

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: LOK/INQ/14-A/222/2012

ENQUIRY REPORT Dated: 05/02/2019

Enquiry Officer: V.G.Bopaiah
Additional Registrar
Enquiries-11
Karnataka Lokayukta
Bengaluru.

Delinquent Government Official :Sri. Srinivasa Baburao Kulkarni (name written by him as Srinivas Baburao Kulkarni on the note sheet on 19/12/2016)

Discharged duties as First Division Assistant, Sub-Treasury, Sindagi, Vijayapura District in the year 2006.

Date of retirement on superannuation:
30/08/2033.

1. Delinquent Government Official (in short , "DGO")by name Sri. Srinivasa Baburao Kulkarni (name written by DGO as Srinivas Baburao Kulkarni on the note sheet on 19/12/2016) was working as First Division Assistant in Sub-Treasury, Sindagi, Vijayapura District in the year 2006.
2. Background for initiating the present inquiry proceedings needs to be stated in brief. One Bapugouda (hereinafter will be referred to as "complainant") is the resident of a place called Mulasavalagi, Vijayapura District. His wife was working as Assistant Teacher in Baratagi L.T. No.1 school. Earlier, wife of complainant was working as Assistant Teacher in L.T.No.1

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school at Korawara, Vijayapura District. Wife of complainant was on maternity leave from 17/11/2004 to 04/04/2005. Salary bill of the wife of the complainant for the above leave period was placed in the Sub-Treasury, Sindagi. On 19/01/2006, according to the complainant, he approached the DGO in connection with the salary bill of his wife. According to the complainant, DGO demanded illegal gratification of Rs.1,000/- in order to see that the said bill is passed. The complainant was not interested to fulfil the demand of the DGO and therefore, approached the Police Inspector (hereinafter will be referred to as "Investigating Officer") attached to Lokayukta Police Station, Vijayapura on the same day i.e., on 19/01/2006 and lodged complaint. On the basis of the said complaint, the Investigating Officer registered case against the DGO in crime number 02/2006 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 and submitted FIR to the Court of Principal District and Sessions Judge, Vijayapura. The Investigating Officer secured shadow witness by name Basavaraja Shivashankarappa Maikara and panch witness by name H. Bharath Kumar to Lokayukta Police Station, Vijayapura. The complainant produced one currency note of denomination of Rs.500/- and five currency notes of denomination of Rs.100/- each. The Investigating Officer got applied phenolphthalein powder on the above notes and got those notes placed in the left side pocket of shirt of the complainant through the panch witness. The Investigating Officer got prepared solution with water sodium carbonate powder and obtained sample of the said solution in a bottle. On the instructions of the Investigating Officer the panch witness

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immersed fingers of hands in the residual solution. The said wash turned to pink colour. The Investigating Officer seized the said wash in a bottle. The Investigating Officer instructed the complainant to approach the DGO and to give the tainted notes to DGO only in case of demand by DGO and further instructed the complainant to convey message in case of acceptance of tainted notes by DGO. The Investigating Officer instructed the shadow witness to accompany the complainant and to observe as to what transpires between the complainant and DGO. With the said process the Investigating Officer conducted pre-trap mahazar as primitive step of investigation.

3. Subsequent to pre-trap mahazar, the Investigating Officer along with his staff, complainant, shadow witness and panch witness left Lokayukta Police Station, Vijayapura and reached near the office of Tahasildar at Sindagi at 3.05 P.M. Afterwards, on the instructions of the Investigating Officer, the complainant and shadow witness approached the DGO in Sub-Treasury, Sindagi and requested to pass the bill. The DGO brought the complainant out of Sub-Treasury, Vijayapura and proceeded near tea shop outside the gate of Sub-Treasury, Sindagi. After having tea along with the complainant, the DGO along with the complainant and shadow witness left the tea shop and reached near "Hanumantha Devara Gudi" (temple) where demanded illegal gratification of Rs.1,000/-. In response, the complainant gave those tainted notes to DGO who in turn accepted those notes and placed those notes in the right side pocket of pant. It was then 3.35 P.M. Afterwards, the complainant conveyed message to the Investigating Officer.

