

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO:LOK/INQ/14-A/357/2011/ ARE-3

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 30/12/2017

RECOMMENDATION

Sub:- Departmental inquiry against Sri Chandrasha, First Division Assistant, Sub Treasury, Afzalpur Taluk, Kalaburagi District.

Ref:- 1) Government Order No.ಆಇ 162 ಆಬಿಇ 2011, Bengaluru dated 7/10/2011

2) Nomination order No.LOK/INQ/14-A/357/2011, Bengaluru dated 22/10/2011 of Upalokayukta-1, State of Karnataka, Bengaluru

3) Inquiry Report dated 28/12/2017 of Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 7/10/2011, initiated the disciplinary proceedings against Sri Chandrasha, First Division Assistant, Sub Treasury, Afzalpur Taluk, Kalaburagi District (hereinafter referred to as Delinquent Government Official, for short as **'DGO'**) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/357/2011, Bengaluru dated 22/10/2011 nominated Additional Registrar of Enquiries-3, 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.

3. The DGO Sri Chandrasha, First Division Assistant, Sub Treasury, Afzalpur Taluk, Kalaburagi District was tried for the following charge:-

“That you, Sri Chandrasha (hereinafter referred to as Delinquent Government Official, in short DGO), while working as the FDA, Sub-Treasury, Afzalpur Taluk, Gulbarga Dist., demanded and accepted a bribe of Rs.2,000/- on 05/08/2009 from complainant Sri Subhashchandra S/o. Shanthappa Alur, SDA, Sri Mahanteshwara High School, Mahanthapur-Chinamageri, Afzalpur Taluk, Gulbarga District for getting passed the Bills of Complainant and 3 others, that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-3) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO Sri Chandrasha, First Division Assistant, Sub Treasury, Afzalpur Taluk, Kalaburagi District.


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

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 31/3/2018.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Chandrasha, and the time that may be required for issuance of I & II Show Cause notices before passing final order, it is hereby recommended to the Government to impose penalty of compulsory retirement from service on DGO Sri Chandrasha, First Division Assistant, Sub Treasury, Afzalpur Taluk, Kalaburagi District and also permanently withholding 50% of pension payable to DGO Sri Chandrasha.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA) 20/12
Upalokayukta-1,
State of Karnataka,
Bengaluru

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/357/2011/ARE-3

M.S.Building,
Dr. B.R.Ambedkar Veedhi,
Bengaluru - 560001.

Date: 28.12.2017

Enquiry reportPresent: Sri.S. Renuka Prasad
Additional Registrar Enquiries-3

Sub: Departmental Enquiry against Sri Chandrasha, FDA,
Sub-Treasury, Afzalpur Taluk, Gulbarga District - reg.

Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta
Act, 1984, in No. Compt/Uplok-1/GLB/243/2010/ARE-6
dated 17.9.2011

2. Government Order No. ಅಇ 162 ಆಖಇ 2011 ಬೆಂಗಳೂರು.
ದಿ: 7.10.2011

3. Nomination Order No.LOK/INQ/14-A/357/2011
dated 22.10.2011 of Hon'ble Upalokayukta-1,
Karnataka State, Bengaluru.

1. The complainant Sri. Subhashchandra S/o Shanthappa Alur, SDA, Sri Mahanteshwara High School, Mahanthapur-Chinamageri, Afzalpur Taluk, Gulbarga District (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Gulbarga on 5.8.2009 against Sri Chandrasha, FDA, Sub-Treasury, Afzalpur Taluk, Gulbarga District (hereinafter referred to as 'DGO' for short) making allegations against the DGO that, DGO is demanding him to pay Rs. 2,000/- as bribe, in order to pass the bills of 4 non-teaching staff of the said school in respect of the encashment of the earned leave of those staffs,

