

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. UPLOK-1/DE/174/2018/ARE-10

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date 27/05/2019

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Smt. M. Anupama, the then Panchayath Development Officer, Harasooru Grama Panchayath, Kalaburagi Taluk and District.
- 2) Sri Abdul Saleem, Junior Engineer, Panchayath Raj Engineering Sub Division, Kalaburagi,
- 3) Sri N.P.Vijayendra, the then Executive Officer, Taluk Panchayath, Kalaburagi Taluk, Kalaburagi – Reg.

- Ref:- 1) Government Order No. ೧೨೨೮ 35 ಎಸಿಬಿ 2018 Bengaluru dated 6/3/2018
- 2) Nomination order No.UPLOK-1/DE/174/2018, Bengaluru dated 28/3/2018 of Upalokayukta-1, State of Karnataka, Bengaluru
 - 3) Inquiry Report dated 24/5/2019 of Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 6/3/2018, initiated the disciplinary proceedings against (1) Smt. M.Anupama, the then Panchayath Development Officer, Harasooru Grama Panchayath, Kalaburagi Taluk and District; (2) Sri Abdul Saleem, Junior Engineer, Panchayath Raj Engineering Sub Division, Kalaburagi; and (3) Sri N.P. Vijayendra, the then Executive Officer, Taluk Panchayath, Kalaburagi Taluk, Kalaburagi (hereinafter referred to as Delinquent Government Officials 1 to 3, for short as DGO-1, DGO-2 and DGO-3 respectively) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/174/2018, Bengaluru dated 28/3/2018 nominated Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 to 3 for the alleged charge of misconduct, said to have been committed by them.

3. The DGO-1 Smt. M.Anupama, the then Panchayath Development Officer, Harasooru Grama Panchayath, Kalaburagi Taluk and District; DGO-2 Sri Abdul Saleem, Junior Engineer, Panchayath Raj Engineering Sub Division, Kalaburagi; and DGO-3 Sri N.P. Vijayendra, the then Executive Officer, Taluk Panchayath, Kalaburagi Taluk, Kalaburagi were tried for the following charges:-

“That, you DGO-1 Smt. M.Anupama, the then Panchayath Development Officer, Harasooru Grama Panchayath, Kalaburagi Taluk and District, you DGO-2 Sri Abdul Saleem, Junior Engineer, Panchayath Raj Engineering Sub Division, Kalaburagi and you DGO-3 Sri N.P. Vijendra, the then Executive Officer, Taluk Panchayath, Kalaburagi District (presently working as A.E.E, Rural Drinking Water Division, Yadgir) have committed following dereliction of duty/misconduct:-

You DGOs 1 to 3 have carried out the following substandard works under MGNREG Scheme;

- (a) Construction of check dam in Sy. No. 207/2 of Harsuru Village;
- (b) Construction of CD work on Venkata Bennuru Road in Sy. No.207 of Harsuru Village and you DGOs 1 to 3 and the then President are responsible towards substandard work for total construction cost of ₹2,62,752/-.

Thus, you DGOs 1 to 3, being Government/
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 U/R 3(1) of the
Karnataka Civil Services (Conduct) Rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-10) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charges against DGO-1 Smt. M.Anupama, the then Panchayath Development Officer, Harasooru Grama Panchayath, Kalaburagi Taluk and District; DGO-2 Sri Abdul Saleem, Junior Engineer, Panchayath Raj Engineering Sub Division, Kalaburagi; and DGO-3 Sri N.P. Vijayendra, the then Executive Officer, Taluk Panchayath, Kalaburagi Taluk, Kalaburagi.
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 DGOs 1 to 3;
 - (1) DGO-1 Smt. M. Anupama is due to retire from service on 31/7/2041;
 - (2) DGO-2 Sri Abdul Saleem is due to retire from service on 30/6/2025; and
 - (3) DGO-3 Sri N.P.Vijayendra has retired from service on 31/8/2018 (during the pendency of inquiry).

7. Having regard to the nature of charges proved against DGO-1 Smt. M.Anupama; DGO-2 Sri Abdul Saleem and DGO-3 Sri N.P. Vijayendra,

- (i) it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO-1 Smt. M.Anupama, the then Panchayath Development Officer, Harasooru Grama Panchayath, Kalaburagi Taluk and District, with cumulative effect;
- (ii) it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO-2 Sri Abdul Saleem, Junior Engineer, Panchayath Raj Engineering Sub Division, Kalaburagi with cumulative effect; and
- (iii) it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO-3 Sri N.P. Vijayendra, the then Executive Officer, Taluk Panchayath, Kalaburagi Taluk, Kalaburagi, for a period of 5 years.

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

KARNATAKA - LOKAYUKTA

BEFORE ADDITIONAL REGISTRAR (ENQUIRIES -10)

PRESENT :

SRI. MASTER R.K.G.M.M. MAHASWAMIJI, MA., LL.M.,
 ADDITIONAL REGISTRAR ENQUIRIES-10,
 M.S. BUILDING,
 KARNATAKA LOKAYUKTA,
 BANGALORE - 560 001.

