, Haveri 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.UPLOK-1/DE/166/2017, Bengaluru dated 2/2/2017 nominated Additional Registrar of Enquiries-1, Karnataka Lokayukta, Bengaluru, as 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.UPLOK-1/DE/2017, Bengaluru dated 6/7/2017, the Additional Registrar of

Enquiries-7, Karnataka Lokayukta, Bengaluru was re-nominated as Inquiry Officer to conduct Departmental inquiry against DGO. Again, as per Order No. UPLOK-1&2/DE/Transfers/2018 dated 6/8/2018, Additional Registrar of Enquiries-12, Karnataka Lokayukta, Bengaluru was re-nominated as Inquiry officer to conduct Departmental Inquiry against DGO.

3. The DGO Sri D.B. Harijan, Panchayath Development Officer, Aremallapura Gram Panchayath, Ranebennur Taluk, Haveri District was tried for the following charge:-

“While you DGO Sri D.B. Harijan, was working as Panchayath Development Officer, Aremallapura Grama Panchayath, Ranibennur Taluk, Haveri District, one Sri P.S. Shidaganala R/o. Medleri Village, Konanatambigi Post, Ranebennur Taluk, Haveri District, had constructed individual toilet under Nirmal Bharath Abhiyan Scheme and MGNREGA scheme and entitled for financial assistance of Rs.10,048/- under the scheme and first installment of Rs.4,700/- only was credited to this account but you failed to credit the 2nd installment amount of Rs.5,348/- due to him in time and therefore, you DGO has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and therefore, 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-12) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge

against DGO Sri D.B.Harijan, Panchayath Development Officer, Aremallapura Grama Panchayath, Ranebennur Taluk, Haveri 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 31/8/2030.

7. Having regard to the nature of charge proved against DGO Sri D.B. Harijan, it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO Sri D.B. Harijan, Panchayath Development Officer, Aremallapura Grama Panchayath, Ranebennur Taluk, Haveri District, with cumulative effect.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 29/11
State of Karnataka,
Bengaluru

KARNATAKA - LOKAYUKTA

No. UPLOK-1/DE-166/2017/ARE-12

M.S. Building
Dr. B.R. Ambedkar Road
Bengaluru-560 001
Date: 27.11.2018

ENQUIRY REPORT

PRESENT : SRI D. PUTTASWAMY
ADDITIONAL REGISTRAR (ENQUIRIES)-12
M.S. BUILDING
KARNATAKA LOKAYUKTA
BENGALURU - 560 001.

Subject : Departmental Inquiry against Sri
D.B.Harijan, Panchayath Development
Officer, Aremallapura Grama
Panchayath, Ranebennur Taluk, Haveri
District-reg.,

References: 1. Report u/S 12(3) of the Karnataka
Lokayukta Act, 1984 in Compt/Uplok/
BGM/1371/2016/ARLO-1 dt.28.10.2016
2. Government Order No.ಗ್ರಾಅಪ 783 ಗ್ರಾಪಂಚಾ
2016 Bengaluru dated 21.11.2016.
3. Nomination Order No. Uplok-1/DE/166/
2017 Bengaluru dt.2.2.2017 of Hon'ble
Upalokayukta-1.
4. Order No.Uplok-1&2/DE/Transfers/2018
Bengaluru dated 6.8.2018.

* * *

1. This complaint is filed by the complainant Sri. P.S. Shidaganala R/o Medleri Village, Konanatambigi Post, Ranebennur Taluk, Haveri District against (1) Sri D.B. Harijan-Panchayath Development Officer (hereinafter referred to as Delinquent Government Official, in short DGO) (2) Sri Krishnaji Arera-Clerk and (3) Sri Manju-Computer Operator, all are of Aremallapura Grama

Panchayath, Aremallapur village, Ranebennur Taluk, Haveri District, alleging dereliction of duty. Sri Krishnaji Arera-Clerk and Sri. Manju-Computer Operator are the officials working on contract basis. Hence, proceedings are dropped against them.