4. Thereafter, in response to the message conveyed by the complainant, the Investigating Officer along with his staff and

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panch witness entered the Sub-Treasury, Sindagi where the complainant pointed out the DGO and expressed that DGO demanded and accepted tainted cash of Rs.1,000/-. The Investigating Officer disclosed his identity to the DGO and informed the purpose of his visit. At that time the DGO attempted to escape. The staff of Investigating Officer apprehended the DGO within about twenty minutes. Thereafter, the Investigating Officer got prepared solution with water and sodium carbonate powder in two containers and obtained sample of the solution in a bottle. On the instructions of the Investigating Officer, DGO immersed fingers of right hand in the solution kept in a container and immersed fingers of left hand in the solution kept in another container. The DGO offered resistance at that time. Finger wash of right hand of DGO turned to pink colour. Finger wash of left hand of DGO has not turned to any colour. The Investigating Officer seized those wash in separate bottles. On being asked by the Investigating Officer for production of tainted cash DGO refuted and offered resistance. Ultimately, DGO lifted tainted cash from the right side of the pant and produced before the Investigating Officer. The Investigating Officer got removed the pant of DGO and got the right side front pocket of pant washed in the solution. The said solution turned to pink colour. The Investigating Officer seized the said wash in bottle. The Investigating Officer also seized the pant of DGO. On being questioned about tainted cash, DGO placed statement in writing before the Investigating Officer. The Investigating Officer obtained attested copies of seven sheets of the bill of the wife of the complainant and also obtained attested copy of a single sheet of the attendance register maintained in the Sub-Treasury, Sindagi and also seized

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attested copy of single sheet of work allotment order under which the work was allotted to DGO. The Investigating Officer conducted trap mahazar in Sub-Treasury, Sindagi. The Investigating Officer caused arrest of DGO and brought the DGO to Lokayukta Police Station, Vijayapura. On that night the Investigating Officer produced the DGO in the Home Office of the Principal District and Sessions Judge, Vijayapura. During investigation DGO failed to offer satisfactory explanation for possession of tainted cash. On completion of investigation, the Investigating Officer obtained sanction for prosecution of DGO and filed charge sheet against the DGO in the Court of Principal District and Sessions Judge, Vijayapura.

5. On the basis of the records in crime number 02/2006 of Lokayukta Police Station, Vijayapura, Hon'ble Upalokayukta-1, Karnataka, in exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984 took up investigation which prima facie unearthed that DGO committed misconduct within the purview of Rule 3 (1) of The Karnataka Civil Services (Conduct) Rules, 1966, and accordingly, in exercise of the powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984, recommended the competent authority to initiate disciplinary proceedings against the DGO and to entrust the inquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.
6. Subsequent to the report dated 01/03/2012 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order bearing number ಆಇ 51 ಅಖಇ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ 18/04/2012 has been issued by the Under Secretary to the Government of Karnataka, Department of Finance (Administration & Budget) entrusting the

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inquiry against DGO to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

7. Subsequent to the Government Order ಅಇ 51 ಅಖಇ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ 18/04/2012, Order number LOK/INQ/14-A/222/2012 Bengaluru dated 25/05/2012 has been ordered by the Honb'le Upalokayukta-1, Karnataka nominating the Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against the DGO.
8. Articles of charge dated 14/08/2012 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru is the following:

ANNEXURE NO.I
CHARGE

2. That, you Sri Srinivasa Baburao Kulkarni, the DGO, while working as First Division Assistant in the Sub-Treasury at Sindagi in Bijapur district, Smt. Mahadevi Kashipati Patil, wife of the complainant namely Sri Bapugowda Rayanagowda patil was on Maternity leave for the period from 17-11-2004 to 04-05-2005 and her paybill for the said period was sent from the office of the B.E.O. to the sub-treasury at Sindagi and in that connection the complainant approached you on 18-01-2006 requesting to pass the salary bill for Rs.21,000/- and then you asked for bribe of Rs.1,000/- to attend the said work and on 19/01/2006 received bribe of Rs.1,000/- from the complainant to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a Government Servant and thereby committed mis-conduct as

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enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE NO.II

STATEMENT OF IMPUTATIONS OF MISCONDUCT

Smt. Mahadevi Kashipati Patil, the wife of the complainant namely Sri Bapugowda Rayanagowda Patil was working as Assistant Teacher at Baratai L.T, No.1. Earlier she was working at Korawar for about 2 years. During that period, the wife of the complainant was on maternity leave for the period from 17-11-2004 to 04-04-2005. She had not taken salary for the said leave period. Afterward, salary bill of Smt. Mahadevi Kashipati Patil was sent to the office of the B.E.O. and then it was sent to the sub-treasury at Sindagi. In that connection, the complainant approached the DGO on 18-01-2006 making enquiry about pay bill for Rs.21,000/- of his wife. Then, the DGO asked complainant to pay bribe of Rs.1,000/- to pass the bill and to get his wife's salary. The complainant was not willing to pay the bribe to the DGO. Therefore, he lodged complaint before the Lokayukta Police Inspector of Bijapur (herein after referred to as the Investigating Officer, for short, "the I.O."). The I.O. registered the complaint in Cr.no.2/2006 for the offences punishable U/S 7, 13(1)(d) R/W 13(2) of the Prevention of Corruption Act 1988. The I.O. took up investigation and on 19-01-2010, the I.O. trapped the DGO near west gate of the office of the sub-treasury at Sindagi while receiving bribe amount of Rs.1,000/- from the complainant. The I.O. seized the tainted amount from the DGO under mahazar after following post-trap formalities. The I.O. took statement of the DGO in writing and recorded statement of the complainant and panch witnesses. The record of investigation and materials collected by the I.O. showed that,

