

KARNATAKA LOKAYUKTA

NO: LOK/INQ/14-A/306/2012/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date: 20-09-2018

:: ENQUIRY REPORT ::**:: Present ::**

(Lokappa N.R)
Additional Registrar of Enquiries-9
Karnataka Lokayukta,
Bangalore

Sub: Departmental enquiry against Sri M.B. Biradar, the then in Charge Commissioner, City Municipal Council, Yadgiri (Presently working as Assistant Executive Engineer) CMC, Yadgiri - reg.

Ref: 1) G.O No.UDD 44 DMK 2012 dated 11/07/2012.
2) Nomination Order No: LOK/INQ/14-A/306/2012 dated: 25/07/2012 of Hon'ble Upalokayukta, Bangalore.

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This Departmental Enquiry is initiated against Sri M.B. Biradar, the then in Charge Commissioner, City Municipal Council, Yadgiri (Presently working as Assistant Executive Engineer) CMC, Yadgiri (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 25/07/2012 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. Addl. Registrar of Enquiries-4 has

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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 DGO calling upon him to appear before the Enquiry Officer and to submit his written statement of defence.

As per order No.Uplok-1/DE/2016 Bengaluru dated 3/8/2016 of Hon'ble Upalokayukta-1 this file is transferred to ARE-9.

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

ANNEXURE-I
CHARGE

2. That, you Sri M.B. Biradar, the DGO, joined the duty on 10/12/2010 as an Assistant Executive Engineer of CMC at Yadgir and while you were working as I/c Commissioner of City Municipal council at yadgir, created quotation and publication for previous date i.e., 12/10/2010 calling for the supply of two unskilled labours for water supply during the year 2010-11 asking to submit quotations on or before 19/10/2010 by putting signature or initials as I/c Commissioner of CMC and also appointed one Smt. Mallamma for the said post, 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/s 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

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ANNEXURE-II**STATEMENT OF IMPUTATION OF MISCONDUCT:**

The Complainant namely Smt. Nagaratna Murthy Anapura, President of City Municipal Council at Yadgir filed a complaint alleging that the DGO joined the duty on 10/12/2010 as Assistant Executive Engineer in CMC at Yadgir. During the absence of the Commissioner, being the I/c Commissioner, the DGO created quotation and Publication No.1/10-11 dated 12/10/2010 calling for the supply of two unskilled labours for water supply during the year 2010-11 asking to submit quotation on or before 19/10/2010. The said date of calling quotation was stated as 12/10/2010 i.e., very much prior to the date of the DGO joining for duty i.e. on 10/12/2010. The DGO created the quotation putting initials or signature and also appointed on Smt. Mallamma w/o Thippanna for the said post. The comments of the DGO was called and the DGO filed his reply, but the reply given by the DGO was not convincing and not satisfactory to drop the proceedings. The materials on record shows that the DGO being a Government servant has failed to maintain absolute integrity and devotion to duty unbecoming of a Government servant. Therefore a report u/s 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate disciplinary proceedings against the DGO and to entrust enquiry to the Hon'ble Upalokayukta u/r 14-A of the Karnataka Civil Services (Classification, Control and Appeal) 1957. Accordingly the Competent Authority initiated

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disciplinary proceedings against the DGO and entrusted the enquiry u/r 14-A of the KCS (CCA) Rules 1957 to the Hon'ble Upalokayukta. Hence, this charge.

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The DGO has appeared on 14/12/2012 before this enquiry authority in pursuance to the service of the Article of charges.

Plea of the DGO has been recorded and he has pleaded not guilty and claimed for holding enquiry.

The DGO has submitted written statement is that, he has categorically denied the charge leveled against him as false and frivolous. He has not committed any misconduct as alleged in the charge. He was posted to Municipal Council, Yadgiri by government order dated 10/12/2010. He took the charge as AEE, City Municipal Council, Yadgiri on 10/12/2010 and also worked as in charge Commissioner, CMC, Yadgiri when regular Commissioner was on leave. The complainant Smt. Nagaratna Murthy, Anapura has taken official records to her house illegally and unauthorisedly who was working as President of the CMC, Yadgiri. The custody of the said documents were with the section officer namely Sri Purushottam, JE. The date of quotation and last date of submission of the quotation was blank. Therefore, taking undue advantage of the situation the said Smt. Nagaratna Murthy, Anapura has put the date 12/10/2010 as the date of quotation and 19/10/2010 as last date for submission of the quotation. Therefore, it is very clear that the date on the said document has been put by Smt. Nagaratna Murthy, Anappura in possession with Sri Purushottana, JE. It is abundantly very.


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clear that he has prepared the quotation on 13/12/2010 that is after he assumed the office at Yadgiri and there is no misconduct as alleged in the charge.