2. On the basis of the complaint, comments were called from the DGO. Unsatisfied with the comments of DGO, a report was sent to the Government u/S 12(3) of the Karnataka Lokayukta Act, 1984 as per reference No. 1. In pursuance of the report, Government was pleased to issue the Government Order (G.O.) authorizing Hon'ble Upalokayukta to hold an enquiry against the DGO as per reference No. 2.

3. On the basis of the Government Order, nomination order was issued by Hon'ble Upalokayukta on 2.2.2017 authorizing ARE-1 to frame Articles of Charge against DGO and to hold an enquiry to find out truth and to submit a report as per reference No. 3. On the basis of the nomination order, the Article of Charge against the DGO was framed by the then Additional Registrar (Enquiries-1) and was sent to the Delinquent Government Official on 26.4.2017. This file was transferred from ARE-1 to ARE-7 as per order No. Uplok-1/DE/2017 Bangalore dated 6.7.2017 and in view of the order at reference No. 4, this file was transferred from ARE-7 to ARE-12.

4. The articles of charge and the statement of imputations of misconduct prepared and leveled against the DGO is reproduced as here under :-

ANNEXURE-I
CHARGE

While you DGO Sri. D.B. Harijan, was working as Panchayath Development Officer, Aremallapura Grama Panchayath, Ranebennur Taluk, Haveri District, one Sri.P.S.Shidaganala R/o Medleri village, Konanatambigi Post, Ranebennur Taluk, Haveri District, had constructed individual toilet under Nirmal Bharath Abhiyan Scheme and MGNREGA Scheme and entitled for financial assistance of Rs.10,048/- under the scheme and first installment of Rs.4700/- only was credited to his account but you failed to credit the 2nd installment amount of Rs.5348/- due to him in time and therefore you DGO has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and therefore you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966. Hence, this charge.

ANNEXURE II
STATEMENT OF IMPUTATION OF MISCONDUCT:

Brief facts of the case are:- An investigation under section 9 of the Karnataka Lokayukta Act was taken up on the basis of the complaint filed by Sri. P.S. Shidaganala R/o Medleri village, Konanatambigi

post, Ranebennur Taluk, Haveri District (hereinafter referred to as 'complainant' for short) against (1) Sri. D.B. Harijan -Panchayath Development Officer, (2) Sri. Krishnaji Arera-Clerk and (3) Sri. Manju-Computer Operator, all are of Aremallapura Grama Panchayath, Aremallapur Village, Ranebennur Taluk, Haveri District (hereinafter referred to as respondents No. 1 to 3 respectively for short), alleging that the respondents have committed dereliction of duties.

Complainant is a resident of Medleri village, Konanatambigi post, Ranebennur Taluk, Haveri District. He has constructed toilet for availing financial assistance provided by the Government. The respondent released Rs.4700/- as 1st instalment and assured to release 2nd instalment of Rs.5400/- between 3.12.2015 and 18.12.2015, but so far 2nd instalment has not been credited to the account of complainant.

The respondents No.1 and 2 submitted comments to the complaint. Respondent No.1 in his comments stated that -

The complainant was allotted a sum of Rs.10,048/- for construction of toilet (sum of Rs.5348/- under MGNREGA Scheme and Rs.5348/- under NBA Scheme) in the year 2014-15. 1st instalment (Rs.4700/-) was credited to the account

of the complainant. The sum of Rs.5348/- payable under MGNREGA was credited to the bank account bearing No.89004000459 of the complainant, due to technical reasons the amount was not credited. Action was taken to set right the technical defect by intimating the same to the Taluk Panchayath office and also Zilla Panchayath office. However, the amount has not been credited.

The complainant has submitted his rejoinder to the comments of the respondent by denying the contents of comments.

