

KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/246/2013/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date: 20-02-2019.**:: ENQUIRY REPORT ::***sem***:: Present ::****(Lokappa N.R)****Additional Registrar of Enquiries-9
Karnataka Lokayukta,
Bengaluru**

Sub: Departmental enquiry against Sriyuths :

- 1) M.A. Baig, the then Municipal Commissioner, City Municipal Council, Byatarayanapura, Bangalore (Presently working as Dy. Director, Municipal Reforms Cell, Director of Municipal Administration, Bangalore),
- 2) M.R. Manjunath, the then Revenue Officer, City Municipal Council, Byatarayanapura (Presently working as Chief Officer, Town Municipal Council, Devanahalli),
- 3) N. Nagaraju, the then Assistant Executive Engineer, City Municipal Council, Byatarayanapura (presently working as Executive Engineer in Panchayath Raj Engineering Department, Chikkaballapur),
- 4) T.C. Kodandarama, the then Assistant Engineer, City Municipal Council, Byatarayanapura (presently working as Assistant Engineer in Directorate of Horticulture, Lalbagh, Bangalore) and
- 5) K. Chandrashekhara, the then Assistant Engineer, City Municipal Council, Byatarayanapura (presently working as Assistant Engineer in the office of the Superintending Engineer, National Highways, K.R. Circle, Bangalore) - reg.

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- Ref: 1) Government Order No. UDD84 DMK 2013,
Dated 29/5/2013.
- 2) Nomination Order No:LOK/INQ/14-A/
246/2013Bangalore dated 29/5/2013 of
Hon'ble Upalokayukta-1, Bangalore.

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This Departmental Enquiry is initiated against Sri. Basavaraj Yellappa Huddar Panchayath Development Officer, Kuntoji Grama Panchayathi, Ron Taluk, Gadag District (hereinafter referred to as the Delinquent Government Official for short "**DGO**").

In view of the Government Order cited above at reference No.1, Hon'ble Upalokayukta vide order dated 10/4/2015 cited above at reference No.2 has Nominated Addl. Registrar of Enquiries-4 to frame the charges and to conduct the enquiry against the aforesaid DGO. Additional Registrar of Enquiries-4 has prepared Articles of charges, statement of imputations of misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied on in support of the charges. The copies of the same were issued to the DGOs calling upon them to appear before the Enquiry Officer and to submit written statement of defence.

Later, as per Order No.UPLOK-1/DE/2016 Bengaluru Dated 3/8/2016 of Hon'ble Upalokayukta-1 this file was transferred to ARE-9.

or

The Article of charges framed by the ARE-4 against the DGO is as under :

ANNEXURE-I

CHARGE

CHARGE NO. 1:

2. That, Sri K.N. Ravi, Assistant Executive Engineer, C.M.C., Byatarayanapura (now Retired), You-DGO-3 N. Nagaraju, while working as Assistant Engineer, C.M.C., Byatarayanapura have got the work of asphaltting to road through lowest Tenderer Sri K. Damodara from Narayana Swamy's house to Krishnappa's house in Ward No.14 (Ashwathakatte to Kodigehalli circle) in Ward No.14 at an estimated cost of Rs.4,23,654/- and spent Rs.1,03,900/- as per M.B.222/A page 66 to 67 as per the records available but, on investigation at spot and mahazar it is observed that only four manhole chambers are constructed and connected main sewer line as per records made available instead of claim of 11 man hole chambers prepared by deceased DGO-3 N. Nagaraju and you DGO-4 Sri T.C. Kodandarama got the said work executed.

The cost of each man hole is 4x6187=24,748.00

Tender premium at the rate of 3.5% above 965.00

Total 25,713.00

Whereas you have claimed 59,716.00x25,713=34,003

But, on investigation, total expenditure incurred to above work is 3,58,403/- you DGO-3 estimated higher amount and DGO-4 executed work for higher amount, thereby DGO-3 and DGO-4 both

for

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

Charge No.2:

That DGO-3 N. Nagaraj while working as Assistant Executive Engineer, Byatarayanapura and DGO-4 Sri T.C. Kodandarama while working as Assistant Engineer C.M.C. Byatarayanapura have got gone the work of providing UGD from the house of Sreehari's house to Manjanna's house in Ward No.14 Kodigehalli at estimated cost of Rs.1,00,000/- total expenditure made was Rs.77,954/- as per the M.B.No.207 page 49. During the course of investigation it is observed that four man holes from Sreehari's house to Manjanna's house are provided and connected to main sewer line. The M.B. No.207 has not been produced by the concerned. As per the records available in the contract certificate bill construction of seven man hole chambers have been claimed i.e.

7x5,580=40,950

But, in spot only 4 man holes were

Found which costs

4x5,850=23,400/-

both of you have caused loss to the tune of Rs.17,550/- you DGO-3 N. Nagaraj and you DGO-4 T.C. Kodandarama are responsible for the loss of Rs.17,550/- thereby you DGO-3 N. Nagaraj and DGO-4 T.C. Kodandarama have failed to maintain absolute integrity and devotion to duty, the act of which as

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unbecoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

CHARGE-3:

That DGO-3 N. Nagaraju while working as Assistant Executive Engineer and DGO-4 Sri T.C. Kodandaram working as Assistant Engineer in C.M.C Byatarayanapura have under taken the work of providing UGD from Devaraj's house to Lingaiah's house in ward No.14 of Kodigehalli with five man hole chambers for which the concerned has not produced the relevant sanctioned estimate and measurement book, vouchers, tender documents etc., and thereby the said officers are responsible for the irregular expenditure of Rs.82,000/- and DGO-3 N. Nagaraju and you DGO-4 T.C. Kodandarama thereby 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 enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

CHARGE NO.4:

That you DGO-3 N. Nagaraju while working as Assistant Executive Engineer and DGO-4 Sri T.C. Kodandaram working as Assistant Engineer in C.M.C. Byatarayanapura have got done the work of construction of B.S. Slab Drain and Culverts in Balaji Layout Cross road in Ward No.15 of Kodigehalli at an estimated cost of Rs.2,00,000/- prepared by DGO-3 N. Nagaraju as per records maintained by you, you have spent a sum of Rs.1,54,751/- as per M.B. 234 page 68 to 71.

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During the course spot inspection it is found that B.S. Slab line for the length of 77.50 mtrs is constructed on both sides of the road and another B.S. slab drain for the length of 38.72 mtrs on one side of the road is removed and size stone mason drain is constructed as per the oral statement of the local resident. In this way also two B.S. Slab culverts are provided but, measurement book No.234 has not been produced by the concerned and only the file for the above work is produced. As per the available records, the work said to have done is B.S. Slab drain constructed is 367.20 sq mts @ Rs.187.97/-

Sqm = Rs.69,022 – 'A'

During the course of spot inspection and mahazar drawn the total length of

B.S. Slab drain constructed is – $2 \times 77.5 \times 1.8 = 279.00$

As per oral statements of

Local residents

1 x 38.72 x 1.8 = 69.69

Total

348.69 sq m @ 187.97 sq.m

= Rs.65,543/-

Excess amount claimed = 'A' – 'B' = Rs.69,022/- - Rs.65,543/-

= Rs.3,479/-

thereby DGO-3 N. Nagaraju and you DGO-4 T.C. Kodandaram are responsible for the loss of Rs.3,479/- thereby you-DGO-3 N. Nagaraj and DGO-4 T.C. Kodandaram have failed 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 enumerated

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

CHARGE NO.5 :

That DGO-3 N. Nagaraju while working as Assistant Executive Engineer and DGO-4 Sri T.C. Kodandaram working as Assistant Engineer in C.M.C Byatarajayanapura have got done the work of asphaltting to 2nd and 3rd cross road in Virupakshapura Layout in Ward No.15 at the sanctioned estimated cost of Rs.3,90,000/- prepared by DGO-3 N. Nagaraju as per the records made available during investigation, amount of Rs.4,06,277/- was spent as recorded in M.B.218 page 49 to 50. During the course of spot investigation it is found that a length of 200 mtrs in second cross and 213.50 mtrs in 3rd cross was done but, the concerned have failed to produce M.B.218 therefore, as per available records which revealed as follows;

Asphalt done in 2nd and 3rd cross road is 81.01 cum
@ 2,550/- Cum = Rs.2,06,575/- = m

During the course of spot investigation and mahazar drawn the total quantity of asphalt done in 2nd cross road is

$$: 200 \times \frac{4.6+4.7}{2} \times 0.04 = 37.20m^3$$

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3rd cross road in $213.5 \times 4.3 \times 0.04 = 36.72m^3$

@ Rs.2,550/m³ = 1,88,496

Excess amount claimed is Rs.2,06,575/- Rs.1,88,496/- =
Rs.18,079/-

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thereby you-DGO-3 N.Nagaraj and you DGO-4 T.C. Kodandaram are responsible for the loss of Rs.1,88,496/- thereby you-DGO-3 N.Nagaraj and you DGO-4 T.C. Kodandaram have failed 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 enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

CHARGE NO.6:

That you DGO-3 N. Nagaraju and DGO-4 Sri T.C. Kodandaram have got constructed B.S. Slab drain and culverts at Sannegowda Layout (Maruti Mandir of Ward No.14 to a length of 560.70 mtrs for which the concerned have failed to produce the sanctioned estimate, measurement book paid vouchers, tender documents tec., Hence, both you-DGO-3 DGO-3 N. Nagaraju and you DGO-4 Sri T.C. Kodandaram are responsible for not maintaining proper records and carried out the work without sanctioned estimate thereby 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 enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

CHARGE NO.7:

That K.N.Ravi (Rtd) the then Assistant Executive Engineer, C.M.C, Byatarayanapura, you DGO-4 Sri T.C. Kodandaram, you-DGO-5 K. Chandrashekara have got done the work of



construction of B.S.Slab drain in Balaji Layout at Engineer patil's house road in Ward No.15 by obtaining the sanctioned estimate for ta sum of Rs.4.50 lakhs and showed the work in the records and spent a sub of Rs.4,74,066/- as shown in M.B.33/03-04 page No.49 to 51 but, during the course of investigation, it is observed that the work has been carried out. The total length of B.S. Slab drain measured and verified is 239.20 mtrs.

Total length of B.S.Slab executed as per M.B.33/03-04 page 49

$$= 299.00 \times 1.7$$

$$= 508.30 \text{ sqm @Rs.193.06/Spm}$$

$$= \text{Rs.98.132-00- 'A'}$$

Total length of B.S. Slab measured and verified during investigation –

$$= 239.2 \times 1.7$$

$$= 406.64 \text{ sqm @Rs.193.06 Sqm}$$

$$= \text{Rs.78,505.00 -B}$$

Total short fall = A-B= Rs.98,132.00 - Rs.78,505/- = Rs.19,627/-.

In this way Sri K.N. Ravi, AEE (retired), you-DGO4 T.C. Kodandaram and you DG-5 K. Chandrashekar being the government servants have misappropriated government funds to the tune of Rs.19,627/- thereby 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 enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

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CHARGE NO.8:

That DGO-3 N. Nagaraju, AEE and Sri K.N. Ravi, AEE (Rtd), DGO-4 Sri T.C. Kodandaram, AE and you-DGO-5 K. Chandrashekar , AE working in afore said capacity at C.M.C, Byatarayanapura got executed the work and caused misappropriation of government funds as charged in charge No.1 to 7 are responsible for misappropriation of government funds to the tune of Rs.92,688/- and for irregular expenditure of Rs.82,000/- therefore you-DGO-3, DGO-4, DGO-5 being a government servants failed 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 enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

CHARGE NO.9:

Sri C.K. Dashavant the then Commissioner of C.M.C Byatarayanapura now retired and Govindaiah then Commissioner of C.M.C, Byatarayanapura (expired) and you-DGO-1 Sri M.A. Baig, then Commissioner, C.M.C Byatarayanapura and DGO-5 K. Chandrashekar while working as the Commissioner allowed to cut the road without collecting proper road cutting charges and by ignoring the direction passed by the high level committee of Govt. of Karnataka vide ITD 23 PRM 2000 dt: 16/8/2000. Thereby C.K. Dashavant, Retired commissioner failed to take proper action. However, as per the particulars furnished a sum of Rs.29,06,043/- was collected from BSNL and BWSSB during 2002-04 and Rs.7,72,950/- was collected from BWSSB

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during 2004-06. Hence, retired C.K.Dashavant and you DGO-1 M.A. Baig and DGO-5 Chandrashekar are responsible for the irregularities and failed to furnish the clarification to the said extent thereby 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 enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

Charge No.10:

That Sri Govindaiah then Commissioner, the then Commissioner of C.M.C Byatarayanapura now expired you-DGO-1 Sri M.A. Baig, then Commissioner, C.M.C Byatarayanapura and you DGO-2 Sri M.R. Manjunath then Revenue officer and D.N. Narasappa then Revenue Officer (now retired) and Sri H. Jitendra then Revenue Officer, (now retired) and Sri Siddaraj then Revenue Officer of C.M.C, Byatarayanapura (now retired) have not collected water charges for the previous 78 year from the date of investigation in ward No.14 and 15 and caused a revenue loss of Rs. 7 lakh per year which amount s to sum of Rs.21 lakh,. Therefore not only retired Commissioner Dashwant you-DGO-1 and 2 and other respondent of R6, 9 to 11 caused loss to the total sum of about Rs.21 laks for a period of 3 years thereby you being the Govt. servants have failed 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 enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

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ANNEXURE-II

STATEMENT OF IMPUTATION OF MISCONDUCT:

On the complaint filed by Sri K.N. Jagadish Kumar S/o B. Narayanaswamy R/o Virupakshapur of Bangalore – 560097 (hereinafter referred to as complainant for short) against Commissioner of CMC in Byatarayanapura at Bangalore and subordinate staff alleging execution of sub standard civil works in ward No.14 and 15 of Byatarayanapura at Bangalore and misappropriation of public money.