2. On registering a case on the basis of the said complaint, a trap was held on 5.8.2009, near a tea shed outside the office of the Sub-Treasury within the precincts of Mini Vidhana Soudha, Afzalpur wherein, the DGO having demanded bribe from the complainant, received Rs. 2000/- from him by way of bribe. The tainted money of Rs. 2000/- was recovered from the left side pant pocket of the DGO. Since it was revealed during investigation that, the DGO has demanded bribe of Rs. 2000/- and received the same from the complainant, in order to show an official favour i.e., to process the bills and to pass the bills of 4 non-teaching staff of the Sri Mahanteshwara High School in respect of the encashment of the earned leave of those staffs, the Police Inspector having conducted investigation, filed charge sheet against the DGO.
3. The ADGP, Karnataka Lokayukta, Bengaluru has forwarded the copy of the charge sheet to the Hon'ble Upalokayukta. On the basis of the materials collected during investigation and materials placed before this authority, an investigation was taken up under Section 7(2) of the Karnataka Lokayukta Act. An observation note was served on the DGO providing him an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating departmental proceedings against him. The DGO submitted his reply denying the allegations made against him. Since the explanation offered by the DGO was not satisfactory, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary enquiry against DGO and to entrust the enquiry under Rule 14-A of KCS (CCA) Rules, to this authority to hold enquiry. Accordingly, the Government of Karnataka i.e., the Finance Department by its order in No. ಆಇ 162 ಆಖಇ 2011 ಬೆಂಗಳೂರು. ದಿ: 7.10.2011

initiated departmental proceedings against the DGO and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against DGO, the Hon'ble Upalokayukta issued a nomination order dated 22.10.2011 nominating ARE-3 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-3 against the DGO as under.

“Charge:

That you, Sri. Chandrasha, (here in after referred to as Delinquent Government Official, in short DGO), while working as the FDA, Sub-Treasury, Afzalpur Taluk, Gulbarga Dist., demanded and accepted a bribe of ₹ 2000/- on 05/08/2009 from complainant Sri. Subhashchandra S/o Shanthappa Alur, SDA, Sri Mahanteshwara High School, Mahanthapur-Chinamageri, Afzalpur Taluk, Gulbarga District for getting passed the bills of complainant and 3 others that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

STATEMENT OF IMPUTATION OF MISCONDUCT:

The complainant Sri. Subhashchandra S/o Shanthappa Alur, SDA, Sri Mahanteshwara High School, Mahanthapur-Chinamageri, Afzalpur Taluk, Gulbarga District filed a complaint on 05/08/2009 before the Police Inspector, Karnataka Lokayukta, Gulbarga alleging that he has been working as SDA in Mhanteshwara high school, Mahanthapur-Chinamageri of Afzalpur Taluk and that the leave surrender bills of 4 non-teaching staff and the bills of the complainant were sent to Sub-treasury office of Afzalpur Taluk on 29/7/2009 along with tokens and that Sri. Chandrasha, FDA, Sub-Treasury, Afzalpur Taluk, Gulbarga Dist., (here in after referred to as Delinquent Government Servant, in short DGO) after looking into the said bills stated that those bills cannot be passed and asked the complainant to receive those bills back and when he requested the DGO to get passed those bills the DGO told that he would get the bills passed through his officer and for that he demanded a bribe of Rs. 600/- each from the non-teaching staff and Rs. 1400/- for other two bills and that on

30/7/2009 he went to Lokayukta P.S. Gulbarga and narrated the fact of the DGO demanding the bill and there he was given a mini tape recorder and on 31/7/2009 he met the DGO and recorded the conversation held between himself of DGO demanding the bribe amount of Rs. 2000/-

As the complainant was not willing to pay any bribe to the DGO, he went to Police Inspector, Karnataka Lokayukta Gulbarga on 05/08/2009 and lodged a complaint. On the basis of the same a case was registered in Gulbarga Lokayukta Police Station Cr. No. 13/2009 for offences punishable under sections 7, 13(1) (d) r/w section 13(2) of the P.C. Act, 1988 and FIR was submitted to the concerned learned special judge.

After registering the case, investigating officer observed all the pre trap formalities and entrustment mahazar was conducted and you, the DGO was trapped on 05/08/2009 by the Investigating Officer after your demanding and accepting the bribe amount of ₹ 2000/- from the complainant in the presence of shadow witness and the said bribe amount which you had received from the complainant was seized from your possession under the seizure mahazar after following the required post trap formalities. During the investigation the I.O has recorded the statements of Panchas and other witnesses and further statement of the complainant. The I.O during the investigation has sent the seized articles to the chemical examiner and obtained the report from him and he has given the result as positive.