DEPARTMENTAL ENQUIRY NO. UPLOK-1/DE/174/2018/ARE-10.

COMPLAINANT	SRI. SHARANAPPA
DISCIPLINARY AUTHORITY	GOVERNMENT OF KARNATAKA RURAL DEVELOPMENT AND PANCHAYATH RAJ DEPARTMENT. (Through Presenting Officer)
V/s	
DELINQUENT GOVERNMENT OFFICIALS	1. SMT. ANUPAMA, <i>the then Panchayath Development Officer,</i> Harasooru Gram Panchayath, Kalaburgi Taluk and District. 2. SRI. ABDUL SALEEM, <i>Junior Engineer,</i> Panchayath Raj Engineering Sub Division, Kalaburgi. 3. SRI. N.P. VIJENDRA, <i>the then Executive Officer,</i> Taluk Panchayath, Kalaburgi, Kalaburgi District. (DGOs-1 to 3 represented by defense assistant Sri. G.V. Mutalik Desai).

Subject : Departmental Inquiry against DGOs as
noted in the cause title -reg.,

Reference/s : 1. Report u/S 12(3) of the Karnataka Lokayukta
Act, 1984 in
Compt/Uplok/GLB/7532/2014/DRE-3
dated 16.01.2018.
2. Government Order No. ೧೨೨೮ ೩೫ ವಿಸೇಷ ೨೦೧೮
Bengaluru dated 06.03.2018.
3. Nomination Order No.Uplok-1/DE/174/2018
Bengaluru dt. 28.03.2018 of Hon'ble
Uplokayukta-1.



- i. Nature of the Case. : Departmental Enquiry
- ii Provision of law under which article of charge/s framed. : U/R 3 (1)(i) to (iii) of Karnataka Civil Services(Conduct) Rules, 1966.
- iii Date of Submission of report : 24th May 2019.

-: DEPARTMENTAL-ENQUIRY-REPORT :-

1. This is the departmental enquiry initiated and held against DGOs 1 to 3 as the complainant by name Sri. *Sharanappa* has filed a complaint in Lokayukta Office against the Delinquent Government Officials alleging their dereliction of duty amounting to misconduct.
2. The *Comments/reply* of DGOs 1 to 3 called and unsatisfied with the same, 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.) dated 06.03.2018 authorizing Hon'ble Upalokayukta-1 to hold an enquiry as per reference no. 2.
3. In pursuance of the Government Order, a *nomination order* was issued by Hon'ble Upalokayukta-1 on 28.03.2018 authorizing ARE-10 to frame Article of Charge against DGOs 1 to 3 and hold an enquiry to find out truth and to submit a report as per reference No. 3.



4. Accordingly, *Article of charge* framed/prepared under Rule 11(3) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 and sent to the Delinquent Government Officials on 19.04.2018.
5. The article of *charge* and the statement of imputations of misconduct framed/prepared and leveled against the DGOs 1 to 3 are reproduced as hereunder :-

ANNEXURE NO. 1

CHARGE

5(1) That, you DGO 1 *Smt. M. Anupama*, the then *Panchayath Development Officer*, Harasooru Gram Panchayath, Kalaburgi Taluk and District, you DGO 2 *Sri. Abdul Saleem*, *Junior Engineer*, Panchayath Raj Engineering Sub Division, Kalaburgi and you DGO 3 *Sri. N.P. Vijendra*, the then *Executive Officer*, Taluk Panchayath, Kalaburgi District (presently working as A.E.E., Rural Drinking Water Division, Yadgir) have committed following *dereliction of duty/misconduct*:-

5(2) You DGOs-1 to 3 have carried out the following *substandard works* under MGNREG scheme;

- (a) Construction of *check dam* in Sy. No. 207/2 at Harsuru Village.



(b) Construction of CD work on Venkata Bennuru road in Sy. No. 207 of Harsuru village and You DGOs 1 to 3 and the then President of Harasoor Gram Panchayath are responsible towards *substandard work* for total construction cost of Rs. 2,62,752/-.

5(3) Thus, you DGOs 1 to 3, being Government /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 U/R 3(1) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE NO. II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

5(4) An *investigation* was taken up under Section 9 of the Karnataka Lokayukta Act, 1984, on the basis of the complaint filed by Sri. *Sharanappa* S/o Gundappa Bhusare R/o Harasoor, Kalburgi Taluk and District against (1) Smt. Anupama M., the then Panchayath Development Officer, Harasoor Gram Panchayath, Kalburgi Taluk and District, (2) Sri Abdul Saleem, Junior Engineer, PRE Sub-Division, Kalburgi District, (3) Smt. Lakshmibai Shivaraya Kori, the then President of Harasoor Gram Panchayath, Kalburgi District and (4) Sri. N.P Vijendra, the then



Executive Officer, Taluk Panchayath, Kalaburgi District, presently working as Assistant Executive Engineer, Rural Water Supply Division, Yadgir.