Further submitted that, when Smt Nagaratna Murthy, Anupura raised the objection regarding calling of tender and quotation he has promptly cancelled the proposal and requested to place before the general body for approval. He has cancelled the proposal on 16/7/2011. The accounts superintendent, CMC, Yadgiri has certified that no amount is paid to the labour. It is therefore very clear that no loss is caused to the government exchequer. The complainant filed the complaint with an ulterior motive to harass him and to make wrongful gain no action is taken against the AE & JE who have in charged in the alleged work. The complainant was the President of Municipality she used to pressurize him to pass fake bills, she used to force him to resort some illegal act which he has resisted. Further submitted that, he does not yield to her illegal request, therefore malafide intention to harass him she filed the false complaint. Hence, prayed to drop the charge leveled against him.

The disciplinary authority has examined the complainant Smt. Nagaratna w/o K. Murthy, Yadgiri as Pw.1 and Ex.P1 to 5 are got marked. The DGO has not examined any witnesses and not got marked any documents. But the questionnaire was recorded.

The DGO has submitted written brief. Heard the submissions of the disciplinary authority and DGO's side. I answer the above charges in **PARTLY AFFIRMATIVE** ie., "The



*DGO while working as in charge Commissioner of CMC, Yadgiri created a quotation and publication for previous date ie., 12/10/2010 calling for the supply of two unskilled labour for water supply during the year 2010-11 asking to submit the quotation on or before 19/10/2010 by putting signature or initials as in charge Commissioner of CMC, Yadgiri. I answer the above charge in **PARTLY NEGATIVE** ie., the DGO as in charge Commissioner of CMC, Yadgiri appointed one Smt. Malamma for the post of unskilled labour for water supply during the year 2010-11.” for the following ;*

REASONS

- 3) It is the prime duty of the disciplinary authority to prove the charges that are leveled against the DGO/s.
- 4) The disciplinary authority has examined the complainant Pw.1- Smt. Nagaratna w/o K. Murthy, Yadgiri, she deposed in her chief examination that, the DGO was working as AEE in Yadgiri, CMC in the year 2010 and also working as in charge Commissioner. At that time she was the President of CMC, Yadgiri. The DGO placed the file before her in respect of supply of unskilled labours for water supply during the year 2010-11 to obtain signature without taking prior approval from the President of the CMC, Yadgiri for the said subject. Further deposed that, the DGO has mentioned previous quotation called date and last date of submission of quotation ie., before he joining to the duty at CMC, Yadgiri for that, she has rejected the said file. Further she deposed that the DGO submitted the said file for approval of payment of Rs.27,000/- to the unskilled labour contractor without proper documents.

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5) The Pw.1 further deposed that, even though Malamma w/o Thippanna is belonged to the backward community the DGO has selected her as a beneficiary under ST community and submitted the file for approval. Further she deposed that she rejected the said file for the reason she has personally knows the caste of the said Malamma w/o Thippanna.

6) Perused the evidence of the Pw.1 along with Ex.P1 to 5. Ex.P1 is the complaint, Ex.P2 and 3 are the Complaint form No.I & II, Ex.P4 (17 sheets) documents submitted by the complainant along with her complaint. Ex.P5 is rejoinder to the complaint. In Ex.P4 page No.72 CTC of DGO. As per this document the DGO taken over the charge of AEE, City Municipality, Yadgiri on 10/12/2012. The DGO has also not disputed the said document. In Ex.P4 page No.73 -76 the office proceedings of the CMC, Yadgiri. As per the said document on 1/10/2010 one unskilled labour taken for water supply for the year 2010-11 without sanction from the General body of the CMC, Yadgiri for that on 13/12/2010 put up the note before DGO by the Junior Engineer for obtaining the approval regarding the payment of due amount of Rs.27,078/- to the said labour after obtained the sanction from the general body of the CMC. The DGO has approved the same on that day only. Further the Junior Engineer put up the note to accept the quotation in the name of Sri Sugappa Belageri who quoted the lower rate compare to other persons in respect of the supply of one unskilled labour same was approved by the DGO as AEE, CMC, Yadgiri and also Commissioner, CMC, Yadgiri on 28/12/2010. Further the Junior Engineer put up

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the note regarding the payment of the amount to one unskilled labour. The said note approved by the DGO as AEF on 15/7/2011. But, there is no document regarding approved the supply of one unskilled labour for water supply management in CMC, Yadgiri and the payment of the said labour.