The materials collected by the I.O. during the investigation prima facie disclose that you, the DGO, demanded and accepted bribe of ₹ 2000/- from the complainant on 05/08/2009 for doing an official act i.e., for getting passed the bills of complainant and 3 others. Thus you, the DGO, have failed to maintain absolute integrity and devotion to duty and this act on your part is unbecoming of a Government servant. Hence, you have committed an act which amounted to misconduct as stated under Rule 3 (1) (i) to (iii) of KCS (Conduct) Rules 1966.

In this connection an observation note was sent to you, the DGO and you have submitted your reply which, after due consideration, was found not acceptable. Therefore, a recommendation

was made to the Competent Authority under Section 12(3) of the Karnataka Lokayukta, Act 1984, to initiate Departmental Proceedings against you, the DGO. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against you, the DGO and to submit report. Hence the charge."

4. The Articles of Charges and Statement of Imputations are duly served on the DGO. DGO has appeared in response to the notice issued to him and First Oral Statement of the DGO was recorded. DGO has denied the charges framed against him. He has engaged the services of an advocate to appear on his behalf and to defend him, in the enquiry.
5. The DGO has filed his written statement on 6.12.2012 denying the allegations made against him in the AOC contending that, he never demanded or accepted any amount by way of bribe from the complainant and he has been falsely implicated. He has taken up a further contention that, the complainant was known to him personally since more than 2 years prior to filing of complaint by him and the complainant borrowed a sum of Rs. 2000/- from him as hand loan on 25.7.2009 but, he (complainant) failed to repay the said amount borrowed from him/DGO within the stipulated time and since he/DGO forced him/complainant to return the money borrowed by him as hand loan at an earliest, the complainant having filed a false complaint against him and under the pretext of returning the amount of hand loan borrowed by him, falsely got him/DGO trapped and contended that, he has been falsely implicated by the complainant. He has admitted that, the bills of 4 non teaching staff in respect of the encashment of the earned leave was received in the treasury from the office of the BEO and he being

the case worker having scrutinized the bills on 29.7.2009, submitted the file to the Accounts officer and the bill was passed on the same day on 29.7.2009 itself and was sent to cheque section for preparation of cheque and the cheque was also prepared on 30.7.2009 and was ready for disbursement. According to him, no work of passing of the bill of the said school was pending with him and hence question of he demanding any bribe from the complainant does not arise and requested this authority to drop the proceedings against him.

6. During enquiry, on behalf of the Disciplinary authority, 3 witnesses have been examined as PW1 to PW3 and 13 documents came to be marked as Ex-P1 to P13. After closure of evidence on behalf of disciplinary authority, second oral statement of the DGO was recorded. Since, DGO desired to lead defence evidence by examining himself, permission was granted to him accordingly. DGO has examined himself as DW-1. But no documents are produced by the DGO in support of his defence.
7. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has submitted his written arguments. Thereafter, this matter is taken up for consideration.
8. The points that would arise for my consideration are:
 - Point No.1: Whether the charge framed against the DGO is proved by the Disciplinary Authority?
 - Point No.2: What order?
9. The above points are answered as under:
 - Point No.1: In the 'Affirmative'
 - Point No.2: As per final order.

REASONS**Point No.1:-**

10. The DGO was working as FDA in Sub-Treasury, Afzalpur Taluk, Gulbarga District and he was the case worker dealing with processing of the bills received in the Sub-Treasury from various institutions and submitting the bills for sanction to the Accounts Officer, during the relevant period

11. The complainant is a Second Division Assistant working in Sri Mahanteshwara High School Mahanthapur-Chinamageri, Afzalpur Taluk, Gulbarga District. According to the allegations made by him in the complaint, the bills in respect of 4 non-teaching staff including his bill who have applied for encashment of earned leave, was sent to BEO office and after sanction the bill was forwarded through him to the Sub-Treasury, Afzalpur for passing of the bill and issue of cheque. Accordingly, he presented the bills to Sub-Treasury on 29.7.2009. It is his allegation that, the DGO having verified the bill, told him/complainant that, the said bill cannot be passed and asked him/complainant to take back the bill. Hence he/complainant requested the DGO to verify the bill properly and to pass the bill. Hence, the DGO told him/complainant that, he will put up the file to his superior officers and see that, the said bill is passed, but amount by way of bribe is required to be paid to him. Then the complainant told the DGO that, he will enquire 3 other non-teaching staff regarding payment of money to get the bill passed, since the 4th bill was belonged to him. Having consulted with his other 3 colleagues, he having decided to approach Lokayukta police, met the Police Inspector on 30.7.2009 and informed them about the demand for bribe being made by the DGO.