5(5) The complainant alleges that:-

i) The drainage which is in mid-way on the way from Harasoor to Benur is constructed by the adjacent land owners raising funds. But the Gram Panchayath by showing the said work has raised bogus bills and has misappropriated the Government funds.

ii) The stones from old check dams have been used to construct new check dam and thereby, they have raised bills misappropriating public fund.

iii) The DGOs by forging the signatures of the job card holders under MGNREG scheme have misappropriated the funds.

iv) Many works under MGNREG are substandard and thereby huge funds have been misappropriated. Hence, he prayed to take action against the DGOs.

5(6) The matter was referred to the Chief Engineer, TAC for investigation. The Chief Engineer, TAC has submitted the *report* dated



14.9.2017 along with the report of Sri Dinesh Kumar Vibuthi - Assistant Engineer -05/I.O., TAC, Bangalore.

5(7) The Investigation Officer has conducted the spot investigation on 8.6.2017 and has verified the following three works:-

(a) Basappa Kalla land to Mugullare Nala Muram work

(b) Construction of check dam in Sy. No. 207/2 at Harsuru Village

(c) Construction of CD work on Venkata Bennuru road in Sy. No. 207 of Harsuru village.

5(8). I.O. has submitted the investigation report with respect to the above said (b) and (c) works as follows : -

ತನಿಖೆಯ ಅಂತಿಮ ಅಭಿಪ್ರಾಯ/ಫಲತಾಂಶ

ಸಂಕ್ಷಿಪ್ತ ವಿವರಣೆ			
ಅಂದಾಜು ಪಟ್ಟಿಯಂತೆ ಕಾಮಗಾರಿ ಹೆಸರು	ಹರಸೂರು ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 207/2ರಲ್ಲಿ ಚೆಕ್ ಡ್ಯಾಂ ನಿರ್ಮಾಣ		
ಅಂದಾಜು ಮೊತ್ತ ರೂ. (ಲಕ್ಷಗಳು)	1.50		
ಸಾಲಿನ ಲೆಕ್ಕ ಶೀರ್ಷಿಕೆ	ಎಂ.ಜಿ.ಎನ್.ಆರ್.ಇ.ಜಿ.ಎ. 2012-13		
ತಾಂತ್ರಿಕ ಮಂಜೂರಾತಿ ಸಂಖ್ಯೆ/ದಿನಾಂಕ	32/ಹರಸೂರು/2012-13 (02/04/2012)		
ಕಾಮಗಾರಿ ಅನುಷ್ಠಾನ	ಇಲಾಖೆ ವತಿಯಿಂದ	ಗುತ್ತಿಗೆಯ	ಎಜೆನ್ಸಿ
	-	-	-
ಟೆಂಡರಿಟ್ಟ ಮೊತ್ತ (ರೂ.ಗಳಲ್ಲಿ)	ಅನ್ವಯಿಸುವುದಿಲ್ಲ		



ಅನುಮೋದಿತ ಟೆಂಡರ್ ಮೊತ್ತ (ರೂ.ಗಳಲ್ಲಿ)	ಅನ್ವಯಿಸುವುದಿಲ್ಲ		
ಟೆಂಡರ್ ಪ್ರೀಮಿಯಂ (%)	ಅನ್ವಯಿಸುವುದಿಲ್ಲ		
ಕಾಮಗಾರಿ ಪೂರ್ತಿಗೊಳಿಸಲು ಕಾಲಾವಧಿ	ಅನ್ವಯಿಸುವುದಿಲ್ಲ		
ಕೆಲಸ ಪ್ರಾರಂಭಿಸಿದ ದಿನಾಂಕ	25.2.2013		
ಕೆಲಸ ಮುಗಿಸಿದ ದಿನಾಂಕ	11.3.2013		
ಖರ್ಚಾದ ಮೊತ್ತ (ರೂ.ಗಳಲ್ಲಿ)	ಎನ್.ಎಂ.ಆರ್. ನಂ.-1790 66,650/-	ಸಾಮಗ್ರಿ 47,105/-	ಒಟ್ಟು 1,13,755/-
ಅಂದಾಜಿನಲ್ಲಿ ಅಳವಡಿಸಿದ ಅಂಶಗಳು	ಮಸ್ಸರ್ ರೋಲ್‌ನಲ್ಲಿ ನಮೂದಿಸಿದಂತೆ ಅಳತೆ ಮಸ್ಸರ್ ಸಂಖ್ಯೆ: 4233 ಪುಟ ಸಂಖ್ಯೆ 41 ರಿಂದ 43 ರವರೆಗೆ Earthwork Excavation Structure, Plain Cement Concrete M5 and M 15, Centering and Shuttering		