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the DGO had committed mis-conduct 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 the DGO receiving bribe for discharging his official duty as a public servant a suo-moto investigation was taken up U/S 7(2) of Karnataka Lokayukta Act against the DGO. An observation note was sent to the DGO calling for his explanation. The reply given by the DGO was not convincing and not satisfactory to drop the proceedings. As there was prima facie case showing that the DGO 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 disciplinary proceedings against the DGO and to entrust the departmental enquiry to the Hon'ble Upalokayukta U/R 14-A of K.C.S. (CCA) Rules. Accordingly, the Competent Authority initiated disciplinary proceedings and entrusted the enquiry to the Hon'ble Upalokayukta. Hence, the charge".

9. In response to due service of articles of charge, DGO entered appearance before the Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru on 21/09/2012. During first oral statement of DGO recorded on 21/09/2012 he pleaded not guilty. On 21/05/2013 DGO engaged advocate for defence.
10. In the course of written statement of DGO filed on 28/06/2013 he has contended that he never demanded and accepted illegal gratification of Rs.1,000/- and that he offered explanation before the Investigating Officer explaining the circumstances. He has denied the charge levelled against him and contended that he has not committed any act of misconduct.

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11. As per Order number LOK/INQ/14-A/2014 dated 14/03/2014 of Hon'ble Upalokayukta-1, Karnataka, this file has been transferred to the Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru.
12. The disciplinary authority has examined the complainant Sri. Bapugouda as PW1 and the shadow witness Sri. Basavaraja Mayakara as PW2 before the Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru. During evidence of PW1, attested copy of complaint dated 19/01/2006 in a single sheet is marked as per Ex P1, his signature found on Ex P1 is marked as per Ex P1(a), attested copy of pre-trap mahazar dated 19/01/2006 in four sheets is marked as per Ex P2, signature of complainant found on Ex P2 is marked as per Ex P2(a), attested copy of trap mahazar dated 19/01/2006 in seven sheets is marked as per Ex P3, signature of complainant found on Ex P3 is marked as per Ex P3(a), attested copy of the pay bill of wife of complainant annexed with the connected enclosures totally consisting of nine sheets are together marked as per Ex P4. During evidence of PW2, signature of PW2 found on Ex P2 is marked as per Ex P2(b), portion of Ex P2 is marked as per Ex P2(c), portion of Ex P2 is marked as per Ex P2(d), signature of PW2 found on Ex P3 is marked as per Ex P3(b), portion of Ex P3 is marked as per Ex P3(c), attested copy of statement dated 19/01/2006 of DGO in a single sheet is marked as per Ex P5, signature of PW2 found on Ex P5 is marked as per Ex P5(a), attested copy of entire statement dated 20/01/2006 in seven sheets of PW2 given before PW3 under section 162 of The Code of Criminal Procedure, 1973 is marked as per Ex P6.
13. As per Order number UPLOK-1/DE/2016 Bengaluru dated 03/08/2016 this file has been transferred to this section

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i.e., Additional Registrar, Enquiries-11, Karnataka Lokayukta, Bengaluru.

14. Subsequently the disciplinary authority has examined the Investigating Officer Sri. Ramappa Patil as PW3. During evidence of PW3, attested copy of FIR dated 19/01/2006 in a single sheet in crime number 2/2006 of Lokayukta Police Station, Vijayapura is marked as per Ex P7, attested copy of report dated 14/03/2006 in two sheets of the Chemical Examiner is marked as per Ex P8, attested copy of sketch in a single sheet is marked as per Ex P9.
15. During second oral statement of DGO recorded on 11/10/2017 he has stated that he would get himself examined as defence witness and that he does not intend to examine any defence witness.
16. DGO got himself examined as DW1. During his evidence, certified copy of the letter dated 11/11/2005 in a single sheet of the Gazetted Sub-Treasury Officer, Sindagi addressed to the District Treasury Officer, Vijayapura is marked as per Ex D1, certified copy of the letter dated 06/12/2005 of Sri. M.Prabhakara addressed to the District Treasury Officer, Vijayapura is marked as per Ex D2, certified copy of the letter dated 23/12/2005 in a single sheet of the District Treasury Officer, Vijayapura addressed to Sri. M.Prabhakara, Director, State Huzur Treasury, Bengaluru is marked as per Ex D3, certified copy of the letter dated 20/06/2005 in a single sheet of the Chief Executive Officer, Zilla Panchayath, Vijayapura addressed to the Executive Officer, Taluk Panchayath, Sindagi is marked as per Ex D4, certified copy of the letter dated 26/07/2005 in a single sheet of the Executive Officer, Taluk Panchayath, Sindagi addressed to the Gazetted Sub-Treasury