Investigation was taken up U/S 9 of Karnataka Lokayukta Act, 1984 and invoking section 15(3)(b) of the said Act, the complaint was referred to Chief Engineer of Technical and Audit Cell in Karnataka Lokayukta at Bangalore, for investigation and report. He in turn entrusted the investigation to Sri M.L. Ramesh- Assistant Engineer of said TAC, who conducted spot inspection and conducted investigation with assistance of Sri M. Thimmaiah – Accounts Superintendent-II of said TAC (hereinafter referred to as Investigating Officers i.e., I.Os for short). Therefore, they have submitted investigation report, which runs into 1 to 33 pages for part A and 7 pages for part B. The alleged sub-standard works, irregularities and misappropriation and civil works 2002-03, 2003-04 and 2004-05 in ward number 14 and 15 of CMC, Byatarayanapura are dealt by the I.Os. In Part A and the accounts matter in Part B of their report.

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As per the responsibilities fixed in the investigation report, besides information available in the record and the letters received from the concerned authorities, 1) Sri.C.K. Dashavanth- the then Commissioner of CMC at Byatarayanapura (now retired), 2) Sri.N. Nagaraju- the then Assistant Executive Engineer in CMC of Byatarayanapura, now working as Executive Engineer in Panchayat Raj Engineering Development Department at Chikkaballapura (At present, he is under suspension, 3) Sri.K.N. Ravi- the then Assistant Executive Engineer in CMC of Byatarayanapura (Now retired), 4) Sri.T.C. Kodandaram- the then Assistant Engineer in CMC of Byatarayanapura, now working as Assistant Engineer in the office of the Director of Horticulture in Lalbagh at Bangalore, 5) Sri.K. Chandrashekar, the then Assistant Engineer in CMC of Byatarayanapura, now working as Assistant Engineer in the office of the Superintending Engineer, National Highway, K.R. Circle, Bangalore, 6) Sri.Govindaiah- the then Commissioner of CMC Byatarayanapura of Bangalore (Expired), 7) Sri M.A. Baig- the then Commissioner of CMC at Byatarayanapura, now working as Deputy Director of Municipal Reforms Cell in Directorate of Municipal Administration at Industrial Area of Rajajinagar (in ABB Building at Bangalore), 8) Sri. M.R. Manjunath, the then Revenue Officer in CMC at Byatarayanapura, now working as Chief Officer of CMC at Devanahlli, 9) Sri. D.N. Narasappa- the then Revenue Officer of CMC at Byatarayanapura (Now retired), 10) Sri H.Jetendra – the then Revenue Officer in CMC at Byatarayanapura (Now



retired), 11) Sri Siddaraju, the then Revenue Officer in CMC at Byatarayanapura (Now retired) have been impleaded as respondents in the face sheet (hereinafter referred to as respondent Nos.1 to 11- for short respectively)

By sending copy of investigation report, comments of respondents (except respondent No.6) were called. Comments have been filed by respondents No.1 to 4 and 7 to 11 wherein they have denied their liability. Whereas, respondent No.5 has not submitted comments till now, though had time of more than 6 months from dated: 23/8/2012.

According to the report of I.Os in Part A,

- a) For providing U.G.D from Narayana Swamy's house to Krishnappa's house in ward No.14, Kodigehally, an excess amount of Rs.34,003/- has been assessed as claimed, for which the respondent Nos.2 and 4 are held responsible for having constructed of 11 manhole chambers have been claimed (as mentioned in detail in Para No.4.16 of the said report).
- b) For providing U.G.D from Sreehari's house to Manjanna's house in ward No.14 Kodigehally, an excess amount Rs.17,550/- has been claimed by respondent Nos.2 and 4 by constructing only 4 manhole chambers but, in contract certificate bill, construction of 7 manhole chambers have been claimed (as mentioned in detail in Para No.4.18 of the said report).

96

- c) For providing U.G.D from Devaraj's house to Lingaiah's house in Ward No.14 of Kodigehally, 5 manhole chambers have been constructed but the original records ie., sanctioned estimate, M.B. book etc., have not been produced by the concerned respondent (who is) responsible for the irregular expenditure of Rs.82,000/- (as mentioned in detail in Para No.4.19 of the said report).
- d) For construction of B.S.Slab drain and culverts in Balaji layout cross road in Ward No.15 of Kodigehally, an excess amount of Rs.3,479/- has been claimed by respondent No.2 and 4 (as mentioned in detail in Para No.4.20 of the said report).
- e) For asphaltting of 2nd and 3rd cross roads in Virupakshapur layout in Ward No.15, an excess amount of Rs.1,88,496/- has been claimed and for that, respondent No.2 and 4 are held responsible (as mentioned in detail in Para No.4.22 of the said report).
- f) For construction of B.S. Slab drain and culverts in Sonnagowda Layout (Maruthi Mandir) Ward No.14, work has been carried out, but the original records i.e., sanctioned estimate, M.B. Book etc., have not been produced by the concerned. Hence, the concerned respondents are responsible for the same and also for misappropriation (as mentioned in detail in para No.4.31 of the said report).
- g) For construction of B.S. Slab drain in Balaji Layout, that is, in road where Engineer patil's house comes Ward

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No.15, work has been carried out, but it is found that there is misappropriation of Government funds to the tune of Rs.19,627/-, for which respondent No.3 and 5 are held responsible (as mentioned in detail in para No.4.36 of the said report).

Thus, the respondent Nos.2 to 5 are found responsible for misappropriation of government funds to the tune of Rs.92,688/- and for an irregular expenditure of Rs.82,000/-.

In Part B of the report of I.O. for the :

a. Allegation that the CMC is not collecting the road cutting charges from the different Telecom companies, thereby loss has thereby loss has been caused to Government, the respondent No.1 was requested by the I.O. to furnish the files pertaining to the laying of fiber-optic cables in the area of CMC, Byatarayanapura. But, no action was taken by respondent No.1. However, he furnished particulars that Rs.29,06,043/- was collected from BSNL and BWSSB during 2002 to 2004, and Rs.7,72,950/- from BWSSB during 2004 to 2006. Hence, the respondent No.1 has failed to furnish clarification to the said extent (as mentioned in detail in para No.4.02 of the said report).

b. Allegation that since 7 to 8 years, CMC is not collecting water bills from residents of Ward No.14 and 15, who are drawing water from bore-wells of CMC, it

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could be said that Rs.7lakhs loss of revenue to the extent of Rs.7 lakhs is caused annually towards non collection of monthly water charges in Ward Nos. 14 and 15. As such the loss occurred for the last 3 years would be around Rs.21 lakhs, for which not only respondent No.1, even respondent No.6 to 11 are held responsible (as mentioned in detail in Para No.4.04).

c. Allegation that the CMC has not collected road digging charges from Telecom agencies, the detailed report and connected files were not furnished, and for that respondent Nos.1 and 5 are held responsible (as mentioned in detail in Para No.4.02 and at conclusion Para No.4).

In the comments of respondent No.1 to 4, and 7 to 11 they have denied the allegations and requested not to proceed against them for the reasons given in their replies. However, their replies have not been found convincing to drop the proceedings.

A careful perusal of and consideration of the complaint, investigation report, reply furnished by respondents, besides respondents, being public/ government servants, have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of a government servant and thereby committed misconduct under Rule 3(1) of Karnataka Civil Service (Conduct) Rules, 1966 and made themselves liable for disciplinary action.

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However, the proceeding requires to be dropped against respondent No.6 since he is dead as mentioned in the letter dated: 4/2/2012 of Additional Commissioner of BBMP, Yelahanka Range, Byatarayanapura, Bangalore-92.

Further, as per the reply/information received, the respondent No.1 Sri C.K. Dashvanth- Commissioner of CMC retired on 31/5/2007, Respondent No.3-Sri K.N. Rvi- the then Assistant Executive Engineer retired on 31/12/2012, respondent No.6- Sri Govindaiah- the then Commissioner has expired, respondent No.9 –Sri D.À.£Ñ. Narasappa- Revenue officer retired on 31/1/2004 and respondent No.10 Sri H.Jitendra- then Revenue Officer retired on 31/1/2006 and respondent No.11- Sri Siddaraju- then Revenue officer retired on 30/6/2012. Hence, in view of Rule 214(2)(b)(ii) of Karnataka Civil Services Rules, no disciplinary action could be initiated and taken against said respondent Nos.1, 3, 9, 10 and 11 now as the allegations relate to the year 2002- to 2005.

As there was a prima facie case showing that DGO-1 to DGO-5 have committed mis-conduct as per Rules 3(1) of KCS (Conduct) Rules 1966. A report U/S 12(3) of the Karnataka Lokayukta Act was sent to the competent authority with recommendation to initiate the disciplinary proceedings against DGO-1 to DGO-5. Accordingly, the Competent Authority initiated Disciplinary proceedings against the DGO-1 to 5 and



entrusted the enquiry to the Hon'ble Upalokayukta U/R 14-A of KCS (CCA) Rules. Hence, the Charge.

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The DGO-1, 3 to 5 have appeared on 7/6/2013, DGO-2 appeared on 27/7/2013, before this enquiry authority in pursuance to the service of the Article of charges.

Plea of the DGOs have been recorded and they have pleaded not guilty and claimed for holding enquiry.

The DGO-1 and 2 have submitted their written statement is that; the DGO-1 was working as Commissioner, CMC, Byatarayanapura for the period from 2/4/2002 to June 2005 and retired from service on 31/8/2013. Further they specifically denied the charge framed against them. In government order No.UDD 36 MNI 2004 dated 13/2/2004 Byatarayanapura, CMC and other 6 CMCs and one TMC were brought under the water supply project of BWSSB. The ULBs shall collect only beneficiary capital contribution at the time of approval of building plan as per the GO dated 13/2/2004 the road cutting charges will be collected at the time of approval of building plans both for residential and commercial property. This point has not been looked into by the I.O. infact no efforts has been made by the investigation team to obtain water collected charge from BWSSB organization.

Khirdi register was maintained in the then Byatarayanapura, CMC has been audited by the jurisdictional local audit circle of the state accounts department for the period from 2002-03 to 2005-06 the account superintendent

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who has prepared the part-B of investigation report did not see the said khirdi register. Instead of preparing the investigation report based on the said khirdi register the account superintendent has prepared the investigation report based on the assumption and estimation. In Kodigehalli ward No.14 and 15 every house is not having water connection therefore connection of water tanks when compared to the other wards is less the CMC has dug large number of bore wells in the said wards in the areas where there are 15-20 houses as group. In these areas people were allowed to draw water from bore wells by using hand pump without payments in these case the question of payment of water tax does not arise at all. In the case where pipe lines facilities are provided to houses the water tax are being collected. During the investigation process the account superintendent did not verify the khirdi register in respect of Kodigehalli ward. Hence, prayed to drop the charge leveled against him.

The DGOs-3 to 5 have submitted written statement is that; the charge leveled against them are all false and baseless. They have denied all the charges made against them.

The disciplinary authority has examined Sri M.L. Ramesh s/o late Lakshman, the then E.E, TAC, Karnataka Lokayukta as Pw.1. Sri Timmaiah @ Venkatesh T.M the then Audit officer, TAC, Karnataka Lokayukta as Pw.2. Ex.P1 to 14 are got marked. The DGO-2 examined as Dw.1. DGO-3 is examined as Dw.2. DGO-4 examined as Dw.3 and DGO-5 Chandrashekar examined as Pw.4. The DGO-1 examined as Dw.5. Ex.D1 to 16 are got marked.

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The DGO and the disciplinary authority have submitted written brief. Heard the submissions of the disciplinary authority.