ಕಾಂಕ್ರೀಟ್ ಚೆಕ್ ಡ್ಯಾಮ್ ಕಾಮಗಾರಿಯು ಎಂ.ಜಿ.ಎನ್.ಆರ್.ಇ.ಜಿ-ಪಿ.ಆರ್.ಇ., ಯೋಜನೆ 2012-13ನೇ ಅಡಿಯಲ್ಲಿ ಸರ್ವೆ ನಂ. 207/2, ಅಂದಾಜು ಮೊತ್ತ ರೂ. 1,50,000/- ಈ ಕಾಮಗಾರಿಯು ಸ್ಥಳ ತನಿಖೆಯಲ್ಲಿ ದೊಡ್ಡ ಕಲ್ಲುಗಳನ್ನು ಹಾಕಿ ಕಾಂಕ್ರೀಟ್ ಮಾಡಿದ್ದು ಮೋಲ್ಟೋಟಕ್ಕೆ ಕಂಡುಬಂದಿರುತ್ತದೆ ಮತ್ತು ಲೋಕೋಪಯೋಗಿ ಇಲಾಖೆಯ ಕಲಬುರಗಿ, ಗುಣಭರವಸೆ ಉಪ ವಿಭಾಗ, ಕಲಬುರಗಿ ಇವರಿಂದ ಗುಣಭರವಸೆ ಫಲಿತಾಂಶ ಅಂಶಗಳ ಪ್ರಕಾರ ಈ ಕಾಮಗಾರಿ ಕಾಂಕ್ರೀಟ್ ಚೆಕ್ ಡ್ಯಾಮ್ ಕಳಪೆಯಾಗಿದ್ದು ಸಾಬೀತಾಗಿರುತ್ತದೆ.

ಸಂಕ್ಷಿಪ್ತ ವಿವರಣೆ			
ಅಂದಾಜು ಪಟ್ಟಿಯಂತೆ ಕಾಮಗಾರಿ ಹೆಸರು	ಹರಸೂರು ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 207 ಸೇತುವೆ ನಿರ್ಮಾಣ (ವೆಂಕಟಬೆನೂರು ರೋಡ್)		
ಅಂದಾಜು ಮೊತ್ತ ರೂ. (ಲಕ್ಷಗಳು)	1.50		
ಸಾಲಿನ ಲೆಕ್ಕ ಶೀರ್ಷಿಕೆ	ಎಂ.ಜಿ.ಎನ್.ಆರ್.ಇ.ಜಿ.ಎ. 2013-14		
ತಾಂತ್ರಿಕ ಮಂಜೂರಾತಿ ಸಂಖ್ಯೆ/ದಿನಾಂಕ			
ಕಾಮಗಾರಿ ಅನುಷ್ಠಾನ	ಇಲಾಖೆ ವತಿಯಿಂದ	ಗುತ್ತಿಗೆಯ	ಎಜೆನ್ಸಿ
ಟೆಂಡರಿಟ್ಟ ಮೊತ್ತ (ರೂ.ಗಳಲ್ಲಿ)	ಅನ್ವಯಿಸುವುದಿಲ್ಲ		
ಅನುಮೋದಿತ ಟೆಂಡರ್ ಮೊತ್ತ (ರೂ.ಗಳಲ್ಲಿ)	ಅನ್ವಯಿಸುವುದಿಲ್ಲ		
ಟೆಂಡರ್ ಪ್ರೀಮಿಯಂ (%)	ಅನ್ವಯಿಸುವುದಿಲ್ಲ		
ಕಾಮಗಾರಿ ಪೂರ್ತಿಗೊಳಿಸಲು ಕಾಲಾವಧಿ	ಅನ್ವಯಿಸುವುದಿಲ್ಲ		
ಕೆಲಸ ಪ್ರಾರಂಭಿಸಿದ ದಿನಾಂಕ	25.4.2014		
ಕೆಲಸ ಮುಗಿಸಿದ ದಿನಾಂಕ	9.5.2014		



ಖರ್ಚಾದ ಮೊತ್ತ (ರೂಗಳಲ್ಲಿ)	ಎನ್.ಎಂ.ಆರ್. ನಂ.	ಸಾಮಗ್ರಿ	ಒಟ್ಟು
	(37,436+47,177/-)= 84,613/-	(32,660+31,724)= 64,384/-	1,48,997/-
	ಮಸ್ಕರ್ ರೋಲ್‌ನಲ್ಲಿ ನಮೂದಿಸಿದಂತೆ ಅಳತೆ ಪುಸ್ತಕ ಸಂಖ್ಯೆ: 1239 ಪುಟ ಸಂಖ್ಯೆ 46 ರಿಂದ 47 ರವರೆಗೆ, ಪುಟ ಸಂಖ್ಯೆ 59 ರಿಂದ 60 ರವರೆಗೆ		
ಅಂದಾಜಿನಲ್ಲಿ ಅಳವಡಿಸಿದ ಅಂಶಗಳು	Earthwork Excavation Structure, Plain Cement Concrete M5 and M 15, Centering and Shuttering		