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Officer, Sindagi is marked as per Ex P5 and certified copy of the judgment dated 01/07/2016 in five sheets of the Hon'ble High Court of Karnataka, Kalaburagi Bench in Criminal Appeal number 3672 is marked as per Ex D6,

17. Since DGO has adduced defence evidence, questionnaire is dispensed with.

18. In the course of defence statement of DGO filed on 09/11/2017 he has denied the alleged demand and acceptance. It is stated that he has been transferred and posted to the post of Sri.S.S.Biradara who was the President of Government Employees Association, Sindagi Taluk unit. It is contended that in the background of the same Sri. S.S. Biradara was nurturing vengeance and also assaulted on 7/11/2005 and in that connection action has been taken against S.S. Biradara and in that background Sri. S.S. Biradara projected the complainant to see that false complaint is filed alleging demand for illegal gratification. It is contended that when DGO came out of the office and went to tea shop the complainant attempted to give cash which was not accepted. It is contended that a Police Constable by name Chennappa Shivappa Biradara who is the relative of S.S. Biradara assaulted the DGO and at that time DGO felt that somebody thrust some item to the right side pocket of pant and afterwards, DGO was apprehended by Lokayukta Police staff. It is contended that he has been acquitted in Criminal Appeal number 3672/2010 by the Hon'ble High Court of Karnataka, Kalaburagi Bench.

19. In the course of written argument of the Presenting Officer, relying upon the oral and documentary evidence on record it is contended that the alleged misconduct stands established.

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20. In the course of written argument of DGO, the contents of defence statement dated 09/11/2017 are reiterated and in addition, reference is made to the evidence on record and sought to contend that the charge alleged is not established. It is sought to contend that the term "misconduct" is not defined either under The Prevention Corruption Act, 1988 and also under the Karnataka Civil Service (Conduct) Rules, 1957 and that preponderance of probabilities would govern the situation. It is contended that much importance should not be given to pre-trap proceedings as laid down by the Hon'ble Supreme Court in the decision in Raghbir Singh V/S State of Haryana reported in AIR 1974 SC page 1516. It is sought to contend that trap was motivated at the instance of Sri. S.S. Biradara. Referring to the evidence of adduced by the disciplinary authority and also evidence of DGO including Exs D1 to D6 it is sought to contend that charge is not established.

21. In tune with the articles of charge, point which arises for consideration is whether, in order to extend official favour to the wife of the complainant i.e., in order to attend the salary bill for the period from 17/11/2004 to 04/04/2005 of the wife of the complainant, DGO who was working as First Division Assistant in Sub-Treasury, Sindagi demanded and accepted illegal gratification of Rs.1,000/- from the complainant near "Hanumanthadevara Gudi" near Sub-Treasury, Sindagi on 19/01/2006 between 3.05 P.M and 3.35 P.M and during investigation conducted in crime number 02/2006 of Lokayukta Police Station, Vijayapura by the Police Inspector attached to Lokayukta Police Station, Vijayapura DGO failed to offer satisfactory explanation for possession of tainted cash Rs.1,000/- and thereby DGO is guilty of misconduct within the

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purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?

22. Evidence of the complainant (PW1) that salary of his wife in respect of maternity leave was due and that the salary bill was pending is not under challenge. His evidence that he lodged the complaint the attested copy of which is at Ex P1 is not under challenge which portion of his evidence stands supported by the evidence of PW3 who during his evidence has spoken to that complaint was lodged with him by the complainant on 19/01/2016. Evidence of PW3 that the complainant lodged complaint is not under specific challenge. Evidence of PW3 that after the receipt of complaint he registered case in crime number 02/2006 of Lokayukta Police Station, Vijayapura 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 and submitted FIR to the jurisdictional Court is not under challenge.
23. Evidence of the complainant that he placed cash of Rs.1,000/- before PW3 is supported by the evidence of PW2 and also by the evidence of PW3 who have categorically spoken to that PW1 placed cash of Rs.1,000/-. Evidence of PW1 that powder was applied on the currency notes stands corroborated by the evidence of PW2 who during his evidence has spoken to that some powder was applied on the currency notes. Evidence of PW3 that he got applied phenolphthalein powder on the currency notes is not under challenge. It is in the evidence of PW1 that tainted notes are kept in the left side pocket of his shirt by the panch witness which portion of his evidence is supported by the evidence of PW3 who during his evidence has spoken to that he got placed the tainted notes in the left side