I answer the above charges No.1 to 6 are proved against the DGO No.3 and 4, charge No.7 proved against the DGO No.5 but, not proved against the DGO-4, charge No.8 proved against DGO-3 to 5, charge No.9 proved against the DGO-1 and 5, charge no.10 proved against the DGO-1 and 2. Further the DGO-3 & 4 are equally held responsible for misappropriation of Government funds to the tune of Rs.73,111/- and for irregular expenditure of Rs.82,000/- and further the DGO-5 along with Sri. K.N.Ravi, AEE (Retired) (D.E. not initiated against him) equally responsible for the amount of Rs.19,627/-. Further the DGO 1 and 2 and Sri Govidaiah the then Commissioner, CMC Byatarayanapura (died), Dashavanth, the then Commissioner, CMC Byatarayanapura (Rtd.) and Sri D N. Narasappa, the then Revenue Officer (Rtd.), Sri H. Jitendra, the then Revenue officer (Rtd.). Sri Siddaraju, the then Revenue officer (Rtd.) are equally responsible for non-collection of water tax of Rs.21 lakh for the period 2002-03, 2003-04 and 2004-05 in **AFFIRMATIVE** for the following ;

REASONS

- 3) It is the prime duty of the disciplinary authority to prove the charges that are leveled against the DGO.
- 4) The disciplinary authority has examined Sri M.L. Ramesh s/o late Lakshman, the then E.E, TAC, Karnataka



Lokayukta, Bangalore as Pw.1 and Sri Timmaiah @ Venkatesh T.M the then Audit officer, TAC, Karnataka Lokayukta as Pw.2. Ex.P1 to 14 are got marked. Pw.1 deposed in his chief examination that, the complaint was filed by one K.N. Jagadish Kumar regarding irregularities and substandard work carried out in civil work of drain, culverts UGD man hole chambers in Byatarayanapura , CMC during 2002-03, 2003-04 2004-05. Further deposed that he has addressed a letter to the Commissioner, CMC, Byatarayanapura for the presence at the alleged spot along with records on 11/11/2005 and 15/11/2005 further deposed that on 11/11/2005 DGO-3 N Nagaraj the then AEE, DGO-4 T.C. Kodandaram, the then AE and K.M. Ravi, AEE, Ravindranath Dani, JE and the complainant K.L. Jagadish Kumar were present. The records pertaining to the some of the works submitted during inspection. Further deposed that the DGOs have not submitted entire documents for investigation during that time. Further he deposed that he has verified 37 works and as per the records made available during the investigation he found the followings;

- 1) for providing UDG from Narayanaswam house to Krishnappa house ward No.14, Kodigehalli excess amount of Rs.34,003/- has been assessed as claimed for which the DGO No.3 N. Nagaraj the then AEE, and DGOI-4 A.C Kodandaram the then AE are held responsible for having constructed only 4 manholes but in contract certificate bills construction of 11 man hole chambers has been claimed.

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- 2) for providing UGD from Sriharis house to Manjanna's house ward No.14 Kodigehalli and excess amount of Rs.17,550/- has been claimed by DGO-3 N. Nagaraju and DGO-4 T.C. Kodandarama by constructing only 4 manhole chambers but in contract certificate bill construction 7 man hole chambers has been claimed.
- 3) for providing UGD from Devaraja's house to Lingaiah's house in ward No.14, Kodigehalli, 5 man hole chambers have been constructed but the original records such as sanctioned estimate, MB books etc., have not been produced for the verification by the concerned engineer on account of which an irregular expenditure of Rs.82,000/- was found to be expended which is mentioned in para No.4.19 of his report Ex.P4 part A.
- 4) for construction of B.S. Slab drain and culverts in Balaji Layout cross roads in Ward No.15, Kodigehalli an excess amount of Rs.3,479/- has been claimed by DGO-3 N. Nagaraju and DGO-4 T.C. Kodandarama.
- 5) for asphlting 2nd and 3rd cross road in Virupakshpura road in ward No.15, Kodigehalli and excess amount of Rs.1,88,496/- has been claimed by DGO-3 N. Nagaraju and DGO-4 T.C. Kodandarama.
- 6) for construction of B.S. Slab drain and culverts in Sannegowda Layout (Maruti Mandir) in Ward No.14, Kodigehalli the work has been carried out but the original records such as sanctioned estimate MB book

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etc., have not been produced by the concerned officers.

- 7) for construction of B.S. Slab drain in Balaji Layout cross roads in Ward No.15, Kodigehalli ie., in road where engineers Patil's house comes work has been carried out but it is found that there is misappropriation of government funds amount Rs.19,627/- for which K.N.Ravi the AEE, DGO-5 K.Chandrashekhar the then AE are responsible.
- 5) Further deposed that based on records made available during his investigation misappropriation to the tune of 92,688/- and irregular expenditure of Rs.82,000/- wa found to be made by DGO-3 N Nagaraju K.N. Ravi and DGO-4 Kodandarama and DGO-5 KCchandrashekhara are responsible.
- 6) The Pw.2 the then Accounts Officer TAC , Karnataka Lokayukta, Bangalore deposed in his evidence that on the basis of complaint filed by Sri Jagadish Kumar regarding irregularities and sub standard work and misappropriation of fund in Byatarayanapura, CMC, he has also visited the C.M.C., Byatarayanapura along with Pw.1 on 11/11/2015 and 15/11/2005. He has inspected the records in respect of collection of water charge, deposits and water connection fees and recovery of the road cutting charges. Further deposed that, in ward No.14 and 15 of Byatarayanapura CMC since 7 to 8 years has not properly collected water charges. Further

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he deposed that, at the time of inspection of records the concerned officer submitted information regarding the water connection to the residential houses and other buildings in ward No.14 and 15 of Byatarayanapura, CMC. As per the said information in ward No.14 total 600 houses are there out of that 500 houses are having water connection. But, the officers of the CMC, Byatarayanapura failed to collect the deposit in respect of water connection and also water tax. Further he deposed that in ward No.15 total 330 houses are there out of that 91 houses are having water connection. But, the officers of the CMC, Byatarayanapura failed to collect the deposit in respect of water connection and also water tax except 8 houses. Further he deposed that the official failed to collect Rs.7 lakh water tax per year and considering the same for the year 2002-03 to 2004-05 they have failed to collect Rs.21 lakh water tax. Further he has also deposed that not furnishing the proper documents regarding the collection of road cutting charges from the concerned agency.

7) The DGO-1 to 5 have examined as Dw.1 to 5. They have denied the evidence of Pw.1, 2 and also denied the charges leveled against them. They have produced Ex.D1 to 16 documents.

8) Ex.P1 and 2 is the Complaint form No.I&II dated 12/8/2005. Ex.P3 is the copy of written complaint dated 10/8/2005 it includes 11 sheets. Ex.P4 is the Investigation Report dated 21/7/2006. Ex.P5 is the spot mahazar dated 11/11/2005. Ex.P6 is the spot mahazar dated 15/11/2005. Ex.P7 is the Measurement Book. Ex.P8 is the Measurement

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Book. Ex.P9 is the copy of estimate in respect of work in ward No.15. Ex.P10 is the contract certificate. Ex.P11 is the copy of the proceedings, Government of Karnataka dated 16/8/2000 (4 sheets). Ex.P12 is the copy of letter dated 15/11/2005 of Pw.1 addressed to the Commissioner, CMC, Byatarayanapura. Ex.P13 is the collection of road cutting fee details from 2002-03 to 2005-06. Ex.P14 is the copy of the collection of water tax and deposits details in CMC, Byatarayanapura from 2002-03 to 2005-06. Ex.D1 is the copy of the local audit report 2002-03 to 2005-06 of Byatarayanapura CMC. Ex.D2 is the copy of the proceedings, Government of Karnataka dated 13/2/2004. Ex.D3 is the correspondence made under RTI to obtain the information regarding water collection charges (it includes 12 sheets). Ex.D4 is the copy of the local audit report 2002-03 to 2005-06 of Byatarayanapura CMC. Ex.D5 is the copy of the details of collection of water tax and deposits from 2002-03 to 2005-06 which was issued by the Chief Officer, TMC, Devanahalli. Ex.D6 is the document related connection of water tax and deposits in respect of ward No.15, Kodigehalli (10 sheets). Ex.D7 is the notification dated 2/6/2004 regarding transfer of DGO-3. Ex.D8 is the CTC in respect of DGO-3. Ex.D9 is the letter dated 10/5/2010 of AEE, Kodigehalli sub division, BBMP to the DGO-4. Ex.D10 is the letter dated 10/5/2010 of AEE, Kodigehalli sub division, BBMP to the DGO-4. Ex.D11 is the letter dated 13/1/2011 of EE, Byatarayanapur division, BBMP to the DGO-4. Ex.D12 is the letter dated 18/5/2005 of Commissioner, CMC, Byatarayanapura regarding the transfer of the DGO-5.

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Ex.D13 is the copy of the proceedings, Government of Karnataka dated 13/2/2004. Ex.D14 is the copy of the local audit report 2002-03 to 2005-06 of Byatarayanapura CMC. Ex.D15 is the copy of the collection of water tax and deposits details in CMC, Byatarayanapura from 2002-03 to 2005-06. Ex.D16 is the document related connection of water tax and deposits in respect of ward No.15, Kodigenahalli.

9) Perused the above said oral evidence of Pw.1, 2 and Dw.1 to 5 along with above said documents and written brief of the DGOs.

10) CHARGE NO.1.

This charge framed against the DGO-3 and 4 in respect of the work of asphaltting to the road from Narayana swamy's house to Krishnappa's house. As per Ex.P1 to 3 complaints the complainant made allegation against the officers of Byatarayanapura CMC in respect of irregularities and substandard works carried out during 2002-03 to 2003-04 in ward No.14 and 15 of CMC, Byatarayanapura. The Pw.1 and 2 are the I.O., who investigated the matter and submitted Ex.P4 report (Part A and B). The Ex.P5 and 6 are the spot mahazar drawn by the Pw.1. In presence of the complainant Jagadish, the DGO-3, 4 and other. Ex.P7 and 8 are the measurement book related to the alleged work. The Pw.1 clearly stated in his report Ex.P4 part A para No.4.16 as follows;

“Providing UGD for Naranaya's house to Krishnappa's house in ward No.14, Kodigehalli : - the estimate for the above work prepared by the AEE, CMC,

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Byatarayanapura based on PWD SR 1999-00 is technically scrutinized vide No. 2324/2002-03 for Rs.1 lakh by the ZPE, Bangalore Urban. The necessary tenders have been floated vide tender notification 177, 180 dated 9/1/2003. Amount of work put to tender as per PDW SR 2002-03 is Rs.1 lakh the work is awarded to the lowest tender Sri. M.C.Bachappa at 3.9 % of 2002-03 vide work order No.NIL dated 29/1/2003”

As per records made available during investigation the above work is completed. The total expenditure on the above work is Rs.1,03,900/- for the above work is recorded in MB 222/A page No.66-67 ie., Ex.P8.

During the course of spot investigation it is observed that four man hole chamber are constructed an connected to the main sewer line the measurement book No.222/A has not been produced by the concerned and only the file for the above work is produced. As per record made available in the contract certificate bill construction of 7 man hole bill have been claimed ie.,

| | |
|------------------------------|---------------------|
| | 11x5225 = 57,475.00 |
| Tender premium at 3.9% above | = <u>2241.52</u> |
| Total | 59,716.00-A |

During the course of spot instigation and mahazar drawn only 4 manhole chambers constructed or observed

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|------------------------------|-------------------|
| | 4x6166 = 24748.00 |
| Tender premium at 3.9% above | = 965_ |

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Total 25,713.00-B

Excess amount claimed = A-B =59,716.00 - 25,713.00= 34003/-. For that the DGO-3 and 4 are equally held responsible.”

11) Pw.1 deposed the above said facts in his examination also. The DGO.3 and 4 have produced the documents to disprove the oral evidence of Pw.1 as well as Ex.P4 in respect of the alleged work. There is no material evidence by the side of the DGO to disbelieve the evidence of Pw.1 and Ex.P4 part-A para No.4.16 the said facts and circumstances clearly reveals that the DGO-3 and 4 claiming the amount to the 11 man hole chambers even though constructed only 4 chambers and claimed the excess amount of Rs.34,003/- and thereby the DGO-3 and 4 have caused loss of Rs.34,003/- to the state exchequer. For that reason the DGO-3 and 4 have failed to maintain absolute integrity and devotion to duty. The act of which was unbecoming of government servants and thereby committed misconduct. Hence, they are equally held responsible for excess claimed for Rs.34,003/-. Thereby the disciplinary authority has succeeded to prove the charge-1 leveled against the DGO-3 and 4.

12) CHARGE NO.2.

This charge framed against the DGO-3 and 4 in respect of the work of providing UGD from the house of Srihari's house to Manjanna's house in Ward no.14, Kodigehalli at the estimate cost of Rs.1 lakh. As per Ex.P1 to 3 complaints the complainant made allegation against the officers of

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Byatarayanapura CMC in respect of irregularities and substandard works carried out during 2002-03 to 2003-04 in ward No.14 and 15 of CMC, Byatarayanapura. The Pw.1 and 2 are the I.O., who investigating the matter and submitted Ex.P4 report. The Ex.P5 and 6 are the spot mahazars drawn by the Pw.1. In presence of the complainant Jagadish, the DGO-3, 4 and other. Ex.P7 and 8 are the measurement book related to the alleged work. The Pw.1 clearly stated in his report Ex.P4 part A para No.4.18 as follows;

“Providing UGD for Srihari’s house to Manjanna’s house in ward No.14, Kodigehalli : - the estimate for the above work was prepared by the AEE, CMC, Byatarayanapura based on PWD SR 1999-00 is technically scrutinized vide No. 121/2002-03 for Rs.1 lakh by the EE, ZPE, Bangalore Urban. The necessary tenders have been floated vide tender notification 137/01-02 dated 9/8/2002. Amount of work put to tender as per PDW SR 1999-00 is Rs.1 lakh the work is awarded to the lowest tender Sri. M.C.Bachappa vide work order No.396/A, dated 20/8/2002.”