The Police Inspector gave him a micro tape recorder asking him to approach the DGO again and to record the conversation with him, regarding demand for bribe being made by him. Accordingly, complainant again met the DGO in the office of the Sub-Treasury and enquired him about the bills. Then the DGO while discussing the matter with the complainant asked him to pay Rs. 200/- each with respect to the bills of 3 other officials and asked him to pay Rs. 400/- towards the amount payable with respect of the bills he has already passed earlier and further demanded him to pay Rs. 1000/- to him thus, asking the complainant to pay a total sum of Rs. 2000/- in order to pass the bills. The complainant having recorded the said conversation in the micro tape recorder given to him, approached Lokayukta police on 5.8.2009 and filed a complaint as per Ex-P1 and also produced the micro tape recorder in which he has recorded the conversation with the DGO, regarding demand for bribe by him.

12. On the basis of the complaint so filed by the complainant on 5.8.2009 the Police Inspector, Karnataka Lokayukta, Gulbarga has registered a case in Cr. No. 13/2009 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 and took up investigation.
13. An entrustment proceedings was conducted in the Lokayukta Police Station, Gulbarga on 5.8.2009 in the presence of two panch witnesses viz., Sri M. Basavaraja, Deputy Scientific Officer and Eshappa, Office Superintendent from Regional Office, Karnataka State Pollution Control Board, Gulbarga and in the said proceedings, the bait money of Rs. 2000/- consisting of 4 currency notes of Rs. 500/- denomination each given by the Complainant, were smeared with phenolphthalein powder making it as tainted money, and the said tainted notes were entrusted to the Complainant asking him to

give that money to the DGO when he meets him and only in case if the DGO demands for bribe. Panch witness M. Basavaraj was sent along with the complainant, as a shadow witness. The conversation recorded by the complainant in the micro tape recorder given to him was played in the presence of panch witnesses and the transcription of the said conversation was also got prepared as per Ex-P7. In this regard, an entrustment mahazar was also got prepared as per Ex-P3.

14. The Police Inspector gave one micro tape recorder to the complainant, asking him to switch on the same when he meets the DGO and to record the conversation that may take place between him and the DGO, when he meets the DGO.
15. The complainant and the shadow witness were taken to the office of the Sub-Treasury, housed in Mini Vidhana Soudha, Afzalpur and sent them to meet the DGO in the said office. The complainant accompanied with the shadow witness, went inside the office of Sub-Treasury and enquired the DGO about their pending bills. The DGO brought the complainant and the shadow witness outside the Sub-Treasury office and took them near a tea-shed situated within the compound of Mini Vidhana Soudbha and having demanded money from him, the DGO received Rs. 2000/- from the complainant, counted the same and kept that money in the left side pocket of his pant and thereafter, the complainant while standing near the said tea-shed gave pre-arranged signal to the Police Inspector. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant, and he showed the DGO claiming that, he has received money from him.

16. The Police Inspector introduced himself to the DGO and explained to him about the registration of a case against him and asked him to co-operate in the investigation. The DGO disclosed his name as Sri Chandrasha working as FDA in Sub-Treasury.
17. Thereafter, the hand wash of the DGO was obtained asking him to wash his both hand fingers separately in two separate bowls containing sodium carbonate solution. When DGO washed his right hand fingers and left hand fingers separately in two separate bowls containing sodium carbonate solution, the solution in both the bowls turned into pink colour. Those pink coloured solution of right hand wash and left hand wash of the DGO, were collected in two separate bottles and sealed the same.
18. Thereafter, the Police Inspector asked the DGO about the money he has received from the complainant. Since the DGO told the Police Inspector that, the amount is available in the left side pocket of his pant, with the help of panch witness Eshappa, the tainted notes were got removed from the left side pant pocket of the DGO and on verification of those notes with reference to its serial numbers, it was confirmed that, those were the notes entrusted to the complainant during the entrustment proceedings. Those notes were kept in a separate cover and sealed the same.
19. Even the pant of the DGO was got removed by providing him an alternate pant and the left side pocket portion of the said pant when dipped in a separate bowl containing sodium carbonate solution, it gave positive result. The said pant of the DGO was also seized.
20. The Police Inspector asked the DGO to give his explanation in writing. DGO gave his explanation in writing as per Ex-P6 claiming