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pocket of the shirt of PW1. PWs 1 to 3 have categorically spoken to that finger wash of the panch witness turned to pink colour. Suggestion made to PW1 during cross examination that cash of Rs.1,000/- was not received by Lokayukta Police staff and that phenolphthalein was applied on the currency notes and that panch witness has neither kept the tainted notes in the pocket of shirt and further suggestion that proceedings of pre-trap mahazar are not conducted are denied by PW1. Evidence of PW2 touching the proceedings of pre-trap mahazar has not been assailed during cross examination and equally the evidence of PW3 touching the proceedings of pre-trap mahazar has not been assailed during cross examination and therefore on the strength of the evidence of PWs 1 to 3 I have no hesitation whatsoever to hold that pre-trap mahazar stands established.

24. It is in the evidence of PW1 that subsequent to pre-trap mahazar he approached the DGO in the office of DGO and requested to pass the bill at which point of time DGO asked about cash of Rs.1,000/-. Suggestion made to him during cross examination suggesting that there was no such demand has been denied by him. It is in the evidence of PW1 that subsequent to demand for cash of Rs.1,000/- DGO took him out of office and he along with DGO had tea in the nearby tea stall. It is in the evidence of PW2 that PW1 took the DGO towards the tea stall and that after paying cash to the DGO PW1 offered signal. It is in his evidence that afterwards the DGO proceeded to the office of DGO.

25. It is in the evidence of PW1 that while marching towards the office of DGO after having tea the DGO asked to pay cash and in response he gave cash of Rs.1,000/- to DGO who in turn received the same with right hand placed on the same in the

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right side pocket of the pant in front of the temple. Suggestion made to PW1 during cross examination that as per the directions of Lokayukta Police he was under obligation to pay cash has been denied by him. Suggestion made to PW1 suggesting that he took DGO near tea shop and further suggestion that he instigated the DGO and took near tea shop for the purpose of payment are denied by him. Suggestion made to PW1 suggesting that on the way to office when he offered amount to the DGO has not received the amount and further suggestion that after refusal receive amount told to meet after three days for getting the cheque are denied by him. Suggestion made to him suggesting that after entering the chamber of DGO, DGO was apprehended by the Lokayukta staff had been denied by him. He admits that after entry of Lokayukta Police staff to the chamber of DGO he told Lokayukta Police staff that DGO received amount. He admits apprehension of DGO by Lokayukta Police staff he further admits that Lokayukta Police staff asked the DGO to produce the amount received. This answer elicited during cross examination of PW1 conveys affirmative meaning that DGO received tainted cash. This answer leads to draw conclusion that the defence that tainted cash has been thrust cannot be believed and accepted. Suggestion made to PW1 suggesting that at the time of apprehension of DGO by Lokayukta Police staff he thrust the amount to the pocket of pant of DGO has been denied by him. This defence cannot be accepted for the reasons mentioned above.

26. During cross examination of PW1 it is brought out that the bill was received in the Sub-Treasury, Sindagi on 17/01/2006. Trap is laid on 19/01/2006 and thus it is clear that bill was

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pending on the day of trap. It is in the cross examination of PW1 that he does not know that DGO was not empowered to pass the bill. However, it is in the cross examination of PW1 that the Treasury Officer is empowered to pass the bill. Though it is brought out that the Treasury Officer is empowered to pass the bill, nothing worthy is brought out during cross examination of PW1 that DGO was not the concerned case worker. In the absence of evidence that DGO was not the concerned case worker it needs to be held that DGO had the occasion to handle the bill of the wife of the complainant. Though it is brought out during cross examination of PW1 that one Biradar who is his relative was also working in the said Treasury and that he has not asked the said Biradar to see that bill is passed through DGO. Though PW1 has stated during cross examination that he had no impediment to get the bill passed by giving intimation to the Sub-Treasury Officer through Biradar failure on the part of PW1 in approaching Biradar will not lend assurance to the defence formulated by DGO. Suggestion made to PW1 suggesting that DGO told that cheque has to be prepared and to be signed by the Treasury Officer for which three days time is required and informed PW1 to appear after three days has been denied by him. Nothing worthy of acceptance is brought out during cross examination of PW1 to hold that there was ill-will between Biradar and DGO and in that background Biradar instigated to lodge complaint with pseudonymous allegation of demand for illegal gratification. It needs to be expressed that if really DGO had intended to inform PW1 to approach after three days to get the cheque, then, DGO would not have come out of the office for the purpose of having tea. Thus, upon meticulous appreciation of the evidence of PW1 it needs to be expressed that

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DGO demanded and accepted illegal gratification of Rs.1,000/- in order to handle the salary bill of the wife of the complainant.