“As per records made available during investigation the above work is completed. The total expenditure on the above work is Rs.77,954/-. The measurement for the above work is recorded in MB 207/A page No.49 (MB book not produced by the DGO).

During the course of spot investigation it is observed that four numbers of manholes from Srihari’s house to Manjanna’s house is provided and connected to main sewer

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line. The measurement book No.207 has not been produced by the concerned and only the file for the above work is produced. As per the record made available in the contract certificate bill construction of 7 number of manholes chambers have been claimed ie.,

$$7 \times 5850 = 40,950.00-A$$

~~18)~~ During the course of spot instigation and mahazar drawn only 4 manhole chambers constructed or observed

$$4 \times 5850 = 23,400.00-B$$

Excess amount claimed = A-B = 40,950.00- 23,400.00= 17,550/-. For that the DGO-3 and 4 are equally held responsible.”

13) Pw.1 deposed the above said facts in his examination also. The DGO.3 and 4 have not produced the documents to disprove the oral evidence of Pw.1 as well as Ex.P4 report in respect of the alleged work. There is no material evidence by the side of the DGO to disbelieve the evidence of Pw.1 and Ex.P4 part-A para No.4.18 the said facts and circumstances clearly reveals that the DGO-3 and 4 claiming the amount to 7 manhole chambers even though constructed only 4 chambers and claimed the excess amount of Rs.17550/- and thereby the DGO-3 and 4 have caused loss of Rs.17550 /- to the state exchequer. For that reason the DGO-3 and 4 have failed to maintain absolute integrity and devotion to duty. The act of which was unbecoming of government servants and thereby committed misconduct. Hence, they are equally held responsible for excess clamed for Rs.17550/-. Thereby the

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disciplinary authority has succeeded to prove the charge-II leveled against the DGO-3 and 4.

14) CHARGE NO.3.

This charge framed against the DGO-3 and 4 in respect of the work of providing UGD from Devaraj's house to Lingaiah's house in Ward No.14, Kodigehalli with 5 manhole chambers. The Pw.1 and 2 are the I.O., who investigated the matter and submitted Ex.P4 report. The Ex.P5 and 6 are the spot mahazars drawn by the Pw.1. In presence of the complainant Jagadish, the DGO-3, 4 and other. Ex.P7 and 8 are the measurement book related to the alleged work. The Pw.1 clearly stated in his report Ex.P4 part A para No.4.19 as follows;

“Providing UGD from Devaraj house to Lingaiah's ward No.14, Kodigehalli : - during the course of spot inspection and mahazar drawn 5 number of manhole constructed are observed from Devaraj house to Lingaiah's house in ward No.14 Kodigehalli the original records such as sanctioned estimate, measurement books, paid vouchers and tender documents etc., have not produced by the concerned. Hence, action may kindly be initiated against the concerned for non-production of records and irregular expenditure of Rs.82000/-.”

15) Pw.1 deposed the above said facts in his examination also. The DGO.3 and 4 have not produced concerned documents to disprove the oral evidence of Pw.1 as well as

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Ex.P4 report in respect of the alleged work. The Pw.1 and 2 drawn the mahazar Ex.P5 and 6 in the presence of DGO-3 and 4. The DGOs failed to produce the document in respect of the said work even at the time of enquiry. As per the evidence of DGO-3 and 4 the DGO-3 was working AEE from 3/6/2002 to 6/6/2004 in Byatarayanapura CMC. DGO-4 working as AE from 14/12/2001 to 6/8/2003 in Byatarayanapura CMC. There is no material evidence by the side of the DGOs to disbelieve the evidence of Pw.1 and Ex.P4 part-A para No.4.19 the said facts and circumstances clearly reveals that the DGO-3 and 4 are equally held responsible for non-production of records in respect of the said work and irregular expenditure of Rs.82000/-. For that reason the DGO-3 and 4 have failed to maintain absolute integrity and devotion to duty. The act of which was unbecoming of government servants and thereby committed misconduct. Thereby the disciplinary authority has succeeded to prove the charge-3 leveled against the DGO-3 and 4.

16) CHARGE NO.4.

This charge framed against the DGO-3 and 4 in respect of the work of construction of B.S.Slab drain and culverts in Balaji layout, cross road in ward No.15, Kodigehalli at the estimate cost of Rs.2 lakh. As per Ex.P1 to 3 complaints the complainant made allegation against the officers of Byatarayanapura CMC in respect of irregularities and substandard works carried out during 2002-03 to 2003-04 in ward No.14 and 15 of CMC, Byatarayanapura. The Pw.1 and 2 are the I.O., who investigated the matter and submitted

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Ex.P4 report. The Ex.P5 and 6 are the spot mahazars drawn by the Pw.1. In presence of the complainant Jagadish, the DGO-3, 4 and other. Ex.P7 and 8 are the measurement book related to the alleged work. The Pw.1 clearly stated in his report Ex.P4 part A para No.4.20 as follows;

“Construction of B.S. Slab drain and culverts during Balaji layout, Cross road, ward No.15, Kodigehalli : - the estimate for the above work was prepared by the EE, CMC, Byatarayanapura based on PWD SR 1999-00 is technically scrutinized vide No. 3490/2002-03 for Rs.2 lakh by the EE, ZPE, Bangalore Urban.

The necessary tenders have been floated vide tender notification 213 dated 18/3/2003. Amount of work put to tender as per PDW SR 1999-00 is Rs.2 lakh the work is awarded to the lowest tender Sri. B. Chandrashekar at 4.9% above S.R. of 1999-00 vide work order No.24/03-04, dated 22/4/2003.”

“As per records made available during investigation the above work is completed. The total expenditure on the above work is Rs.1,54,751 /-. The measurement for the above work is recorded in MB 234 page No.68-71 (MB book not produced by the DGO).

During the course of spot investigation it is observed that the B.S.Slab drain for a length of 77.50 mtrs is constructed on both sides of the road. Another B.S. Slab drain for length of 38.72 mtrs on one side of the road is removed and size

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stone masonry drain is constructed as per the oral statement of the local residents also two B S Slab culverts are provided. The measurement books 334 has not been produced by the concerned and only the file for the above work is produced.

As per the records made available in the contract certificate bill quantity B.S.Slab drain constructed is 367.20 sqm @ Rs.187.97 per sqm.mtr = Rs.69,022/- A

During the course of spot instigation and mahazar drawn the total length of B.S.Slab drain constructed is :-

$$2 \times 77.5 \times 1.8 = 279.00. \text{ sqm}$$

As per oral statement of local residents - $1 \times 38.72 \times 1.8 = 69.69$ sqm.

$$\text{Total } 348.69 \text{ sqm @ } 187.97 \text{ per sqm.} = 65,543\text{-B}$$

Excess amount claimed = A-B = 69,022 - 65,543=3479/- for that the DGO-3 and 4 are equally held responsible.”

17) Pw.1 deposed the above said facts in his examination also. The DGO.3 and 4 have not produced the documents to disprove the oral evidence of Pw.1 as well as Ex.P4 report in respect of the alleged work. There is no material evidence by the side of the DGO to disbelieve the evidence of Pw.1 and Ex.P4 part-A para No.4.20 the said facts and circumstances clearly reveals that the DGO-3 and 4 claiming the excess amount of Rs.3479/- in respect of the said work. Thereby the DGO-3 and 4 have caused loss of Rs.3479/- to the state exchequer. For that reason the DGO-3 and 4 have failed to

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maintain absolute integrity and devotion to duty. The act of which was unbecoming of government servants and thereby committed misconduct. Hence, they are equally held responsible for excess claimed for Rs.3479/-. Thereby the disciplinary authority has succeeded to prove the charge-4 leveled against the DGO-3 and 4.

18) CHARGE NO.5.

This charge framed against the DGO-3 and 4 in respect of the work of asphaltting to 2nd and 3rd cross road in Veerupakshpura layout in Ward No.15, Kodigehalli at the estimate cost of Rs.3.90 lakh. As per Ex.P1 to 3 complaints the complainant made allegation against the officers of Byatarayanapura CMC in respect of irregularities and substandard works carried out during 2002-03 to 2003-04 in ward No.14 and 15 of CMC, Byatarayanapura. The Pw.1 and 2 are the I.O., who investigated the matter and submitted Ex.P4 report. The Ex.P5 and 6 are the spot mahazars drawn by the Pw.1. In presence of the complainant Jagadish, the DGO-3, 4 and other. Ex.P7 and 8 are the measurement book related to the alleged work. The Pw.1 clearly stated in his report Ex.P4 part A para No.4.22 as follows;

“Asphaltting to 2nd and 3rd cross road in Veerupakshpura layout in Ward No.15, Kodigehalli: -
the estimate for the above work was prepared by the AEE, CMC, Byatarayanapura based on PWD SR 2000-01 is technically scrutinized vide No. 2315/02-03 for Rs.3.90 lakh by the EE, ZPE, Bangalore Urban.

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The necessary tenders have been floated vide tender notification 187 dated 24/1/2003. Amount of work put to tender as per PDW SR 2002-03 is Rs.3.90 lakh the work is awarded to the lowest tender Sri. K. Damodhar at 5% above S.R. of 2002-03 vide work order No.785 dated 25/2/2003.”

“As per records made available during investigation the above work is completed. The total expenditure on the above work is Rs.4,06,227/-. The measurement for the above work is recorded in MB 218 page No.49-50 (MB book not produced by the DGO).

During the course of spot investigation it is observed that the asphaltting work has been carried out in 2nd and 3rd cross road for a length of 200 mtrs. in 2nd cross and 213.50 mtrs in 3rd cross the MB No.218 has not been produced by the concerned and only file for the above work is produced.

As per the records made available in the contract certificate bill quantity of asphalt done in 2nd and 3rd cross road is 81.01 cum @ Rs.2550/- per cum = Rs.2,06,575/--A.

During the course of spot instigation and mahazar drawn the total quantity of asphalt done in 2nd cross road is :-

$$200 \times \frac{4.6+4.7}{2} \times 0.04 = 37.20 \text{ m}^3$$

$$3^{\text{rd}} \text{ cross road is } 213.5 \times 4.3 \times 0.04 = 36.72 \text{ m}^3$$

$$\text{@ Rs.2550/- per m}^3 = 1,88,496/- \text{ -B}$$

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Excess amount claimed = A-B = 2,06,575-1,88,496=18,079/-. For that the DGO-3 and 4 are equally held responsible.

19) Pw.1 deposed the above said facts in his examination also. The DGO.3 and 4 have not produced the documents to disprove the oral evidence of Pw.1 as well as Ex.P4 report in respect of the alleged work. There is no material evidence by the side of the DGO to disbelieve the evidence of Pw.1 and Ex.P4 part-A para No.4.22 the said facts and circumstances clearly reveals that the DGO-3 and 4 claiming the excess amount of Rs.18079/- in respect of the said work. Thereby the DGO-3 and 4 have caused loss of Rs.18079 /- to the state exchequer. For that reason the DGO-3 and 4 have failed to maintain absolute integrity and devotion to duty. The act of which was unbecoming of government servants and thereby committed misconduct. Hence, they are equally held responsible for excess clamed for Rs.18079/-. Thereby the disciplinary authority has succeeded to prove the charge-5 leveled against the DGO-3 and 4.

20) CHARGE NO.6.

This charge framed against the DGO-3 and 4 in respect of the work of construction of B.S.Slab drain and culverts at Sannaegowde layout (Maruti Mandira), Ward No.14, Kodigehalli. As per Ex.P1 to 3 complaints the complainant made allegation against the officers of Byatarayanapura CMC in respect of irregularities and substandard works carried out during 2002-03 to 2003-04 in ward No.14 and 15 of CMC,

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Byatarayanapura. The Pw.1 and 2 are the I.O., who investigated the matter and submitted Ex.P4 report. The Ex.P5 and 6 are the spot mahazars drawn by the Pw.1. In presence of the complainant, Jagadish, the DGO-3, 4 and others. The Pw.1 clearly stated in his report Ex.P4 part A para No.4.31 as follows;

“Construction of B.S.Slab drain and culverts at Sannaegowde layout (Maruti Mandira), Ward No.14, Kodigehalli.”

During the course of spot investigation and mahazar drawn it is observed that the work has been carried out and the total length of B.S. Slab drain is 560.70 mtrs the original records such as sanctioned estimate, measurement book paid vouchers and tender document etc., have not been produced by the concerned. Hence, action may kindly be initiated against the concerned for non-production of records and misappropriation.