that, he never demanded any bribe from the complainant and further claimed that, the DGO owed money to him which he/complainant borrowed as hand loan from him and since the complainant paid Rs. 2000/- to him towards repayment of hand loan borrowed by him, he/DGO received that amount from the complainant thinking that, the complainant is returning the money he has borrowed from him as hand loan. The complainant has denied the correctness of the version of the written explanation given by the DGO claiming it as false and incorrect.

21. The micro tape recorder entrusted to the complainant when played during the trap proceedings, it was found that, the conversation recorded in it was not clearly audible.
22. The relevant bills pertaining to the complainant and 3 other non teaching staff were seized from the office of the Sub-Treasury, since produced by Sub-Treasury officer.
23. During enquiry, the complainant is examined as PW1 who narrated in detail explaining the circumstances which forced him to file complaint against the DGO on 5.8.2009. He reiterated the allegations he has made against DGO in the complaint even while giving his evidence during the enquiry. He also gave details regarding the entrustment proceedings conducted in the Police Station and entrustment of tainted notes of Rs. 2000/- to him and preparation of entrustment mahazar as per Ex-P2.
24. He further stated that, he accompanied with shadow witness, met the DGO in the O/o Sub-Treasury and enquired him about his pending bills. The DGO asked him about the money enquiring him as to whether he has brought money as demanded by him.

The complainant told him that he has brought money as demanded by him. Then the DGO brought the complainant outside the Sub-Treasury office and took him near a tea shed situated in a corner in the compound of Mini Vidhana Soudha and even the shadow witness followed them. The DGO and others had tea there and thereafter, the complainant paid the tainted notes of Rs. 2000/- to the DGO. The DGO having counted that money by using his both hands and kept that money in the left side pocket of his pant. Thereafter, all the 3 of them went inside the Sub-Treasury office and while going inside the office, the complainant gave pre-arranged signal to the Police Inspector. He further gave details regarding the arrival of Police Inspector and since he showed the DGO to the Police Inspector, the DGO was taken to custody and obtaining of hand wash of both the hands of the DGO which gave positive result and recovery of tainted notes of Rs. 2000/- from the left side pocket of the pant of the DGO. He gave details regarding the trap proceedings conducted and giving of written explanation by DGO as per Ex-P6 which according to him/complainant, is false and incorrect, and also gave details regarding preparation of the trap mahazar as per Ex-P4.

25. The shadow witness who is examined as PW-2 has narrated in detail the conducting of the entrustment proceedings in the Police Station and entrustment of Rs. 2000/- to the complainant in the said proceedings and preparation of entrustment mahazar as per Ex-P2. He has further stated that, he accompanied the complainant and went along with him and went inside the O/o Sub-Treasury. He further claimed that, the complainant and the DGO went to a nearby tea shed and had tea there and he has also accompanied them and watched the happenings, wherein the DGO on demanding

money from the complainant received Rs. 2000/- from him and kept that money in his left side pant pocket.

26. He further gave details regarding conducting of the trap proceedings stating that, the Police Inspector on receiving the signal from the complainant came inside the O/o Sub-Treasury and caught hold of the DGO and thereafter, the hand wash of both the hands of the DGO were obtained by making him to wash his both hand fingers separately in two bowls containing sodium carbonate solution and on such washing, the colourless solution in both the bowls turned into pink colour, thereby giving positive result. Thereafter, the Police Inspector enquired the DGO about the money he has received from the complainant and with the help of panch witness Eshappa, the tainted notes were got taken out from the left side pant pocket of the DGO and on verification of those notes with reference to its serial numbers, it was confirmed that, those were the notes entrusted to the complainant during the entrustment proceedings. Those notes were seized. Even the pocket portion of the pant of the DGO, was dipped in a separate bowl containing sodium carbonate solution and on such dipping the colourless solution turned into pink colour and the said pink coloured solution was collected in a separate bottle and seized along with the pant of the DGO. He/PW2 deposed regarding giving of written explanation by the DGO as per Ex-P6. He further stated about obtaining of photographs and preparation of trap mahazar as per Ex-P3 incorporating all the details of the trap proceedings.