27. It is in the evidence of PW2 that after the DGO returned to the Treasury PW3 asked DGO touching acceptance of cash for which DGO responded in the negative and raised quarrel. Merely on the ground that DGO raised quarrel it cannot be expressed that raising quarrel is suggestive of innocence. It is in the evidence of PW2 that after apprehension of DGO cash has been recovered from the pocket of pant of DGO. PW2 has not fully supported and turned hostile. Suggestion made to PW2 by the Presenting Officer after treating hostile suggesting that after having tea the complainant asked about the bill and at that time there was demand by DGO and in response the complainant paid cash of Rs.1,000/- which has been received by DGO. This portion of answer elicited would show that in response to demand of DGO PW1 gave tainted cash.

28. During cross examination from the side of DGO attempts are made to establish the distance between the Sub-Treasury and main gate of Sub-Treasury. Answers elicited touching the same would not lend assurance to the defence. It is in his cross examination that he could not hear the conversation between the complainant and DGO. Be that as it may, evidence of PW2 establishes possession of tainted cash by DGO. It is brought out during cross examination of PW2 that one Biradar who was working as First Division Assistant in the office of DGO caught hold of hands of DGO and slapped questioning the transfer and posting of DGO to Sub-Treasury, Sindagi. Upon appreciation of the above answers of PW2 though it can be inferred that the said Biradar was not in good terms with DGO that alone will not

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drive to hold that DGO has been falsely implicated at the instance of Biradar.

29. Evidence of PW3 would show that after the complainant conveyed message he entered the Sub-Treasury, Sindagi. That portion of his evidence has not been specifically challenged during his cross examination. It is in his evidence that after he disclosed his identity to DGO, DGO attempted to escape and that DGO has been apprehended after about twenty minutes. It is brought out during his cross examination that he witnessed the DGO and complainant marching near the temple. Suggestion made to him during cross examination suggesting that after his entry to the office of DGO nobody pointed out DGO and that he caught hold of hands of DGO with the assistance of his staff has been denied by him. Suggestion made to him suggesting that he assaulted the DGO has been denied by him. Suggestion made to him suggesting that staff equally assaulted the DGO has been denied by him. He admits that there was friction at that time. The said admission will not lead to arrive at conclusion that DGO was innocent. Suggestion made to PW3 that at the time of friction he along with his staff thrusting tainted cash to the right side pocket of pant of DGO has been denied by him. During cross examination PW3 pleads ignorance over the ill-will between the DGO and Biradar. Nothing worthy is brought out during cross examination of PW3 that he was biased. His evidence establishes change of wash of fingers of right hand and also wash of right side pocket of pant of DGO. His evidence establishes that tainted cash was found in the right side pocket of pant of DGO and also seizure of the said tainted cash. Nothing worthy is found in the evidence of PW3 to hold that DGO offered satisfactory explanation for possession of tainted cash.

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30. Though it is brought out during cross examination of PW3 that duty of DGO was to verify the bill and place the same before the Treasury Officer the said portion of evidence of PW3 establishes that DGO had the occasion to handle the salary bill of the wife of the complainant.

31. During evidence the DGO has attempted to establish that S.S. Biradar was threatening him very frequently. It is his evidence that on 7/11/2005 he was assaulted by S.S. Biradar and in that connection he has referred to Exs D1 to D3 and attempted to establish that enquiry in that matter was conducted against S.S. Biradar. Though it is in his evidence that in that background S.S. Biradar was instrumental to place the bill of the wife of the complainant who is related to him the said portion of his evidence is not worthy of acceptance for the reason that availment of maternity leave is the right conferred upon the wife of the complainant. Referring to Exs D4 and D5 DGO has attempted to establish during his evidence that for want of budget the bill could not be approved. Be that as it may, in the circumstances, demand in connection with the pending bill cannot be disbelieved.