A careful examination of the material on record shows that, the respondent No.1 has failed to credit the 2nd instalment to the account of complainant under MGNREGA Scheme for construction of toilets.

In the light of the documents collected during the course of investigation, the comment submitted by the respondent No.1 is not convincing and acceptable or satisfactory to drop the proceedings against him and there are prima facie materials showing that the respondent has committed misconduct.

Since the said facts and materials on record prima facie show that Sri.D.B.Harijan, Panchayath Development Officer, Aremallapura Grama

Panchayath, Ranebennur taluk, Haveri District has committed misconduct under Rule 3(1) of the KCS (Conduct) Rules, 1966, recommendation is made under Section 12(3) of the Karnataka Lokayukta Act, 1984 to the Competent Authority to initiate disciplinary proceedings against Sri. D.B. Harijan, Panchayath Development Officer, Aremallapura Grama Panchayath, Ranebennur Taluk, Haveri District and to entrust the inquiry to this Authority under Rule 14-A of Karnataka Civil Service (Classification, Control and Appeal) Rules, 1957. Hence, the charge.

5. The aforesaid articles of charge was served upon the DGO on 31.5.2017 and he appeared before this enquiry authority and his first oral statement under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded. The DGO has pleaded not guilty and claimed to be enquired about the charge and he has not filed his written statement of defence. Subsequently, the DGO remained absent throughout the proceedings from 14.9.2017. Hence, DGO was placed *exparte*.

6. In this enquiry, to establish the charge against DGO, the Presenting Officer has examined Sri. Pradeep Shivappa Shidaganala(complainant) as PW-1 and got marked, in all, documents as Ex P-1 to 10 on behalf of Disciplinary Authority. Since the DGO is remained absent/*exparte* taken as no cross examination of PW1 by the DGO nor



there is a defence evidence. Then I have heard the learned Presenting Officer.

7. Now, the points that would arise for my consideration are;

1 : *Whether the charge leveled against the DGO is proved by the Disciplinary Authority?*

2 : *What order?*

8. My findings to the aforesaid points are as under :-

POINT No. 1 : In the AFFIRMATIVE.

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

REASONS

9. **POINT NO. 1** : It is the case of Disciplinary Authority that complainant was entitled for a sum of Rs. 4,700/- under Nirmal Bharath Abhiyana scheme and Rs.5,348/- under MGNREGA scheme, a total sum of Rs.10,048/- during the year 2014-15 for construction of toilet. The sum of Rs.4,700/- was credited to the account of complainant. But the DGO being Panchayath Development Officer, Aremallapura Grama Panchayath, Ranebennur Taluk, Haveri District, has not credited the second installment of Rs.5,348/- to the account of complainant and thereby the DGO committed dereliction of duty.

10. There is no dispute that the DGO was working as Panchayath Development Officer, Aremallapura Grama Panchayath, Ranebennur Taluk, Haveri District, at the relevant point of time.
11. The complainant being PW-1 has deposed in his evidence that he had constructed a toilet under Nirmal Bharath Abhiyana scheme & MGNREGA scheme and he was entitled for financial assistance of Rs.10,048/- and a sum of Rs.4,700/- was credited to his account, but the DGO has not released the second installment of Rs. 5,348/- in between 03/12/2015 & 18/12/2015 and so far second installment has not been credited to his account. Further he has deposed that he has complained to the Grama Panchayath, Taluk Panchayath and also to the Zilla Panchayath, but no action was taken against the DGO.
12. Apart from ocular evidence, he has produced complaint in Form No. 1 and 2, copy of complaint given to Grama Panchayath, Taluk Panchayath and Zilla Panchayath against the DGO, copy of RTI applications with postal order, copy of transaction detail given under RTI Act and rejoinder of the complainant at Ex.P-1 to Ex.P-10.
13. The learned Presenting Officer has submitted that the complainant being PW-1 has fully supported the case of Disciplinary Authority and the documents produced by him at Ex.P1 to Ex.P-10 corroborate his version to establish the

guilt of DGO as the DGO failed to release the second installment of Rs.5,348/- to the complainant towards construction of toilet.