21) Pw.1 deposed the above said facts in his examination also. The DGO.3 and 4 have not produced the documents to disprove the oral evidence of Pw.1 as well as Ex.P4 report in respect of the alleged work. There is no material evidence by the side of the DGO to disbelieve the evidence of Pw.1 and Ex.P4 part-A para No.4.31 the said facts and circumstances clearly reveals that the DGO-3 and 4 have failed to produce the sanctioned estimate measurement book, paid vouchers, tender documents etc., Pw.1 in his evidence not stated anything regarding misappropriation of amount in respect of

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the said work. Also in his report Ex.P4 para No.5.0 conclusion portion not stated anything regarding the misappropriation of amount in respect of the said work by the DGO-3 and 4. For that reason the DGO-3 and 4 have failed to maintain absolute integrity and devotion to duty. The act of which was unbecoming of government servants and thereby committed misconduct. Thereby the disciplinary authority has succeeded to prove the charge-6 leveled against the DGO-3 and 4.

22) CHARGE NO.7.

This charge framed against the DGO-4 and 5 in respect of the work of construction of B.S. slab drain in Balaji Layout at Engineer Patil House Road, Ward No.15, Kodigehalli at the estimate cost of Rs.4.50 lakh. As per Ex.P1 to 3 complaints the complainant made allegation against the officers of Byatarayanapura CMC in respect of irregularities and substandard works carried out during 2002-03 to 2003-04 in ward No.14 and 15 of CMC, Byatarayanapura. The Pw.1 and 2 are the I.O., who investigated the matter and submitted Ex.P4 report. The Ex.P5 and 6 are the spot mahazars drawn by the Pw.1. In presence of the complainant Jagadish, the DGO-3, 4 and other. Ex.P7 and 8 are the measurement book related to the alleged work. The Pw.1 clearly stated in his report Ex.P4 part A para No.4.36 as follows;

“Construction of B.S. slab drain in Balaji Layout at Engineer Patil House Road, Ward No.15, Kodigehalli:

- the estimate for the above work was prepared by the AEE, CMC, Byatarayanapura based on PWD SR

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2003-04 is technically scrutinized vide No. Nil/2004-05 for Rs.4.50 lakh by the AEE, CMC, Byatarayanapura.

The necessary tenders have been floated vide tender notification 02 dated 28/6/2004. Amount of work put to tender as per PDW SR 2003-04 is Rs.4.50 lakh the work is awarded to the lowest tender Sri. N.R. Damodhara Raju at 7.6% above S.R. of 2003-04 vide work order No.Nil, dated 22/07/2004.”

“As per records made available during investigation the above work is completed. The total expenditure on the above work is Rs.4,74,066/-. The measurement for the above work is recorded in MB 33/03-04 page No.49-51 (Ex.P7).

During the course of spot investigation it is observed that the asphaltting work has been carried out. The total length B.S. Slab drain measured and verified is 239.20 mtrs.

Total length of B.S. Slab executed as per M.B. 33/2003-04
Page No.49=299.00*1.7

=508.30 Sqm @ Rs.193.06/Sqm
=Rs.98,132-00 - A.

Total length of B.S. slab measured and verified during
investigation= 239.2*1.7

= 406.64 Sqm @ Rs.193.06/sqm
= Rs.78,505-00- B

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Total shortfall = A-B = 98,132-00 - 78,505-00=19,627/-.
 There is misappropriation of Government funds in the tune of Rs.19,627/- for which the DGO No.5 and the then AEE-Sri.K.N.Ravi are held responsible (The D.E. not initiated against the Sri. K.N. Ravi who was retired).”

23) Pw.1 deposed the above said facts in his oral evidence. The DGO.4 and 5 have not produced the documents to disprove the oral evidence of Pw.1 as well as Ex.P4 report in respect of the alleged work. There is no material evidence by the side of the DGO to disbelieve the evidence of Pw.1 and Ex.P4 part-A para No.4.36. As per the evidence of Pw.1 and Ex.P4 report the DGO-4 P.C.Kodandaram have not execute the work as not responsible for the above said amount. But as per the said evidence of the Pw.1 the DGO-5 K.S.Chandrashekar is responsible along with the then AEE, CMC, Byatarayanapura by name K.N.Ravi who was retired from service and DE not initiated against him. The said facts and circumstances clearly reveals that the DGO-4 and 5 and the then AEE- K.N.Ravi (Retired) claiming the excess amount of Rs.19,627/- in respect of the said work. Thereby the DGO-5 and AEE- K.N.Ravi (Retired) have caused loss of Rs.19,627/- to the state exchequer. For that reason the DGO-5 has failed to maintain absolute integrity and devotion to duty. The act of which was unbecoming of government servants and thereby committed misconduct. There is no material evidence by the side of the disciplinary authority to prove the charge leveled against DGO-4. There is no material evidence to fix the individual responsibility of the the

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then AEE- K.N. Ravi (Rtd.,) and DGO-5. Hence, the DGO-5 and AEE- K.N.Ravi (Retired) are equally held responsible for excess claimed for Rs.19,627/-. Thereby the disciplinary authority has succeeded to prove the charge-7 leveled against the DGO-5 only. But failed to prove the charge leveled against DGO-4.

24) CHARGE NO.8.

This charge framed against the DGO-3, 4 and 5 who are working as a AEE and AE in CMC, Byatarayanapura who got executed the work and caused misappropriation of Government funds as charged in Charge No.1 to 7 are responsible along with the then AEE- K.N.Ravi (Retired) for misappropriation of Government fund to the tune of Rs.92,688 and for an irregular expenditure of Rs.82,000. As per Ex.P1 to 3 complaints the complainant made allegation against the officers of Byatarayanapura CMC in respect of irregularities and substandard works carried out during 2002-03 to 2003-04 in ward No.14 and 15 of CMC, Byatarayanapura. The Pw.1 and 2 are the I.O., who investigated the matter and submitted Ex.P4 report. The Ex.P5 and 6 are the spot mahazars drawn by the Pw.1. In presence of the complainant Jagadish, the DGO-3, 4 and other. Ex.P7 and 8 are the measurement book related to the alleged work. As stated above in Charge No.1 to 7 the disciplinary authority said charges against the DGO 3, 4 & 5 respectively and fix the liability for repayment of excess amount paid. The Pw.1 clearly stated in his report Ex.P4 part A para No.5.0- conclusion as follows:

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“the investigation report is based on the scrutiny of records made available to this office by office of the Commissioner, CMC, Byatarayanapura and also based on the observation made during the course of spot inspection & mahazar drawan.

As discussed from the foregoing para of this investigation report the following officers/officials held responsible for misappropriation of Government funds to the tune of Rs. 92,688/- and for an irregular expenditure of Rs.82,000/-

- (a) Sri. K.N.Nagaraju, the then AEE, CMC, Byatarayanapura.
- (b) Sri. K.N.Ravi, the then AEE, CMC, Byatarayanapura.
- (c) Sri. T.C. Kodandarama, the then AE, CMC, Byatarayanapura
- (d) Sri. K.Chandrashekar, the then AEE, CMC, Byatarayanapura.

25) Pw.1 deposed the above said facts in his oral evidence. The DGO.3 to 5 have not produced the documents to disprove the oral evidence of Pw.1 as well as Ex.P4 report in respect of the alleged work. There is no material evidence by the side of the DGO to disbelieve the evidence of Pw.1 and Ex.P4 part-A para No.4.16, 4.18, 4.19, 4.20, 4.22, 4.31, 4.36. As per the evidence of Pw.1 and Ex.P4 report the DGO-4 P.C.Kodandaram have not execute the work which stated in Charge No.7. Hence he is not responsible for the above said amount stated in the Charge No.7. But as per the said evidence of the Pw.1 the DGO-5 K.S.Chandrashekar is

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responsible along with the then AEE- K.N.Ravi (Retired). As per the evidence of the Pw.1 and Ex.P4 – report for a para No.5.0. The DGO-3 to 5 and the then AEE- K.N.Ravi are held responsible for the above said alleged work. The total amount shown as misappropriation amount is Rs.92,688/- and irregular expenditure shown as Rs.82,000/-. There is no material evidence by the side of the disciplinary authority to fix individual responsibility against the DGO-3 and 4. The charge No.1 to 6 framed against the DGO-3 & 4 only. As per the findings given in the above said charges the DGO-3 and 4 are equally held responsible for the amount of Rs.34,003/-, Rs.17,550/-, Rs.3,479/-, Rs.18,079/- respectively under the head of misappropriation of amount and excess amount claimed by them. The total amount is 73,111. Further the Charge no.3 framed against the DGO-3 & 4 as per the findings in respect of the Charge No.3 as well as Ex.P4 report Part-4, Para No.4.19. The DGO-3 & 4 are equally held responsible for irregular expenditure of Rs.82,000/-. Hence the DGO-3 & 4 are equally held responsible for the said irregular expenditure of Rs.82,000/-. As per the findings given in the Charge No.7 the disciplinary authority failed to prove the said charge against the DGO-4. But, succeeded to prove the charge leveled against the DGO-5. As per the evidence of the Pw.1 and Ex.P4 report Part-A, Para No.4.36 the DGO-5 along with the then AEE- K.N.Ravi are equally held responsible for the misappropriation of Rs.19,627/-. But there is no material documents to fix the individual responsibility regarding the payment of above said alleged amount. The said facts and circumstances clearly reveals

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that the DGO-3 & 4 are equally held responsible for misappropriation of Government funds to the tune of Rs.73,111/- and for irregular expenditure of Rs.82,000/- and further the DGO-5 along with Sri. K.N.Ravi, AEE (Retired) (D.E. not initiated against him) equally responsible for the amount of Rs.19,627/-. For that reason the DGO-3 to 5 are failed to maintain absolute integrity and devotion to duty. The act of which was unbecoming of government servants and thereby committed misconduct. Thereby the disciplinary authority has succeeded to prove the charge-8 leveled against the DGO-3 to 5.

26) CHARGE NO.9.

This charge framed against the DGO-1 and 5 in respect of collecting of road cutting charges in CMC, Byatarayanapura. The charge is Sri. C.K.Dashawanth, the then Commissioner of CMC, Byatarayanapura (Retired) and Govindaiah, the then Commissioner of CMC, Byatarayanapura (Expired) and DGO-1 - M.A.Baig, the then Commissioner, CMC, Byatarayanapura and DGO-5 - K.Chandrashekar while working as the Commissioner have allowed to cut the road without collecting proper road cutting charges and by ignoring the direction passed by the high level committee of Government of Karnataka vide ITD 23 PRL 2000, dtd 16/8/2000. They failed to furnish the clarification regarding irregularities committed by them.

27) The Pw.2 is an Investigating officer in respect of the said matter who is the then Audit Officer, TAC, Karnataka

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Lokayukta submitted the Ex.P4 Part-B report in respect of the same. In Ex.P4 part B, Para No.4.02 the Pw.2 stated as follows:

“Any agency that has a license from the department of Telecom for providing telecom/internet/other services shall apply to the Secretary to Government, Department of Information and Technology, Government of Karnataka. These applications shall be placed before the above committee (High level committee comprising Chief Secretary to Government, Additional Chief Secretary, Principal Secretary to Government Department, Forest, Industries and Commerce, Urban Development, etc., and IT Department as convener) for immediate decision. The committee has the power to grant the right of way for laying fiber optics. This right of way shall be granted free and the rights of way could be granted in respect of all the roads.

The agency shall restore the road which has been dug to its original quality at its cost and to the satisfaction to the concerned authority if any deficiency are noticed it should be brought to the notice of Director, Directorate of Information and Technology within 30 days of completion of work. The director of Directorate of Information Technology shall take steps to invoke the bank guarantee to provide appropriate monetary compensation to the concerned department/local bodies/authorities for restoring the road in a satisfactory manner.

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Further stated in said report that :

In this regard when the Commissioner, CMC, Byatarayanapura was requested vide this office letter dated 15/11/2005, 21/2/2006 and 11/5/2006 to furnish the files pertaining to the lying of fiber optic cables in the area of CMC, Byatarayanapura, but no action is forth coming from him. however he has furnished the total amount towards road cutting charges.

| Year | Agency | Amount in Rs. |
|-------------|-------------------|----------------------|
| 2002-03 | -- | -- |
| 2003-04 | BSNL and BWSSB | 29,06,043 |
| 2004-05 | -- | -- |
| 2005-06 | BWSSB | 7,72,950 |

Since no files are available for investigation whether any complaints on repairing of the road dug by the telecommunication agency work file before the respective appropriate authority as stated above the G.O. is not known. The complaint also not indicated any specific road/ instant of violation of the above guidelines.