32. It is the evidence of DGO that at 3:00 P.M. on the date of trap he proceeded to tea shop outside his office and at that time the complainant came there and requested to approve the bill receiving money for which he told the DGO to meet his higher officer and at that time DGO attempted to give money. It is his evidence that afterwards he returned to his office and thereafter a person began assaulting him and asked to remove cash. It is his evidence that time about three or four persons caught hold of him and the complainant was one among them. He has stated further that he felt that some powder was applied on his right

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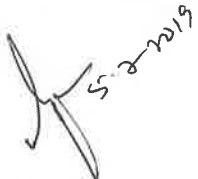
2019

hand and thereafter the Investigating Officer arrived at there and asked to remove cash for which he responded that cash is not with him. It is his evidence that he was forced to lift cash from the right side pocket of pant.

33. During cross examination DGO has stated that his duty was to put up note as per the Government circular and that the said note will be verified by the Accountant. It is in his cross examination that soon after he received the bill he has not put up note but according to him, three days time was at his disposal to put up note. It is in his cross examination that on the day of trap when the Investigating Officer entered the Sub-Treasury cash was in the front side pocket of his pant. It is thus clear that tainted cash was in the right side front pocket of pant of DGO.

34. Upon appreciation of the evidence of DGO it appears that his evidence is self serving and therefore the same cannot be believed and accepted.

35. Evidence as discussed above establishes that in order to extend official favour to the wife of the complainant DGO demanded and accepted illegal gratification as alleged in the articles of charge. In the presence of evidence as discussed above, I am not persuaded to accept the defence set out in the course of written statement, in the course of defence statement and also the contentions put forward in the course of written argument of DGO. Evidence of DGO does not establish that he has offered satisfactory explanation for possession of tainted cash. Failure on the part of DGO to offer satisfactory explanation amounts to misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966. Being of this view I proceed with the following:

 5-2-2013

REPORT

Charge against the DGO by name Sri. Srinivasa Baburao Kulkarni (name written by him as Srinivas Baburao Kulkarni on the note sheet on 19/12/2016) that in order to extend official favour to the wife of the complainant i.e., in order to attend the salary bill for the period from 17/11/2004 to 04/04/2005 of the wife of the complainant, DGO who was working as First Division Assistant in Sub-Treasury, Sindagi demanded and accepted illegal gratification of Rs.1,000/- from the complainant near "Hanumanthadevara Gudi" near Sub-Treasury, Sindagi on 19/01/2006 between 3.05 P.M and 3.35 P.M and during investigation conducted in crime number 02/2006 of Lokayukta Police Station, Vijayapura by the Police Inspector attached to Lokayukta Police Station, Vijayapura DGO failed to offer satisfactory explanation for possession of tainted cash Rs.1,000/- and thereby DGO is guilty of misconduct within the purview of Rule 3 (1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

Submit this report to Hon'ble Upalokayukta-1, Karnataka in a sealed cover forthwith along with the connected records.


(V.G. BOPAIAH)

Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.

ANNEXURE

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

PW1:- Sri. Bapugouda
PW2:- Sri. Basavaraja Mayakara
PW3:- Sri. Ramappa Patil

List of witnesses examined on behalf DGO:-

DW1:- Sri.Srinivas Baburao Kulkarni (DGO)

List of documents marked on behalf of Disciplinary Authority:-

Ex P 1 Attested copy of complaint dated 19/01/2006 in a single sheet.
Signature of PW1 found on Ex P1.

Ex P2(a) Attested copy of pre-trap mahazar dated 19/01/2006 in four sheets.
Ex P 2

Ex P2(a) Signature of complainant found on Ex P2.
Ex P2(b) Signature of PW2 found on Ex P2.
Ex P2(c) Portion of Ex P2
Ex P2(d) Portion of Ex P2

Ex P 3 Attested copy of trap mahazar dated 19/01/2006 in seven sheets.


Ex P3(a) Signature of complainant found on Ex P3.
Ex P3(b) Signature of PW2 found on Ex P3.
Ex P3(c) Portion of Ex P3.

Ex P 4 Attested copy of the pay bill of wife of complainant annexed with the connected enclosures totally consisting of nine sheets.

Ex P 5 Attested copy of statement dated 19/01/2006 of DGO in a single sheet.

Ex P5(a) Signature of PW2 found on Ex P5.

Ex P 6 Attested copy of entire statement dated 20/01/2006 in seven sheets of PW2 given

 5.2.2019

before PW3 under section 162 of The Code of Criminal Procedure, 1973.

- Ex P 7 Attested copy of FIR dated 19/01/2006 in a single sheet in crime number 2/2006 of Lokayukta Police Station, Vijayapura.
- Ex P8 Attested copy of report dated 14/03/2006 in two sheets of the Chemical Examiner.
- Ex P9 Attested coy of sketch in a single sheet.