ವೆಂಕಟಬೆನೂರ ರಸ್ತೆಯಲ್ಲಿ ಸರ್ವೆ ನಂ. 207 ಸೇತುವೆ ನಿರ್ಮಾಣ ಗ್ರಾಮ ಹರಸೂರು/ಪಿ.ಆರ್.ಇ. ಇಲಾಖೆ, ಕಲಬುರಗಿ ತಾಲ್ಲೂಕು ಈ ಕಾಮಗಾರಿಯ ಬಲಭಾಗ ಗೋಡೆಯು ಬಿರುಕುಗೊಂಡಿದ್ದು ಕಂಡುಬಂದಿರುತ್ತದೆ ಹಾಗೂ ಲೋಕೋಪಯೋಗಿ ಇಲಾಖೆಯ ಕಲಬುರಗಿ, ಗುಣಭರವಸೆ ಉಪ ವಿಭಾಗ, ಕಲಬುರಗಿ ಇವರಿಂದ ಗುಣಭರವಸೆ ಫಲಿತಾಂಶ ಪರಿಶೀಲಿಸಿದಾಗ ಬಳಸಲಾದ ಕಾಂಕ್ರೀಟ್ ನಿಗದಿತ ಸಾಮರ್ಥ್ಯ ಹೊಂದಿರುವುದಿಲ್ಲ ಎಂಬುದು ಕಂಡುಬಂದಿದ್ದರಿಂದ ದೂರುದಾರರ ಆರೋಪ ಸಾಬೀತಾಗಿರುತ್ತದೆ.

ಮೇಲೆ ತಿಳಿಸಿದ ವಿಷಯಗಳಂತೆ, ಹರಸೂರು ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 207/2 ರಲ್ಲಿ ಚೆಕ್ ಡ್ಯಾಮ್ ನಿರ್ಮಾಣ (ಖರ್ಚಾದ ಮೊತ್ತ (ರೂ. 1,13,755/-) ಮತ್ತು ಹರಸೂರು ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 207 ಸೇತುವೆ ನಿರ್ಮಾಣ (ವೆಂಟಬೆನೂರು ರೋಡ್)(ಖರ್ಚಾದ ಮೊತ್ತ (ರೂ.ಗಳಲ್ಲಿ) 1,48,997/- ರಲ್ಲಿ ಸೇತುವೆ ನಿರ್ಮಾಣದ ಕಾಮಗಾರಿಗಳು ಒಟ್ಟು ಮೊತ್ತ ರೂ. ಗಳಲ್ಲಿ 2,62,752/- ಕಳಪೆಮಟ್ಟದಲ್ಲಿ ನಿರ್ವಹಣೆಯಾಗಿರುವುದು ಗುಣಮಟ್ಟ ಭರವಸೆ ಉಪ ವಿಭಾಗದವರು ಕಾಮಗಾರಿಯ ಕಾಂಕ್ರೀಟ್ ಅಂಶಗಳ ಕುರಿತು ನಡೆಸಲಾದ ಎನ್.ಡಿ.ಟಿ. ಫಲಿತಾಂಶಗಳಿಂದ ಕಂಡುಬಂದಿರುವುದರಿಂದ 1 ರಿಂದ 3ನೇ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಕಳಪೆ ಕಾಮಗಾರಿಯ ಮೊತ್ತ ರೂ. 2,62,752/- ಗಳಿಗೆ ಸಮಾನವಾಗಿ ಜವಾಬ್ದಾರರಾಗಿರುತ್ತಾರೆಂದು ವರದಿ ನೀಡಿರುತ್ತಾರೆ.

5(9) The comments were called from all the DGOs by forwarding copy of the complaint, its enclosures and also the report of Chief Engineer, TAC.

5(10) DGOs 1 to 3 have submitted their comments of even date 7.11.2017 by denying the complaint allegations. They have also

contended that the *hammer test* conducted by the 3rd party inspection after 3 to 4 years of execution of work is not acceptable.

5(11) *DGO-1 states in the comments that, funds have been released to Executing Authority through Panchayath and its execution. is ensured by technical staff i.e., Junior Engineer of the Panchayath and the contractor to whom the work is entrusted. It is the duty of the Assistant Engineer to record the MB and ensure the execution of the work and give completion report to the Panchayath. Since, the work is of technical one, she is not responsible for the allegations made against her.*

5(12) *DGO 2 states in the comments that, the work is executed more than 3 years back. Due to heavy rains and natural depletion, the quality of sand and cement will go down.*

5(13) *DGO 3 states in the comments that, he has nothing to do with the technical matters. The execution of the work is exclusively related to the Junior Engineer and the contractor.*

5(14) Therefore, all the DGOs have prayed to drop them from the proceedings.



5(15) *I.O. in his report has clearly stated that, the above said works are of substandard quality and the finding is based on the test conducted during spot inspection. All the DGOs are held to be equally responsible for total construction cost of Rs. 2,62,752/-. Therefore, there are prima facie materials to infer misconduct against DGOs 1 to 3. Hence, the comments of the DGOs 1 to 3 cannot be accepted at this stage.*

5(16) *Since, the said facts and material on record prima-facie show that, the DGOs 1 to 3 have committed misconduct as per Rule 3 (i) to (iii) of the KCS (Conduct) Rules, 1966, a report u/s 12(3) of Karnataka Lokayukta Act, 1984 was sent to the Competent Authority with a recommendation to initiate disciplinary proceedings against the DGOs 1 to 3 and entrust the enquiry to this Authority Under Rule 14-A of Karnataka Civil Services (Classification, Control and Appeals) Rules 1957.*

5(17) *In turn, the Competent Authority had initiated disciplinary proceedings against the DGOs 1 to 3 and entrusted the enquiry to this Institution and Hon'ble Upalokayukta has nominated this enquiry Authority to conduct*



enquiry and to submit a report. Hence, the above said charge.