4.00 Conclusion :

As discussed in the above para action by the Commissioner & Revenue officer of CMC, Byatarayanapura to collect the arrears of water charges in ward No.14 & 15 is not forth coming. Hence they are held responsible for the loss of revenue to the CMC in not collecting the arrears of water charges. Regarding other allegation that the CMC not

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collected the road digging charges from the telecom agencies the detailed report and the connected files were not made available for investigation for which the commissioner, CMC Sri. C.K.Dashwanth and Sri. Chandrashekar, A.E., CMC, Byatarayanapura are held responsible.

28) As per the evidence of Dw.5- DGO-1 he was working as a Commissioner, CMC, Byatarayanapura from 4/6/2002 to June 2005 and DGO-5 K.Chandrashekar working as a Assistant Engineer from 6/8/2003 to 18/5/2005.

29) In support of the above same the Pw.2 towards the Ex.P11 the Government notification and also Ex.P12 letter dated 15/11/2005 to the Commissioner, CMC, Byatarayanapura to furnish the files. The Ex.P13 is a document furnished by the Commissioner regarding collection of road cutting charges. The DGO-1 & 2 also produced the Ex.D2 and D13 the proceedings of the Government of Karnataka regarding collection of road cutting charges etc. But the DGO-1 & 5 have failed to furnish the documents and clarification regarding the collection of road cutting charge from the concerned agency. Pw.2 also deposed the same thing in his evidence that the DGO-1 & 5 failed to furnish the documents and clarification regarding the same. There is no material evidence in side of DGO-1 & 5 to disprove the said charge No.9 by furnishing the clarification and document to show that they have taken proper steps as per the direction passed by the high level committee of Government of Karnataka vide ITD 23 PRL 2000, dtd 16/8/2000 and not committed any irregularities.

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The above said facts and circumstances clearly reveals that they are responsible for the said irregularities and failed to furnish the clarification to the said extent. Thereby failed to maintain obsolete integrity and devotion to duty. Thereby the Disciplinary authority succeeded to prove the charge No.9 leveled against the DGO-1 & 5.

30) CHARGE NO.10.

This charge framed against the DGO-1 and 2 in respect of collection of water charge bill ward No.14 & 15 of Byatarayanapura, CMC for the period 2002-03, 2003-04, 2004-05.

The charge is DGO-1 Sri.M.A.Baig, the then Commissioner, CMC, Byatarayanapura, Sri.Govindaiah, the then Commissioner, CMC, Byatarayanapura (Expired) DGO-2 Sri. M.R.Manjunath, the then Revenue Officer, CMC, Byatarayanapura, Sri. D.N.Narasappa, the then Revenue Officer, CMC, Byatarayanapura (Retired), Sri. H.Jithendra, the then Revenue Officer, CMC, Byatarayanapura (Retired) Sri. Siddaraju, the then Revenue Officer, CMC, Byatarayanapura (Retired), have not collected water charges for the above said period. For that they have caused the revenue loss of Rs.7 lakh for year which amount to a sum of Rs.21 lakhs. Therefore the Yashvant, the then commissioner, CMC, Byatarayanapura (retired) and DGO-1 & 2 the above said officers are responsible for said loss.

31) The Pw.2 is an Investigating officer in respect of the said matter who is the then Audit Officer, TAC, Karnataka

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Lokayukta submitted the Ex.P4 Part-B report in respect of the same. In Ex.P4 part B, Para No.4.04 the Pw.2 stated as follows:

(2) the information furnished by the CMC, Byatarayanapura, reveal that there are about 600 and in Ward no.15 about 3302 households. Out of this in ward no.14 5-10 households has got Water supply connection from the CMC. And in Ward No. 15 about 902 have got the connection but all of them not paid the prescribed amount to the CMC. About 12 and 83 holds respectively have only paid the initial deposit for getting the water connections and also monthly prescribed water charge of 5 Rs. are not paid them. Thus there is a loss of Revenue to the CMC. When the CMC is incurring expenditure for payment of electricity bills for the motor pumps and salaries to the pump operators and regular maintenance charges. The residence users have to paid the monthly prescribed water charges to the CMC.

A statement showing the number of houses hold water connection given, deposit paid and the monthly water charges collected from the residence during the period from 2002-03 to 2005-06 furnished by the Commissioner.

3) : As could be seen from the above statement in Ward No.14 out of 600 house holds 5-10 house holds

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have got water connection from CMC. But all of them were not paying initial payment to the CMC. Only one household have paid the deposit and also the monthly water charges. Similarly in Ward No.15 out of 330 households 91 households have got water connection and only 8 have paid the initial deposit. And the monthly water charges thus these 2 wards i.e., No.14 & 15 the loss of caused to CMC work out to-

Ward No.14

| | |
|--|---------------------|
| 1) Initial deposit = 510-12 = 498 *2050= | 10,20,900 |
| Monthly charges 490 *45*12 = | <u>2,68,920</u> p.a |
| | 12,89,820 |

Ward No.15

| | |
|---|---------------------|
| 2) Initial deposit = 912-82= 830 *2050= | 17,01,500 |
| Monthly charges 830*45*12 = | <u>4,48,200</u> p.a |

21,49,700

| | |
|-------|-----------|
| Total | 34,39,520 |
|-------|-----------|

As could be seen from the above figures Rs.7 lakhs could be a loss of revenue annually towards non collection of monthly water charges in Ward No.14 & 15. If we calculated for the last 2 year the last could be around 21 lakhs. What action has initiated by the Commissioner, CMC to raise the demand of water charges and to collect the same is not forth coming. Not only the present Commissioner but also the previous

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commissioner of CMC, Byatarayanapura is held responsible for this lapse.

4.00 Conclusion :

As discussed in the above para action by the Commissioner & Revenue officer of CMC, Byatarayanapura to collect the arrears of water charges in ward No.14 & 15 is not forthcoming. Hence they are held responsible for the loss of revenue to the CMC in not collecting the arrears of water charges.

32) In support of Ex.P4 part B report Pw.2 deposed in his evidence that in respect of recovery of the water tax from 2002-03 to 2005-06 the DGO-1 and 2 have not produced clear documents to show that what are the steps taken by them to recovery of the water tax in ward No.14 and 15 of CMC, Byatarayanapura for the above said period. Pw.2 deposed in respect of Ex.P14 the document issued by the the then Commissioner, CMC, Byatarayanapura in respect of water tax and deposits for the year 2002-03 to 2005-06. As per the said document in the ward no.14 of CMC, Byatarayanapura total household are 600 out of that having water connection are 510 and deposits in respect of water connection are 12 houses and total collection of the water tax is Rs.10500/- for the above said 3 years. As per the said document in the ward no.15 of CMC, Byatarayanapura total household are 3302 out of that having water connection are 912 and deposits in respect of water connection are 82 houses and total collection of the water tax is Rs.47935/- for

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the above said 3 years. The said documents have not disclosed CMC, Byatarayanapura has collected water tax in respect of said 2 wards for each year. Also the DGO- 1 and 2 have not produced any documents to show that how many household having the water connection in the year 2002-03, 2003-04 and 2004-05 respectively. As per the calculation made by the Pw.2 in report Ex.P4 part B para No.4.04. The DGO-1 and 2 and other officials have to be collected Rs.7 lakh water tax for each year and total amount of Rs.21 lakh has to be collected for the above said 3 years. The DGO -1 and 2 have produced Ex.D1 to 6 and Ex.D13 to 16 documents. Ex.D1 and 5 both are the same document ie., local audit report of CMC, Byatarayanapura for the year 2002-03 to 2005-06. as per the Ex.D1 page No.261-270 is the local audit report for the for 2002-03 in said report the total water tax was recovered for the said period is Rs.5,77,1221/- and water deposits is Rs.19,11,219/-, advanced deposits in respect of water collection Rs.2,87,540/- but in the said report item No.2 water tax the name of the ward No.14 and 15 not mentioned and also there is no amount mentioned regarding the recovery of the water tax in respect of ward No.14 and 15 Kodigehalli CMC, Byatarayanapura. Ex.D1 page No.271-278 is the details of recovery of the tax etc., for the year 2003-04. As per this document there is no entry under the head of water tax regarding the recovery of the water tax in ward No.14 and 15 of CMC, Byatarayanapura for the said period. Ex.D1 page No.279-290 is the details of recovery of the tax etc., for the year 2004-05. As per this document there is no entry under the head of water tax regarding the



recovery of the water tax in ward No.15 of CMC, Byatarayanapura for the said period. But, in respect of ward No.14 Kodigehalli, CMC, Byatarayanapura water collection charge for the said year is only Rs.1,440/-. Ex.D1 page No.291-304 is the details of recovery of the tax etc., for the year 2005-06. As per this document there is an entry under the head of water tax regarding the recovery of the water tax in ward No.14 and 15 of CMC, Byatarayanapura for the said period ie., Rs.3549/- and Rs.98,425/- respectively. The document produced by the DGO-1 and 2 not clear to show that how many water connection obtained by the householders and how many householders deposited in respect of water connection. The DGO-1 and 2 have failed to produce the clear documents and also clarification regarding the same and what are the steps taken by them during their period for recovery of the water tax in ward No.14 and 15. As per the evidence of the DGO-1 he was working as Commissioner, CMC, Byatarayanapura from 4/6/2002 to June 2005 and DGO 2 was working as Revenue Inspector of CMC, Byatarayanapur in respect of above said wards from 31/2/2004 to 1/9/2004. For the other period Sri Govidaiah the then Commissioner, CMC Byatarayanapura (died), Dashavanth, the then Commissioner, CMC Byatarayanapura (Rtd.) and Sri D N. Narasappa, the then Revenue officer (Rtd.), Sri H. Jitendra, the then Revenue officer (Rtd.). Sri Siddaraju, the then Revenue Officer (Rtd.) were working in the said CMC. There is no clear documents available to fix the individual liability or responsibility in respect of above said all failed to recovery of Rs.21 lakh water tax for the above said 3 years.

92

In ward No.14 and 15 of CMC, Byatarayanapura. The DGO-1 and 2 have not furnished any document whether the said due amount of water tax recovered or not after filed the complaint in the Lokayukta Office. Hence, for the same all of the above said persons equally responsible for the same. For ~~that~~^{the} above said facts and circumstances, the DGO-1 and 2 have failed to produce the proper documents and clarification regarding non-recovery of the above said water tax during the said period. Thereby disciplinary authority succeeded to prove charge No.10.

33) In the above said facts and circumstances, the charges No.1 to 6, are proved against the DGO No.3 Sri N. Nagaraju, the then Assistant Executive Engineer, City Municipal Council, Byatarayanapura and DGO-4 Sri T.C. Kodandarama, the then Assistant Engineer, City Municipal Council, Byatarayanapura, charge No.7 proved against the DGO No.5- Sri K. Chandrashekhara, the then Assistant Engineer, City Municipal Council, Byatarayanapura but, has not proved against the DGO-4, charge No.8 proved against DGO-3 to 5, charge No.9 proved against the DGO-1 and 5, charge No.10 proved against the DGO-1- Sri M.A. Baig, the then Municipal Commissioner, City Municipal Council, Byatarayanapura, Bangalore and DGO-2 Sri. M.R. Manjunath, the then Revenue Officer, City Municipal Council, Byatarayanapura Further the DGO-3 & 4 are equally held responsible for misappropriation of Government funds to the tune of Rs.73,111/- and for irregular expenditure of Rs.82,000/- and further the DGO-5 along with Sri. K.N.Ravi, AEE (Retired) (D.E. not initiated

against him) equally responsible for the amount of Rs.19,627/-. Further the DGO 1 and 2 and Sri Govidaiah the then Commissioner, CMC Byatarayanapura (died), Dashavanth, the then Commissioner, CMC Byatarayanapura (Rtd.) and Sri D N. Narasappa, the then Revenue Officer (Rtd.), Sri H. Jitendra, the then Revenue officer (Rtd.), Sri Siddaraju, the then Revenue officer (Rtd.) are equally responsible for non-collection of water tax of Rs.21 lakh for the period 2002-03, 2003-04 and 2004-05.

34) Hence, this report is submitted to Hon'ble Upalokayukta for further action.