Documents marked on behalf of DGO:-

- Ex D 1 Certified copy of the letter dated 11/11/2005 in a single sheet of the Gazetted Sub-Treasury Officer, Sindagi addressed to the District Treasury Officer, Vijayapura.
- Ex D 2 Certified copy of the letter dated 06/12/2005 of Sri. M.Prabhakara addressed to the District Treasury Officer, Vijayapura.
- Ex D 3 Certified copy of the letter dated 23/12/2005 in a single sheet of the District Treasury Officer, Vijayapura addressed to Sri. M.Prabhakara, Director, State Huzur Treasury, Bengaluru .
- Ex D 4 Certified copy of the letter dated 20/06/2005 in a single sheet of the Chief Executive Officer, Zilla Panchayath, Vijayapura addressed to the Executive Officer, Taluk Panchayath, Sindagi.
- Ex D 5 Certified copy of the letter dated 26/07/2005 in a single sheet of the Executive Officer, Taluk Panchayath, Sindagi addressed to the Gazetted

 5.2.2019

Sub-Treasury Officer, Sindagi.

Ex D 6

Certified copy of the judgment dated 01/07/2016 in five sheets of the Hon'ble High Court of Karnataka, Kalaburagi Bench in Criminal Appeal number 3672.

5.2.2019
(V.G. BOPAI AH)

Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No: LOK/INQ/14-A/222/2012/ARE-11

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date:07/02/2019

RECOMMENDATION

Sub:- Departmental inquiry against Sri Srinivas Baburao Kulkarni, First Division Assistant, Treasury Department (then working in Sub-Treasury, Sindagi Taluk, Bijapur District) – Reg.

- Ref:-1) Government Order No.ಆಇ 51 ಅಖಇ 2012 Bengaluru dated 18/04/2012
- 2) Nomination order No.LOK/INQ/14-A/222/2012 Bengaluru dated 25/05/2012 of Upalokayukta-1, State of Karnataka, Bengaluru.
- 3) Inquiry Report dated 05/02/2019 of Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 18/04/2012 initiated the disciplinary proceedings against Sri Srinivas Baburao Kulkarni, First Division Assistant, Treasury Department (then working in Sub-Treasury, Sindagi Taluk, Bijapur 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/222/2012 dated 25/05/2012 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.LOK/ INQ/ 14A/2014 dated 14/3/2014, 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 3/8/2016, the Additional Registrar of Enquiries-11 was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGO.

3. The DGO Sri Srinivas Baburao Kulkarni, First Division Assistant, Treasury Department (then working in Sub-Treasury, Sindagi Taluk, Bijapur District) was tried for the following charge:-

“That, you Sri Srinivasa Baburao Kulakarni, the DGO, while working as First Division Assistant in the Sub-Treasury at Sindagi in Bijapur District, Smt. Mahadevi Kashipati Patil, wife of the complainant namely Sri Bapugowda Rayanagowda patil was on maternity leave for the period from 17-11-2004 to 04-04-2005 and her pay bill for the said period was sent from the office of the B.E.O to the sub-treasury at Sindagi and in that connection the complainant approached you on 18-01-2006 requesting to pass the salary bill for Rs.21,000/- and then you asked for bribe of Rs.1,000/- to attend the said work and on 19/01/2006 received bribe of Rs.1,000/- from the complainant to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a Government Servant and thereby committed misconduct as enumerated U/R 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, charge against the DGO by name Sri. Srinivasa Baburao Kulkarni (name written by him as Srinivas Baburao Kulkarni on the note sheet on 19/12/2016) that in order to extend official favour to the wife of the complainant i.e., in order to attend the salary bill for the period from 17/11/2004 to 04/04/2005 of the wife of the complainant, DGO who was working as First Division Assistant in Sub-Treasury, Sindagi demanded and accepted illegal gratification of Rs.1,000/- from the complainant near 'Hanumanthadevara Gudi' near Sub-Treasury, Sindagi on 19/01/2006 between 3.05 P.M and 3.35 P.M and during investigation conducted in crime number 02/2006 of Lokayukta Police Station, Vijayapura by the Police Inspector attached to Lokayukta Police Station, Vijayapura DGO failed to offer satisfactory explanation for possession of tainted cash Rs.1,000/- and thereby DGO is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

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 30/08/2033.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO, it is hereby

recommended to the Government for imposing penalty of compulsory retirement from service, to DGO Sri Srinivas Baburao Kulkarni, First Division Assistant, Treasury Department (then working in Sub-Treasury, Sindagi Taluk, Bijapur District), notwithstanding the acquittal of DGO in Criminal Appeal No.3672/2010 dated 1/7/2016.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 7/2
Upalokayukta-1,
State of Karnataka,
Bengaluru