6. The aforesaid 'article of charge' served upon the DGOs 1 to 3 and they appeared before this enquiry authority and their first oral statement/s under Rule 11(9) of KCS (CCA) Rules, 1957 recorded. The DGOs-1 to 3 have pleaded not guilty and claimed to be enquired about the charge.
7. The DGOs-1 to 3 have filed their written defense statement/s by denying the charge.
8. The DGOs 1 to 3 have been given an opportunity by this Enquiry Authority for verification / inspection of records/Documents and for discoveries, if any.
9. In this enquiry, to establish the charge against DGOs-1 to 3, the presenting officer has examined (1) Sri. Sharanappa (complainant,) as pw-1 and Sri. Dinesh Kumar Vibuthi (Assistant Engineer-5, TAC, Lokayukta, Bengaluru and Investigation Officer) as PW-2 and produced and got marked, in all, 13 documents as Ex P1 to 13 on behalf of Disciplinary Authority.
10. After the closure of the evidence of the Disciplinary Authority, second oral statement/s of DGOs 1 to 3 as per Rule 11(16) of Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 recorded. The DGOs-1 to 3 have submitted that they will examine themselves. Accordingly, the delinquent



government official-2 Sri. Abdul Saleem, DGO-3 Sri. N.P. Vijendra and DGO-1 Smt. M. Anupama are examined themselves as DW1 to 3 respectively and got marked 5 documents as Ex D-1 to D-5 and closed their side. As such, the *questionnaire/s* of DGOs 1 to 3 u/R 11(18) of KCS (CCA) Rules, 1957 *dispensed with* as they examined themselves.

11. The learned defense assistant appearing for DGOs 1 to 3 have filed *common written brief* and I have heard learned Presenting Officer and defense assistant.

12. Now, the *points* that emerge for my consideration and conclusion are *as follows* :-

1 : *Whether the charge against DGOs-1 to 3 as noted at para 5(2) of the report is proved by the Disciplinary Authority through its presenting officer?*

2 : *What finding/conclusion ?*

13. I have heard and carefully perused the enquiry papers and analyzed and appreciated the oral and documentary evidence placed on record.

14. My *findings* on aforesaid points are *as under*:

POINT No. 1 : In the AFFIRMATIVE

POINT no. 2 : As per my *FINDING/CONCLUSION*



for the following :-

* REASONS *

15. POINT NO. 1 : *It is the case of the Disciplinary Authority that DGO-1 being the then Panchayath Development Officer in Harasooru Gram Panchayath, DGO-2 being Junior Engineer in Panchayath Raj Engineering Sub-Division, Kalaburgi and DGO-3 being Executive Officer, Taluk Panchayath, Kalaburgi have committed dereliction of duty amounting to misconduct as mentioned in the charge at para 5(2) of the report.*
16. *In order to prove the charge leveled against DGOs 1 to 3, the presenting officer has examined 2 witnesses and got marked 13 documents and closed the side.*
17. *Now, I shall proceed to appreciate and analyze the oral and documentary evidence of the disciplinary authority viz.,(PW1, PW2 and Ex P1 to 13) which are as follows:-*
18. PW- 1 SRI SHARANAPPA. (Complainant) *he has deposed that, he knew DGO -1 Anupama who was working as PDO, in Harasuru Gram Panchayath and DGO -2, Abdul Saleem, who was working as Junior Engineer in PRE Sub-division. He and villagers gave complaint dated 02.12.2014 as per Ex. P-10*



and Form No.1 (complaint) & Form No.2 (affidavit) are at Ex. Ex P-11 and 12 respectively.

19. *PW-1 states that, Under MGNREGA Scheme, construction of check dam in sy.no.207/2 at Harasuru village and cross drainage work on Venkatabennuru road in sy.no.207 of Harasuru village were taken up and same were substandard work.*
20. *PW-1 says that, himself and villagers formed road and drainage from Harasuru to Bennuru, but DGOs claimed the bill stating that they have executed the said road work. The 3 photos of Road and Drainage are at Ex. P-13.*
21. *PW-2 SRI. DINESH KUMAR VIBUTHI (Assistant Engineer-5, TAC, Lokayukta, Bengaluru & Investigation Officer) he has deposed that, he knew DGO -1 to 3 who were working as PDO, Junior Engineer and Executive Officer in their places concerned. He perused complaint and relevant documents and on 8.06.2017, he visited Harasuru Gram Panchayath, Kalburgi Taluk and inspected the works in respect of construction of check dam in sy.no. 207/2 at Harasuru village and construction of Cross Drainage work Venkatabennuru road of Harasuru Village and he found that the above said 2 works were substandard.*
22. *PW-2 has further deposed that, the above said 2 works were executed under MGNREGA scheme. Along with him, he took Quality Control Team who tested the cement works with rebound hammer. Due to substandard works, there is total loss of construction cost of Rs.2,62,752/- and for the same*



DGO-1 to 3 and president of Harasuru Gram Panchayath are responsible.