14. The evidence of PW-1 coupled with documents would show that the DGO has not released the second installment of Rs.5,348/- and not credited the said amount to the account of complainant towards construction of toilet. That apart the DGO made the complainant to wander here and there stating that the sum of Rs.5,348/- credited to his FD account and the account of his brother Puttappa Hanumappa Shidaganal, but on verification found that no such amount has been credited as stated by DGO. The complainant has clearly stated this fact in his rejoinder.

15. It is clear from the comments offered by the DGO that the amount of Rs. 5,348/- has not been credited to bank account of complainant, but he says that due to technical problems amount has not been credited. It is to be noted that it was the duty of DGO to take proper steps to resolve the technical problems and to credit the amount, which the complainant was entitled to from Government. Moreover, DGO has not communicated the alleged problem to the complainant by addressing a letter.

16. It is pertinent to note that, the DGO has not rebutted the evidence of PW-1 by placing his written statement in the case, though he has appeared at first instance and

subsequently he remained absent and therefore, he has been placed exparte. As such the evidence of PW-1 is remained unchallenged and there are no reasons to disbelieve the version of PW-1. Such being the case, adverse inference can also be drawn as against the DGO.

17. It is therefore clear that, the DGO has failed to release second installment amount of Rs.5,348/- to the complainant towards construction of toilet and also failed to take proper steps to credit the said amount to the bank account of complainant, though the complainant has furnished his bank account, for the reasons best known to him. Therefore, inaction on the part of DGO in not releasing the second installment amount to the complainant by taking proper steps amounts to misconduct.

18. On appreciation of entire oral and documentary evidence on record, it is clear that DGO being a Government/Public servant has failed to maintain absolute integrity, besides devotion to duty and acted in a manner unbecoming of Government servant and hence, I hold that the Disciplinary Authority has established the guilt of DGO as per the charge mentioned at Annexure-1 of Article of Charge beyond all probabilities. Therefore, I answer Point No.1 in the Affirmative.

19. **POINT NO. 2** : In view of my finding on point No. 1 and for the foregoing reasons, I proceed to pass the following ;

: ORDER :

The Disciplinary Authority has proved the charge against the DGO Sri D.B. Harijan, Panchayath Development Officer, Aremallapura Grama Panchayath, Ranebennur Taluk, Haveri District.

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

Dated this the 27th November, 2018

(D. Puttaswamy)
Additional Registrar (Enquiries-12)
Karnataka Lokayukta, Bengaluru

ANNEXURES**I. LIST OF WITNESS/S EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY :**

PW 1 : Sri. Pradeep Shivappa Shidaganala

II. LIST OF DOCUMENTS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY :

Ex.P.1 : Form No.I dt.30.5.2016

Ex.P.2 : Form No.II dt.30.5.2016

Ex.P.3 : Complaint to Taluk Panchayath dt.23.12.2015

Ex.P.4 : Complaint to Taluk Panchayath dt.10.8.2015

Ex.P.5 : Complaint to Zilla Panchayath dt.4.8.2015

Ex.P.6 : Application under RTI Act dt.19.12.2015

Ex.P.7 : Application under RTI Act dt.2.2.2016

Ex.P.8 : Postal Order dt.19.12.2015

Ex.P.9 : Transaction details

Ex.P.10: Rejoinder dt. 21.9.2016

III. LIST OF WITNESS/S EXAMINED ON BEHALF OF DGO :

NIL

IV. LIST OF DOCUMENTS MARKED ON BEHALF OF DGO:

NIL

Dated this the 27th November, 2018

(D. Puttaswamy)
Additional Registrar (Enquiries-12)
Karnataka Lokayukta
Bengaluru