27. The Police Inspector who conducted investigation is examined as PW3. He gave evidence in detail regarding the registration of a case on the basis of the complaint filed by the complainant, conducting of entrustment proceedings in the office of Lokayukta and entrustment

of tainted notes of Rs. 2000/- to the complainant. He further gave details regarding the trap proceedings and obtaining of the hand wash of both hands of the DGO which gave positive result and recovery of tainted notes from the left side pant pocket of the DGO and also subjecting the pant for phenolphthalein test and when the pocket portion of the pant dipped in a separate bowl containing sodium carbonate solution, gave positive result since the colourless solution turned into pink colour. He further deposed regarding giving of written explanation by the DGO as per Ex-P6 and obtaining of photographs, preparation of trap mahazar and seizure of the copies of the bills from the office of the Sub-Treasury since produced by Sub-Treasury officer, during the trap proceedings.

28. The complainant and shadow witness were thoroughly cross examined by the learned counsel for DGO. Suggestions were put to the complainant suggesting him that, the bills were processed by the DGO on 29.7.2009 itself and after passing the bill, the cheque was ready on 30.7.2009 itself. But the complainant pleaded his ignorance about the passing of the bills on 29.7.2009 itself and the cheque was prepared on 30.7.2009 claiming that, the DGO never told him about these details and also not informed him about the cheque was ready for issue on 30.7.2009 itself.
29. During the course of the cross examination of the complainant, a specific suggestion was put to him that, he had acquaintance with the DGO and had money transactions with him. These suggestions have been denied by the complainant. A further suggestion was put to the complainant that, he met the DGO on 25.7.2009 and expressed his financial difficulties to him and took hand loan of Rs. 2000/- from the DGO but failed to repay the said amount to the DGO within the stipulated period. A further suggestion was put to

him that, on 2.8.2009, DGO having met him/complainant near Afzalpur bus stand demanded him to repay the amount of hand loan he has borrowed, in a raised voice, he/complainant felt insulted during the verbal talks with the DGO and became angry towards him and filed a false complaint against the DGO by making false allegations against him. A suggestion was put to the complainant that, he paid Rs. 2000/- to the DGO near the Tea shed towards the repayment of the hand loan he has borrowed from him/DGO but not as bribe. But, this defense contention taken up on behalf of the DGO by way of putting suggestions to the complainant, has been categorically denied by the complainant.

30. Even while cross examining PW2/shadow witness, the fact of the DGO receiving Rs. 2000/- from the complainant is not disputed or denied. During cross examination PW3/IO, though various suggestions have been put to him, putting questions pertaining to the various steps he has taken during the investigation, all those suggestions have been properly answered by the IO. Hence there is nothing to disbelieve the evidence of IO/PW3
31. Considering the written statement filed by the DGO and the defense taken on behalf of the DGO during the enquiry, the fact of the payment of Rs. 2000/- by the complainant to the DGO is neither disputed nor denied. Even the DGO has not denied the receipt of Rs. 2000/- from the complainant near the tea-shed. The fact of the obtaining of the hand wash of the DGO which gave positive result and recovery of tainted notes from the left side pant pocket of the DGO are also not disputed/denied.
32. The DGO while giving his defense evidence has stated about the procedure to be followed in the Sub-Treasury from the stage of

receiving of the bill, till the issue of cheques and further stated that, the bill pertaining to the complainant has been received in the Treasury on 29.7.2009 and has been attended by him on the same day and having processed the said bill forwarded the same to his superior officer and the bill was passed on the same day and cheque was got printed and was ready for disbursement on 30.7.2009 itself. In addition to giving these details in his evidence, he narrated his defence contention and stated as follows:

“3) The complainant approached me on 29/05/2009 and requested me to give him a hand loan of Rs.2000/- to meet his financial crises and hence, I obliged him and gave him Rs.2000/- as hand loan on that day. On 02/08/2009 I met the complainant at Afzalpur bus stand and asked him to return my money which he has borrowed as hand loan from me. The complainant became angry towards me and questioned me as to why he demanded the return of the hand loan in a public place and warned me that he would see to it and scolded me.