23. *PW-2 states that*, accordingly, he submitted investigation report dt:14.9.2017 as per Ex. P-1. When he visited the spot, he conducted spot mahazar as per Ex. P-2. Along with investigation report, he has also produced, 29 photos with one CD, Incumbency certificates of DGO-3 and DGO-1, Copy of extract of Gramasabha Register, Copies of action plan, Copy of check list and Original quality test report dt:30.6.2017 as per Ex. P-3 to 9 respectively.
24. *In the cross-examination of PW-1 and 2* made by learned defense assistants appearing for DGOs-1 to 3, I find that no worth mentioning points are elicited in favour of DGOs-1 to 3/defense case to disbelieve/discredit evidence/depositions of PW-1 and 2.
25. It is the case of DGOs 1 to 3/*Defence that* they did not commit dereliction of duty amounting to misconduct.
26. *In this regard*, DGO-2 SRI. ABDUL SALEEM (Junior Engineer), DGO-3 SRI. N.P. VIJENDRA (the then Executive Officer) and DGO-1 SMT. M. ANUPAMA, (the then PDO), have examined themselves as DW-1 to 3 respectively, by filing their affidavit evidence and stated by reiterating their defense case and got marked 5 documents as Ex. D-1 to 5 and closed their side.
27. In so far as argument/s in this enquiry is concerned, the learned presenting officer has submitted that PW-1 and 2



are examined and Ex. P-1 to 13 have been got marked and on the basis of depositions of PW-1 and 2 and relevant documents, affirmative finding can be given as *charge against the DGOs 1 to 3 is proved.*

28. *Per contra*, the learned defense assistant appearing for DGOs-1 to 3 have *filed common written brief for DGOs.*
29. *Having heard* and on careful perusal and appreciation of oral and documentary evidence of disciplinary authority placed on record, *it is obviously clear that* the disciplinary authority has placed sufficient and satisfactory oral and documentary evidence to prove its case/enquiry against the DGOs 1 to 3 as per the standard of preponderance of probabilities to warrant my finding on the charge against DGOs-1 to 3 in the affirmative as *proved.*
30. *On careful perusal of depositions of PW-1 Sri. Sharanappa and PW-2 Sri. Dinesh Kumar Vibuthi, it can be seen that,* PW-1 being the complainant and PW-2 being Assistant Engineer, TAC, Lokayukta, Bengaluru and Investigation Officer, have fully supported the case of disciplinary authority.
31. *It is significant to note that,* nothing worth mentioning points are elicited from the evidence/depositions of PW-1 and 2 by the learned defense assistant appearing for Delinquent Government Officials. *As such,* the depositions



of PW-1 and 2 are worthy of acceptance, believable and reliable against DGOs 1 to 3.

32. *It is relevant to note that*, the depositions of Pw-1 and 2 are consistent, corroborative and same are strengthened by the relevant documents i.e. Ex P -1 to 13.

33. I don't find any substance and considerable force in the line of argument/contention/s taken by the learned defense assistant appearing for DGOs 1 to 3 in the *Common Written Brief* and *in my considered opinion*, those are devoid of merits, irrelevant and unacceptable. *Moreover*, on bare reading of Ex. D-1 to D-5 relied by DGOs 1 to 3, I find that, nothing worth mentioning aspects are forthcoming therein in favour of DGOs 1 to 3 to hold that they have not committed misconduct. *Further*, the depositions of DGOs 1 to 3 /DW-1 to DW-3 are inconsistent and nothing, but, mere denial of case of disciplinary authority and they are highly interested, to disbelieve their versions. So, the evidence of DW-1 to 3 and Ex. D-1 to 5 are not helpful to the DGOs.

34. It is to be noted that, *it is not in dispute* that DGO-1 being then Panchayath Development Officer and DGO-2 being Junior Engineer, PRE, Kalaburgi and DGO-3 being then Executive Officer, were working during the relevant period in the concerned place as on the date of commission of dereliction of duty amounting to misconduct. *Moreso*, Ex. Ex P -4 Incumbency certificate goes to show that, DGO-3



was working at the relevant period. Further, Ex. P -5 another incumbency certificate discloses that, DGO No.1 was working during the relevant period.