(Lokappa N.R)

Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

i) List of witnesses examined on behalf of Disciplinary Authority.

| | |
|------|---|
| Pw.1 | Sri M.L. Ramesh s/o late Lakshman, the then E.E, TAC, Karnataka Lokayukta dated: 18/4/2017 (Original) |
| Pw.2 | Sri Timmaiah @ Venkatesh T.M the then Audit officer, TAC, Karnataka Lokayukta dated 7/9/2017 (Original) |

ii) List of Documents marked on behalf of Disciplinary Authority.

| | |
|---------------|--|
| Ex.P1&2 | Complaint form No.I&II dated 12/8/2005 |
| Ex.P1(a)&2(a) | Signature |
| Ex.P3 | Written complaint dated 10/8/2005 |
| Ex.P4 | Investigation Report dated 21/7/2006 |
| Ex.P4(a)(b) | Signatures |



| | |
|-------------------|--|
| Ex.P5 Ex.P5(a) | Spot mahazar dated 11/11/2005 Signature |
| Ex.P6 Ex.P6(a) | Spot mahazar dated 15/11/2005 Signature |
| Ex.P7 | Measurement Book |
| Ex.P8 | Measurement Book |
| Ex.P9 | Copy of estimate in respect of work in ward No.15 |
| Ex.P10 | Contract certificate |
| Ex.P11 | Copy of the proceedings, Government of Karnataka dated 16/8/2000 |
| Ex.P12 | Copy of letter dated 15/11/2005 of Pw.1 addressed to the Commissioner, CMC, Byatarayanapura |
| Ex.P13 | Collection of road cutting fee details from 2002-03 to 2005-06 |
| Ex.P14 | Copy of the collection of water tax and deposits details in CMC, Byatarayanapura from 2002-03 to 2005-06 |

iii) List of witnesses examined on behalf of DGO.

| | |
|------|--|
| Dw.1 | M.R. Manjunath s/o Late T. Ranganath, Managar (Rtd), CMC, Bangalore , dated: 31/1/2018 (original) |
| Dw.2 | N. Nagaraju, the then Assistant Executive Engineer, City Municipal Council, Byatarayanapura (presently working as Executive Engineer in Panchayath Raj Engineering Department, Chikkaballapur) dated 2/8/2018 (Original) |
| Dw.3 | T.C. Kodandarama, the then Assistant Engineer, City Municipal Council, Byaarayanapura (presently working as Assistant Engineer in Directorate of Horticulture, Lalbagh, Bangalore) dated 2/8/2018 |
| Dw.4 | K. Chandrashekhara, the then Assistant Engineer, City Municipal Council, Byatarayanapura (presently working as Assistant Engineer in the office of the Superintending |

95

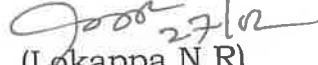
| | |
|------|---|
| | Engineer, National Highways, K.R. Circle, Bangalore) dated 2/8/2018 (original) |
| Dw.5 | M.A. Baig, the then Municipal Commissioner, City Municipal Council, Byatarayanapura, Bangalore (Rtd) dated 11/9/2018 (Original) |

iv) List of documents marked on behalf of DGO

| | |
|--------|---|
| Ex.D1 | Copy of the local audit report 2002-03 to 2005-06 of Byatarayanapura CMC |
| Ex.D2 | Copy of the proceedings, Government of Karnataka dated 13/2/2004 |
| Ex.D3 | Correspondence made under RTI to obtain the information regarding water collection charges |
| Ex.D4 | Copy of the local audit report 2002-03 to 2005-06 of Byatarayanapura CMC |
| Ex.D5 | Copy of the details of collection of water tax and deposits from 2002-03 to 2005-06 which was issued by the Chief Officer, TMC, Devanahalli |
| Ex.D6 | Document related connection of water tax and deposits in respect of ward No.15, Kodigehalli |
| Ex.D7 | notification dated 2/6/2004 regarding transfer of DGO-3 |
| Ex.D8 | CTC in respect of DGO-3 |
| Ex.D9 | Letter dated 10/5/2010 of AEE, Kodigehalli sub division, BBMP to the DGO-4 |
| Ex.D10 | Letter dated 10/5/2010 of AEE, Kodigehalli sub division, BBMP to the DGO-4 |
| Ex.D11 | Letter dated 13/1/2011 of EE, Byatarayanapur division, BBMP to the DGO-4 |
| Ex.D12 | Letter dated 18/5/2005 of Commissioner, CMC, Byatarayanapura regarding the transfer of the DGO-5 |
| Ex.D13 | Copy of the proceedings, Government of Karnataka dated 13/2/2004 |
| Ex.D14 | Copy of the local audit report 2002-03 to 2005-06 of Byatarayanapura CMC |

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| Ex.D15 | Copy of the collection of water tax and deposits details in CMC, Byatarayanapura from 2002-03 to 2005-06 |
| Ex.D16 | Document related connection of water tax and deposits in respect of ward No.15, Kodigehalli |


(Lokappa N.R)

Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO: LOK/INQ/14-A/246/2013/ARE-9

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 02/03/2019

RECOMMENDATION

Sub:- Departmental inquiry against;

- 1) Sri M.A. Baig, the then Municipal Commissioner, City Municipal Council, Byatarayanapura, Bengaluru;
- 2) Sri M.R. Manjunath, the then Revenue Officer, City Municipal Council, Byatarayanapura, Bengaluru;
- 3) Sri N. Nagaraju, the then Assistant Executive Engineer, City Municipal Council, Byatarayanapura (presently working as Executive Engineer in Panchayath Raj Engineering Department, Chikkaballapur);
- 4) Sri T.C. Kodandarama, the then Assistant Engineer, City Municipal Council, Byatarayanapura; and
- 5) K. Chandrashekhara, the then Assistant Engineer, City Municipal Council, Byatarayanapura - reg.

Ref:- 1) Government Order No. ಸೌಇ 84 ಡಿಎಂಕೆ 2013, Bengaluru dated 29/5/2013

2) Nomination order No.LOK/INQ/14-A/246/2013, Bengaluru dated 29/5/2013 of Upalokayukta-1, State of Karnataka, Bengaluru

3) Inquiry Report dated 27/2/2019 of Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru.

The Government by its Order dated 29/5/2013, initiated the disciplinary proceedings against (1) Sri M.A. Baig, the then

Municipal Commissioner, City Municipal Council, Byatarayanapura, Bengaluru; (2) Sri M.R. Manjunath, the then Revenue Officer, City Municipal Council, Byatarayanapura; (3) Sri N. Nagaraju, the then Assistant Executive Engineer, City Municipal Council, Byatarayanapura (presently working as Executive Engineer in Panchayath Raj Engineering Department, Chikkaballapur); (4) T.C. Kodandarama, the then Assistant Engineer, City Municipal Council, Byaarayanapura and (5) K. Chandrashekhara, the then Assistant Engineer, City Municipal Council, Byatarayanapura (hereinafter referred to as Delinquent Government Official's 1 to 5 for short as 'DGO-1, DGO-2, DGO-3, DGO-4 and DGO-5 respectively') and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/246/2013, Bengaluru dated 29/05/2013 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 to 5 for the alleged charge of misconduct, said to have been committed by them. Subsequently, by Order No. LOK/INQ/14-A/2014 dated 14/3/2014, the Additional Registrar of Enquiries-5, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGOs 1 to 5. Again, by Order No. UPLOK-1/DE/2016 dated 3/8/2016, the Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGOs 1 to 5.

3. The DGO-1 Sri M.A.Baig, the then Municipal Commissioner, City Municipal Council, Byatarayanapura, Bengaluru; DGO-2 Sri M.R. Manjunath, the then Revenue Officer, City Municipal Council, Byatarayanapura; DGO-3 Sri N. Nagaraju, the then Assistant Executive Engineer, City Municipal Council, Byatarayanapura; DGO-4 Sri T.C. Kodandarama, the then Assistant Engineer, City Municipal Council, Byatarayanapura and DGO-5 Sri K. Chandrashekhara, the then Assistant Engineer, City Municipal Council, Byatarayanapura were tried for the following charges:-

CHARGE NO.1:

That, Sri K.N. Ravi, Assistant Executive Engineer, C.M.C., Byatarayanapura (now Retired), You-DGO-3 N. Nagaraju, while working as Assistant Executive Engineer, CMC, Byatarayanapura; you DGO-4 Sri K.C.Kodandaram, while working as Assistant Engineer, C.M.C., Byatarayanapura have got the work of asphaltting to road through lowest Tenderer Sri K. Damodara from Narayana Swamy's house to Krishnappa's house in Ward No.14 (Ashwathakatte to Kodigehalli Circle) in Ward No.14 at an estimated cost of Rs.4,23,654/- and spent Rs.1,03,900/- as per M.B.222/A page 66 to 67 as per the records available but, on investigation at spot and mahazar it is observed that only four manhole chambers are constructed and connected main sewer line as per records made available instead of claim of 11 manhole chambers prepared by deceased DGO-3 N. Nagaraju and you DGO-4 Sri T.C. Kodandarama got the said work executed.

| | |
|--|------------------|
| The cost of each manhole is | 4x6187=24,748.00 |
| Tender premium at the rate of 3.5% above | <u>965.00</u> |
| Total | <u>25,713.00</u> |

Whereas you have claimed 59,716.00x25,713=34,003
But, on investigation, total expenditure incurred to above work is 3,58,403/- you DGO-3 estimated higher amount and DGO-4 executed work for higher amount, thereby both of you have caused loss of Rs.34,003/- thereby DGO-3 and DGO-4 both of you have failed 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.

Charge No.2:

That DGO-3 N. Nagaraju while working as Assistant Executive Engineer, Byatarayanapura and DGO-4 Sri T.C. Kodandarama while working as Assistant Engineer C.M.C. Byatarayanapura have got done the work of providing UGD from the house of Sreehari's house to Manjanna's house in Ward No.14 Kodigehalli at estimated cost of Rs.1,00,000/- total expenditure made was Rs.77,954/- as per the M.B.No.207 page 49. During the course of investigation it is observed that four manholes from Sreehari's house to Manjanna's house are provided and connected to main sewer line. The M.B. No.207 has not been produced by the concerned. As per the records available in the contract certificate bill for construction of seven manhole chambers have been claimed i.e.,

7x 5,580 = 40,950

But, in spot only 4 man holes were
Found which costs 4x5,850=23,400/-

both of you have caused loss to the tune of Rs.17,550/- you DGO-3 N. Nagaraju and you DGO-4 T.C. Kodandarama are responsible for the loss of Rs.17,550/- thereby you DGO-3 N. Nagaraju and DGO-4 T.C. Kodandarama have failed to maintain absolute integrity and devotion to duty, the act of which as unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

CHARGE-3:

That DGO-3 N. Nagaraju while working as Assistant Executive Engineer and DGO-4 Sri T.C. Kodandarama working as Assistant Engineer in C.M.C Byatarayanapura have under taken the work of providing UGD from Devaraj's house to Lingaiah's house in ward No.14 of Kodigehalli with five manhole chambers for which the concerned has not produced the relevant sanctioned estimate and measurement book, vouchers, tender documents etc., and thereby the said officers are responsible for the irregular expenditure of Rs.82,000/- and DGO-3 N. Nagaraju and you DGO-4 T.C. Kodandarama thereby 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.

CHARGE NO.4:

That you DGO-3 N. Nagaraju while working as Assistant Executive Engineer and DGO-4 Sri T.C. Kodandarama working as Assistant Engineer in C.M.C. Byatarayanapura have got done the work of construction of B.S. Slab Drain and Culverts in Balaji Layout Cross road in Ward No.15 of Kodigehalli at an estimated cost of Rs.2,00,000/- prepared by DGO-3 N. Nagaraju as per records maintained by you, you have spent a sum of Rs.1,54,751/- as per M.B. 234 page 68 to 71.

During the course spot inspection it is found that B.S. Slab line for the length of 77.50 mtrs. is constructed on both sides of the road and another B.S. slab drain for the length of 38.72 mtrs on one side of the road is removed and size stone mason drain is constructed as per the oral statement of the local resident. In this way also two B.S. Slab culverts are provided but, measurement book No.234 has not been produced by the concerned and only the file for the above work is produced. As per the available records, the work said to have done is B.S. Slab drain constructed is 367.20 sq mts. @ Rs.187.97/- Sq.m. = Rs.69,022 - 'A'

During the course of spot inspection and mahazar drawn the total length of

B.S. Slab drain constructed is - $2 \times 77.5 \times 1.8 = 279.00$

As per oral statements of
Local residents

$1 \times 38.72 \times 1.8 = 69.69$

Total $348.69 \text{ sq m @ } 187.97 \text{ sq.m.}$

= Rs.65,543/-

Excess amount claimed = 'A'-'B'

=Rs.69,022/- - Rs.65,543/

= Rs.3,479/-

thereby DGO-3 N. Nagaraju and you DGO-4 T.C. Kodandarama are responsible for the loss of Rs.3,479/- thereby you-DGO-3 N. Nagaraju and DGO-4 T.C. Kodandarama have failed 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.

CHARGE NO.5 :

That DGO-3 N. Nagaraju while working as Assistant Executive Engineer and DGO-4 Sri T.C. Kodandarama working as Assistant Engineer in C.M.C Byatarayanapura have got done the work of asphaltting to 2nd and 3rd cross road in Virupakshapura Layout in Ward No.15 at the sanctioned estimated cost of Rs.3,90,000/- prepared by DGO-3 N. Nagaraju as per the records made available during investigation, amount of Rs.4,06,277/- was spent as recorded in M.B.218 page 49 to 50. During the course of spot investigation it is found that a length of 200 mtrs in second cross and 213.50 mtrs in 3rd cross was done but, the concerned have failed to produce M.B.218 therefore, as per available records which revealed as follows;

Asphalt done in 2nd and 3rd cross road is 81.01 cum @ 2,550/- Cum= Rs.2,06,575/-

During the course of spot investigation and mahazar drawn the total quantity of asphalt done in 2nd cross road is

$$: 200 \times \frac{4.6+4.7}{2} \times 0.04 = 37.20\text{m}^3$$

3rd cross road in $213.5 \times 4.3 \times 0.04 = 36.72\text{m}^3$
@ Rs.2,550/m³=1,88,496

Excess amount claimed is

Rs.2,06,575/- Rs.1,88,496/- = Rs.18,079/-

thereby you-DGO-3 N.Nagaraju and you DGO-4 T.C. Kodandarama are responsible for the loss of Rs.1,88,496/- thereby you-DGO-3 N.Nagaraju and you DGO-4 T.C. Kodandarama have failed 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.