7) Ex.P4 page No.77 is the document called the quotation for supply of unskilled labour in respect of Yadgiri City Water Supply Management for the year 2010-11. Perused the said document the said quotation publication No.1/10-11 called on 12/10/2010 and last date of submitting the quotation with sealed cover he shown as 19/10/2010, the DGO put the signature on the said document as Commissioner of CMC, Yadgiri. The DGO has not disputed the said document except he stated in his written statement that the Pw.1 complainant colluded with the Junior Engineer to fill up the previous date in the said document by utilizing the date in the said document was not mentioned. Ex.P4 page No.78, 79, 80 are the quotation submitted by the 3 persons by name Sri Muruli M. Gour, Sri Siddappagowda Patil and Sri Sugappa Belageri. In the quotation submitted by Sri Siddappagowda S. Patil and Sri Sugappa Belageri date was not mentioned but in the quotation submitted by Sri Muruli M Gour date mentioned as 13/10/2010. In all the above said quotations the DGO put the signature as received the said quotation but has not mentioned the date as on what date he received the same. The DGO taken defense in his written statement that the custody of the documents were with the Section Officer, Sri Purushottam, JE, the date of quotation and last date of the




submission of quotation was blank therefore taking undue advantage of the situation the complainant has put the date as 12/10/2010 as the date of quotation and 19/10/2010 as last date for submission of the quotation collusion with the Junior Engineer. Further he taken defense that he prepared the quotation on 13/12/2010. To substantiate his said defense the DGO not produced any material documents or oral evidence before this authority. And also the DGO has not given proper reason and explanation on what reason he put his signature on the said document without mentioning the date of quotation, last date of submission of quotation, and date of his signature. The above said document and oral evidence of the Pw.1 and facts clearly reveal that the DGO created the quotation and publication on previous dated 10/12/2010 calling for the supply of unskilled labour for water supply during the year 2010-11 asking to submit quotation on or before 19/10/2010 by putting signature or initials as in charge Commissioner of CMC, Yadgiri. Thereby the disciplinary authority succeeded to prove that portion of the charge against the DGO.

8) Another charge leveled against the DGO is that he has appointed one Smt. Mallamma (Malamma) for the unskilled labour post to supply the water but there is no document to show that the said Smt. Mallamma (Malamma) s/o Tippanna appointed as unskilled labour regarding city water supply in CMC, Yadgiri. Ex.P4 page No.81 the bill prepared regarding the payment of unskilled labour for 9 months in favour of Sri Sugappa Belageri contractor Yadgiri for Rs.27,072/-. But, the

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DGO not put his signature on the said bill, some other person put his signature as office in charge CMC, Yadgiri. There is no document to show that the bill passed in the CMC, Yadgiri. In Ex.P4 page No.82-92 documents related to Smt Malamma w/o Tippanna, Gous Nagar, Yadgiri. Perused the said document as per the said document the said Smt. Malamma w/o Tippanna selected as beneficiary under the housing scheme for the year 2009-10 at that time the DGO was not working in the said CMC. As per Ex.P4 page No.83 Junior Engineer submitted the report on 16/8/2011 regarding the said Smt. Malamma constructed the house up to basement level. The same was put up by the concerned officer to release the first installment amount before the DGO. Based on the report the DGO approved the same. Ex.P4 page No.89 is the caste certificate issued by the Tahasildar, Yadgiri in favour of Smt. Malamma w/o Timmanna. As per the said document she belongs to ST community (Meda). Ex.P4 page No.90 is the income certificate issued by the Tahasildar, Yadgiri as per the said document the income of the said Smt. Malamma is shown as Rs.10,000/- per annum. The DGO himself produced the document along with his written brief that the copy of the office order dated 24/8/2011 CMC, Yadgiri. As per the said document (page No.59) on the basis of objection rised by the complainant as a President of CMC, Yadgiri amount not released in favour of the said Smt. Malamma w/o Tippanna. And also as per the document in page No.60-63. The amount in respect of the salary of the unskilled labour as well as the amount in respect of the construction of the house Smt. Malamma w/o Tippanna not released from the CMC, Yadgiri. Moreover the Pw.1 not

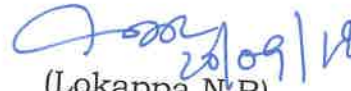


produced any documents to show that the said Smt. Malamma belongs to the backward community and she was appointed as an unskilled labour in the CMC, Yadgiri. Thereby the disciplinary authority failed to prove the charge leveled against the DGO that he has appointed one Smt. Mallamma (Malamma) as an unskilled labour for city water supply management. Thereby the disciplinary authority succeeded to prove the charge leveled against the DGO in partly i.e., "The DGO while working as in charge Commissioner of CMC, Yadgiri created a quotation and publication for previous date i.e., 12/10/2010 calling for the supply of two unskilled labour for water supply during the year 2010-11 asking to submit the quotation on or before 19/10/2010 by putting signature or initials as in charge Commissioner of CMC, Yadgiri. But, failed to prove the charge the DGO as in charge Commissioner of CMC, Yadgiri appointed one Smt. Malamma for the post of unskilled labour for water supply during the year 2010-11."