35. *It is pertinent to note that, Ex. P-9 Quality Test Report dated 30.06.2017 and Ex. P -1 Investigation Report of PW-2 reveals that, the check dam in Sy. No. 207/2 and C.D. work on Venkata Bennur Road in Sy. No. 207 of Harsuru Village are substandard and there is total loss of Construction cost of Rs. 2,62,752/- and DGOs are Responsible for the same. Hence, the contention of DGOs that, they have not committed dereliction of duty amounting to misconduct is unacceptable/unsustainable.*
36. *On plain reading of Ex. P-1 to 13, coupled with depositions of PWs-1 and 2, it is very clear that DGO-1 being then Panchayath Development Officer and DGO-2 being Junior Engineer, PRE, Kalaburgi and DGO-3 being then Executive Officer, have committed dereliction of duty amounting to misconduct as mentioned in the charge at para 5(2) of the report.*
37. *On careful analysis and appreciation of oral and documentary evidence placed on record, it is manifestly clear that the depositions of PW-1 & 2 are fully corroborated, consistent and fortified by relevant exhibits/documents and the same are inspiring confidence of this enquiry authority to rely and to act upon against DGOs 1 to 3 and there is*



nothing brought on record to disbelieve the same. *In my considered view*, the case of Disciplinary Authority is *acceptable*.

38. *For the reasons stated above* and observations made in the light of depositions of PW-1, PW-2, DW-1 to 3 and relevant documents and relevant provision of law and under the given set of facts and circumstances of this enquiry, I have arrived at *inevitable conclusion to hold that*, the Disciplinary Authority through its Presenting Officer is *successful* in proving the *charge* leveled against DGOs 1 to 3 *up to* the standard of preponderance of probabilities and to the satisfaction of this enquiry authority, to record my finding in the affirmative as *proved*.
39. POINT NO.2: *In view of* my finding on point No. 1, for foregoing reasons and discussions, I proceed to submit the enquiry report *as under* :-

ENQUIRY - REPORT :

- i. *From* the oral and documentary evidence and materials placed on record, I hold and record my finding *that* the Delinquent Government Official-1 Smt. ANUPAMA, the then *Panchayath Development Officer*, Harasooru Grama Panchayath, Kalaburagi Taluk, Kalaburagi District, DGO-2 Sri. ABDUAL SALEEM, *Junior Engineer*, Panchayat



Raj Engineering Sub Division,
Kalaburagi and DGO-3 Sri. N.P.
VIJENDRA, the then Executive Officer,
Taluk Panchayath, Kalaburagi,
Kalaburagi District, have *failed* to
maintain absolute integrity besides
devotion to duty and committed an act
which is unbecoming of Government
servants and they are *found guilty* of
misconduct under Rule 3(1)(i) to (iii) of
Karnataka Civil Service (Conduct) Rules,
1966.

- ii. *Accordingly*, I hold and record my
finding on the *charge i.e. para 5(2)* of the
report, leveled by the disciplinary
authority against Delinquent
Government Officials No. 1 to 3, as
Proved.
- iii *Hence*, this Enquiry Report is
hereby submitted/placed before Hon'ble
Upalokayukta-1 for kind *consideration*.

Dated 24th May 2019.

Mb. 24/05/2019

(Master RKGMM Maha Swamiji)
Additional Registrar Enquiries-10
Karnataka Lokayukta
Bangalore.

Date : 24.05.2019.
Place : Bangalore.

::ANNEXURE::

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

PW-1 :- Sri. Sharanappa (Complainant)

PW-2 :- Sri. Dinesh Kumar Vibuthi (Assistant Engineer,
TAC, Lokayukta, Bengaluru & Investigation Officer)

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

Ex.P-1 : Investigation Report dated
14.09.2017.

Ex.P-2 : Spot Mahazar dated 08.06.2017

Ex.P-3 : 29 photos with one CD

Ex.P-4 : Incumbency certificates of DGO-3,
and 5 DGO-1

Ex P-6 : Copy of extract of Gramasabha
Register

Ex. P-7 : Copies of action plan

Ex. P-8 : Copy of check list

Ex. P-9 : Original *Quality test report* dated
30.06.2017

Ex.P-10 : Complaint dated 02.12.2014

Ex.P-11 : Form No. I (complaint) dated

Ex.P-12 : Form No.II (Affidavit) dated

Ex.P-13 : 3 photos of Road and Drainage.

III. LIST OF WITNESS/S EXAMINED ON BEHALF OF DGOs/DEFENSE

DW-1 : Sri. Abdul Saleem (Junior
Engineer/DGO-2)

DW-2 : Sri. N.P. Vijendra, (the then Executive
Officer/DGO-3)

DW-3 : Smt. M. Anupama (the then
PDO/DGO-1)

IV LIST OF DOCUMENTS MARKED/EXHIBITED ON BEHALF OF DGOs/DEFENSE:



- Ex. D-1 : Self attested copy of relevant extract of *measurement book* (M.B. No. 4233).
Ex. D-2 : Self attested copy of relevant extract of *measurement book* (M.B. No. 1239)
Ex. D-3 : Gazette Notification dated 13.06.2006
Ex. D-4 : Xerox copy of page 42 of hand book of MGNEEGA
Ex. D-5 : Copy of Karnataka Rastriya Gramina Udyoga Kathari (Kundu Korthe Nivarane) Niyamagalu, 2009

Dated 24th May 2019.

Mb 24/05/2019

(Master RKGMM Mahaswamiji)
Additional Registrar Enquiries-10
Karnataka Lokayukta
Bangalore.