CHARGE NO.6:

That you DGO-3 N. Nagaraju and DGO-4 Sri T.C. Kodandarama have got constructed B.S. Slab drain and culverts at Sannegowda Layout (Maruti Mandir of Ward No.14 to a length of 560.70 mtrs for which the concerned have failed to produce the sanctioned estimate, measurement book paid vouchers, tender documents etc., Hence, both you-DGO-3 DGO-3 N. Nagaraju and you DGO-4 Sri T.C. Kodandarama are responsible for not maintaining proper records and carried out the work without sanctioned estimate thereby failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a

Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

CHARGE NO.7:

That K.N.Ravi (Rtd.) the then Assistant Executive Engineer, C.M.C, Byatarayanapura, you DGO-4 Sri T.C. Kodandarama, you-DGO-5 K. Chandrashekar have got done the work of construction of B.S.Slab drain in Balaji Layout at Engineer Patil's house road in Ward No.15 by obtaining the sanctioned estimate for a sum of Rs.4.50 lakhs and showed the work in the records and spent a sum of Rs.4,74,066/- as shown in M.B.33/03-04 page No.49 to 51 but, during the course of investigation, it is observed that the work has been carried out. The total length of B.S. Slab drain measured and verified is 239.20 mtrs.

Total length of B.S.Slab executed as per M.B.33/03-04 page 49

$$= 299.00 \times 1.7$$

$$= 508.30 \text{ sqm @ Rs.193.06/Sqm}$$

$$= \text{Rs.98,132-00- 'A'}$$

Total length of B.S. Slab measured and verified during investigation -

$$= 239.2 \times 1.7$$

$$= 406.64 \text{ sqm @ Rs.193.06 Sqm}$$

$$= \text{Rs.78,505.00 -B}$$

Total short fall = A-B

$$= \text{Rs.98,132.00 - Rs.78,505/-} = \text{Rs.19,627/-}.$$

In this way Sri K.N. Ravi, AEE (retired), you-DGO4 T.C. Kodandarama and you DG-5 K. Chandrashekar

being the Government Servants have misappropriated Government funds to the tune of Rs.19,627/- thereby 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.

CHARGE NO.8:

That DGO-3 N. Nagaraju, AEE and Sri K.N. Ravi, AEE (Rtd), DGO-4 Sri T.C. Kodandarama, AE and you-DGO-5 K. Chandrashekar, AE working in aforesaid capacity at C.M.C, Byatarayanapura got executed the work and caused misappropriation of Government funds as charged in charge No.1 to 7 are responsible for misappropriation of government funds to the tune of Rs.92,688/- and for irregular expenditure of Rs.82,000/- therefore you-DGO-3, DGO-4, DGO-5 being a government servants failed 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.

CHARGE NO.9:

Sri C.K. Dashavant the then Commissioner of C.M.C Byatarayanapura now retired and Govindaiah then Commissioner of C.M.C, Byatarayanapura (expired) and you-DGO-1 Sri M.A. Baig, then Commissioner, C.M.C Byatarayanapura and DGO-5 K. Chandrashekar while working as the Commissioner allowed to cut the road without collecting proper road

cutting charges and by ignoring the direction passed by the High Level Committee of Govt. of Karnataka vide ITD 23 PRM 2000 dt: 16/8/2000. Thereby C.K. Dashavant, Retired commissioner failed to take proper action. However, as per the particulars furnished a sum of Rs.29,06,043/- was collected from BSNL and BWSSB during 2002-04 and Rs.7,72,950/- was collected from BWSSB during 2004-06. Hence, retired C.K.Dashavant and you DGO-1 M.A. Baig and DGO-5 Chandrashekar are responsible for the irregularities and failed to furnish the clarification to the said extent thereby failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

Charge No.10:

That Sri Govindaiah, then Commissioner of C.M.C Byatarayanapura (now expired) you-DGO-1 Sri M.A. Baig, then Commissioner, C.M.C Byatarayanapura and you DGO-2 Sri M.R. Manjunath then Revenue officer and D.N. Narasappa then Revenue Officer (now retired) and Sri H. Jitendra then Revenue Officer, (now retired) and Sri Siddaraju then Revenue Officer of C.M.C, Byatarayanapura (now retired) have not collected water charges for the previous 7 to 8 years from the date of investigation, in ward Nos.14 and 15 and caused a revenue loss of Rs. 7 lakh per year which amounts to a sum of Rs.21,00,000/-. Therefore not only retired Commissioner Dashwant you-DGO-1 and 2 and other respondent of R6, 9 to 11 caused loss to the total sum of about Rs.21 lacs for a period of 3

years thereby you being the Govt. servants have failed 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-9) on proper appreciation of oral and documentary evidence has held that;

- i) the Disciplinary Authority has proved Charge No.1 against DGO-3 Sri N. Nagaraju and DGO-4 Sri T.C. Kodandarama and held that DGO-3 and DGO-4 are equally responsible for causing loss of Rs.34,003/- to the State exchequer;
- ii) the Disciplinary Authority has proved Charge No.2 against DGO-3 Sri N. Nagaraju and DGO-4 Sri T.C. Kodandarama and held that DGO-3 and DGO-4 are equally responsible for causing loss of Rs.17,550/- to the Stage exchequer;
- iii) the Disciplinary Authority has proved Charge No.3 against DGO-3 Sri N. Nagaraju and DGO-4 Sri T.C. Kodandarama and held that DGO-3 and DGO-4 are equally responsible for irregular expenditure of Rs.82,000/- of state exchequer;
- iv) the Disciplinary Authority has proved Charge No.4 against DGO-3 Sri N. Nagaraju and DGO-4 Sri T.C.

Kodandarama and held that DGO-3 and DGO-4 are equally responsible for causing loss of Rs.3,479/- to the state exchequer;

- v) the Disciplinary Authority has proved Charge No.5 against DGO-3 Sri N. Nagaraju and DGO-4 Sri T.C. Kodandarama and held that DGO-3 and DGO-4 are equally responsible for causing loss of Rs.18,079/- to the State exchequer;
- vi) the Disciplinary Authority has proved Charge No.6 against DGO-3 Sri N. Nagaraju and DGO-4 Sri T.C. Kodandarama;
- vii) the Disciplinary Authority has proved Charge No.7 against DGO-5 Sri K. Chandrashekar and held that DGO-5 is responsible for causing loss of Rs.19,627/- to the State exchequer and Disciplinary Authority has failed to prove Charge No.7 against DGO-4 Sri T.C. Kodandarama;
- viii) the Disciplinary Authority has proved Charge No.8 against DGO-3 Sri N. Nagaraju and DGO-4 Sri T.C. Kodandarama and DGO-5 Sri K. Chandrashekhar and held that the financial loss/misappropriation is covered under the amounts stated in Charges (1) to (7);

- ix) the Disciplinary Authority has proved Charge No.9 against DGO-1 Sri M.A. Baig and DGO-5 Sri K. Chandrashekhar;
- x) the Disciplinary Authority has proved Charge No.10 against DGO-1 Sri M.A. Baig and DGO-2 Sri M.R. Manjunatha;

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. However, in relation to Charge No.10 there is no specific finding relating to amount of loss caused by DGO-1 and DGO-2. The finding that a sum of Rs.21,00,000/- was not collected towards water tax during the period 2002-03, 2003-04 and 2004-05 is held proved not only against DGO-1 and DGO-2 but also against other four persons against whom Departmental inquiry was not initiated and they were not tried in the inquiry.

6. As per the First Oral Statements submitted by DGOs 1 to 5;
- (i) DGO-1 Sri M.A. Baig has retired from service on 31/8/2013 (during the pendency of inquiry);
 - (ii) DGO-2 Sri M.R. Manjunath has retired from service on 30/6/2014 (during the pendency of inquiry);
 - (iii) DGO-3 Sri N. Nagaraju is due to retire from service on 30/4/2023.
 - (iv) DGO-4 Sri T.C. Kodandarama has retired from service on 30/5/2013 (during the pendency of inquiry);
 - (v) DGO-5 Sri K. Chandrashekar has retired from service on 31/5/2018 (during the pendency of inquiry).

7. Having regard to the nature of charges proved against DGO-1 Sri M.A. Baig; DGO-2 Sri M.R. Manjunath; DGO-3 Sri N.Nagaraju; DGO-4 Sri T.C. Kodandarama and DGO-5 Sri K.Chandrashekar;

(i) it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO-1 Sri M.A. Baig, the then Commissioner of City Municipal Council, Byatarayanapura, Bengaluru for a period of 10 years;

(ii) it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO-2 Sri M.R. Manjunath, the then Revenue Officer of City Municipal Council, Byatarayanapura, Bengaluru for a period of 10 years;

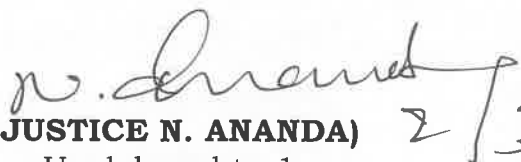
(iii) it is hereby recommended to the Government for imposing penalty of withholding two annual increments payable to DGO No.3 Sri N. Nagaraju, the then Assistant Executive Engineer, City Municipal Council, Byatarayanapura, Bengaluru with cumulative effect and also for recovering the financial loss caused by him to the State exchequer in a sum of Rs.77,556/- from the salary and other allowances payable to DGO No.4 Sri N. Nagaraju;

(iv) it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO No.4 Sri T.C.Kodandarama, the then Assistant Engineer of City Municipal Council, Byatarayanapura, Bengaluru for a period of 10 years and also for recovering the financial loss caused by him to the State exchequer in a sum of Rs.77,556/- from the pension payable to DGO No.5 Sri T.C.Kodandarama;

(v) it is hereby recommended to the Government for imposing penalty of withholding 10% of pension payable to DGO No.5 Sri K.Chandrashekara, the then Assistant Engineer of City Municipal Council, Byatarayanapura, Bengaluru for a period of 10 years and also for recovering the financial loss caused by him to the State exchequer in a sum of Rs.19,627/- from the pension payable to DGO No.5 Sri K.Chandrashekara.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 2/3
Upalokayukta-1,
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

NO: LOK/INQ/14-A/246/2013/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date: 25.2.2021

:: MODIFIED RECOMMENDATION ::

Sub: Departmental enquiry against DGO-5- Sri K.Chandrashekhar, the then Assistant Engineer, City Municipal Council, Byatarayanapura- reg.

- Ref: 1) G.O No. ನಅಇ 84 ಡಿಎಂಕೆ 2013, ಬೆಂಗಳೂರು ದಿನಾಂಕ: 29.5.2013.
- 2) Inquiry report dtd: 27.2.2019 of Additional Registrar of Enquiries-9 Karnataka Lokayukta Bengaluru.
- 3) Recommendation letter No.LOK/INQ/14-A/246/2013, dated 2.3.2019 communicated vide letter dtd: 2.3.2019 of Registrar, Karnataka Lokayukta Bengaluru.
- 4) Your Letter No.ಲೋಇ 150 ಸೇಇವಿ 2020, ಬೆಂಗಳೂರು ದಿನಾಂಕ: 9.2.2021.

** * **@** * **

In the earlier Recommendation dated 2.3.2019, a recommendation was made to the Government for, imposing penalty of withholding 10% of pension payable to DGO No. 5 Sri. K.Chandrashekara, the then Assistant Engineer of City Municipal Council, Byatarayanapura, Bengaluru for a period of 10 years and also for recovering the financial loss caused by him to the


State exchequer in a sum of Rs. 19,627/- from the pension payable to DGO No. 5 Sri. K.Chandrashekara.

2) The letter dtd: 9.2.2021 of Under Secretary to Government, Public Works, Ports and Inland Water Transport Department (Services-C), Vikas Soudha, Bengaluru discloses that the DGO-5 Sri. K.Chandrashekhar has died on 17.4.2019 (death certificate enclosed) before passing final orders in this department inquiry, and has sought for revised recommendation.

3) Therefore, earlier recommendation para No. 7(v) dated 2.3.2019 needs to be revised as follows ;

“It is recommended to the Government to record abatement of disciplinary proceedings against DGO No. 5 Sri. K.Chandrashekara, the then Assistant Engineer of City Municipal Council, Byatarayanapura, Bengaluru on account of his death before the proceedings culminated in imposing of penalty”

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


(JUSTICE B.S.PATIL)
Upalokayukta,
State of Karnataka,
Bengaluru