9) In the above said facts and circumstances, the charge leveled against the DGO is **proved in partly** i.e., *"The DGO while working as in charge Commissioner of CMC, Yadgiri created a quotation and publication for previous date i.e., 12/10/2010 calling for the supply of two unskilled labour for water supply during the year 2010-11 asking to submit the quotation on or before 19/10/2010 by putting signature or initials as in charge Commissioner of CMC, Yadgiri. But, not proved the charge i.e., the DGO as in charge Commissioner of CMC, Yadgiri appointed one Smt. Malamma for the post of unskilled labour for water supply during the year 2010-11."*

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


 (Lokappa N.R)
 Additional Registrar Enquiries-9
 Karnataka Lokayukta,
 Bangalore

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

Pw.1	Smt. Nagaratna w/o K. Murthy, Yadgiri dated 13/9/2017 (Original)
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ii) List of Documents marked on behalf of Disciplinary Authority.


Ex.P1	Copy of Complaint dated 15/9/2011 (Original)
Ex.P1(a)	Signatures
Ex.P2&3	Complaint form No.I&II (Original)
Ex.P2(a)3(a)	Signatures
Ex.P4	Documents submitted along with the complaint (Xerox)
Ex.P5	Rejoinder of the complainant dated 7/2/2012 (Original)

iii) List of witnesses examined on behalf of DGO.

Dw.1	- NIL -
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iv) List of documents marked on behalf of DGO

Ex.D1	- NIL -
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 (Lokappa N.R)
 Additional Registrar Enquiries-9
 Karnataka Lokayukta,
 Bangalore

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No:LOK/INQ/14-A/306/2012/ARE-9

Multi Storied Building,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: 24/09/2018

RECOMMENDATION

Sub:- Departmental inquiry against Sri M.B. Biradar, the then Incharge Commissioner, City Municipal Council, Yadagiri- Reg.

- Ref:-1) Government Order No. ಸೞ 44 ಡಿಎಂಕೆ 2012 Bengaluru dated 11/07/2012
- 2) Nomination order No.LOK/INQ/14-A/306/2012 Bengaluru dated 25/07/2012 of Upalokayukta-1, State of Karnataka, Bengaluru
- 3) Inquiry Report dated 20/09/2018 of Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 11/07/2012, initiated the disciplinary proceedings against Sri M.B. Biradar, the then Incharge Commissioner, City Municipal Council, Yadagiri (hereinafter referred to as Delinquent Government Official for short as **'DGO'**) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/306/2012, dated 25/07/2012, nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently by Order No. LOK/INQ/14A/2014 dated 14/3/2014, Additional Registrar of Enquiries-5

was re-nominated as Inquiry Officer to conduct Departmental inquiry against DGO. Again by order No.UPLOK-1/DE/2016 dated 03/08/2016, the Additional Registrar of Enquiries-9 was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGO.

3. The DGO Sri M.B. Biradar, the then Incharge Commissioner, City Municipal Council, Yadagiri was tried for the following charge:-

“That, you Sri M.B. Biradar, the DGO, joined the duty on 10/12/2010 as an Assistant Executive Engineer of CMC at Yadgir and while you were working as I/c. Commissioner of City Municipal Council at Yadgir, created quotation and publication for previous date i.e., on 12/10/2010 calling for the supply of two unskilled labours for water supply during the year 2010-11 asking to submit quotations on or before 19/10/2010 by putting signature or initials as I/c. Commissioner of CMC and also appointed one Smt. Mallamma for the said post, failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.”.

4. The Inquiry Officer (Additional Registrar of Enquiries-9) on proper appreciation of oral and documentary evidence has held that, the charge leveled against the DGO is proved in partly i.e., the DGO while working as in charge Commissioner of CMC, Yadgiri created a quotation and publication for previous date i.e., 12/10/2010 calling for the supply of two unskilled labour for

water supply during the year 2010-11 asking to submit the quotation on or before 19/10/2010 by putting signature or initials as in charge Commissioner of CMC, Yadgiri. But, not proved the charge i.e., the DGO as in charge Commissioner of CMC, Yadgiri appointed one Smt. Malamma for the post of unskilled labour for water supply during the year 2010-11.

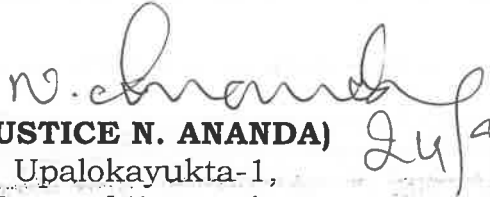
5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO, he has retired from service on 31/05/2015 (during the pendency of inquiry).

7. Having regard to the nature of charge proved against DGO Sri M.B. Biradar, it is hereby recommended to the Government for imposing penalty of withholding 5% of pension payable to DGO Sri M.B. Biradar, the then Incharge Commissioner, City Municipal Council, Yadagiri for a period of 5 years.

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

Connected records are enclosed herewith.


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