4) The complainant came to my office on 05/08/2009 and asked me to come out of the office as he would be repaying the hand loan he has borrowed from me. When I came out of the sub treasury, the complainant gave Rs.2000/- to me and I received that amount from him thinking that he is returning the hand loan, he has borrowed from me.”

33. But, except his self serving testimony, he has not produced any evidence either oral or documentary with regard to existence of monetary transactions between him and the DGO and borrowing of Rs. 2000/- by the complainant from him by way of hand loan. In his written statement the DGO has claimed that, the complainant borrowed hand loan of Rs. 2000/- from him on 25.7.2009. But while giving his defense evidence he has stated that, the complainant approached him on 29.5.2009 and borrowed hand loan of Rs.

2000/- from him on that day. But according to his written explanation Ex-P6, he claimed that two days earlier to receipt of his bill in the Sub-Treasury, he/DGO borrowed Rs. 2000/- from him. This discrepancy in the date of the alleged borrowing of hand loan by the complainant from him, is not explained by the DGO and ~~this~~ this discrepancy in the date of alleged borrowing of hand loan is fatal to the defence contention taken by the DGO and hence unbelievable and fit to be rejected.

34. While giving his written explanation as per Ex-P6, he stated as follows:

“ ಮೇಲ್ಕಂಡ ವಿಷಯದನ್ವಯ ಮಾನ್ಯರಲ್ಲಿ ವಿನಂತಿಸುವುದೇನೆಂದರೆ ಶ್ರೀ ಆಲೂರವರು ಸುಮಾರು ಎರಡುವರೆ ವರ್ಷ ನನ್ನ ಜೊತೆ ಗೆಲೆಯನಾಗಿದ್ದರು. ಅತಿಯಾಗಿ ಹತ್ತಿರದ ಗೆಲೆಯನಾಗಿದ್ದ ಪ್ರಯುಕ್ತ ಆಗಾಗ ನನ್ನ ಹತ್ತಿರ ಕೈಗಡ ಅಂತ ಹಣ ತೆಗೆದುಕೊಳ್ಳುತ್ತಿದ್ದರು ಮತ್ತು ಅವರ ವೇತನ ಬಂದ ನಂತರ ನನ್ನ ಹಣ ವಾಪಸ್ಸು ಮಾಡುತ್ತಿದ್ದರು. ಅದೇ ರೀತಿ ಅವರ ಗಲಿಕೆ ರಜೆ ಬಿಲ್ಲು ಆರು ದಿವಸ ಹಿಂದೆ ಬಂದಿತ್ತು. ಅದಕ್ಕಿಂತ ಹಿಂದಿನ ಎರಡು ದಿವಸಗಳಲ್ಲಿ ನನಗೆ ಎರಡು ಸಾವಿರ ರೂಪಾಯಿ ಬೇಕಾಗಿದೆ ಗೆಲೆಯ ಅಂತ ಅಂದರು. ಮೊದಲು ಗೆಲೆತನ ಇದ್ದ ಕಾರಣ ಯಥಾ ಪ್ರಕಾರ ನಾನು ಎರಡು ... ರೂಪಾಯಿ ಕೊಟ್ಟಿದ್ದೆ ನನ್ನ ಗಲಿಕೆ ರಜೆ ಬಿಲ್ಲು ಬಂದ ಮೇಲೆ ಕೊಡುತ್ತೇನೆ ಅಂದಿದ್ದರು. ಅದೇ ಪ್ರಕಾರ ಅವರು ನನಗೆ ಕೊಡುವ ಎರಡು ಸಾವಿರ ರೂಪಾಯಿ ಇದೇ ಅಂತ ತಿಳಿದು ನಾನು ತೆಗೆದುಕೊಂಡೆ. ನಾನು ಗ.ರ. ಬಿಲ್ಲಿನ ಬಾಬು ಯಾವ ಡಿಮ್ಯಾಂಡು ಮಾಡಿರುವುದಿಲ್ಲ. ಅವರು ನನಗೆ ನಾನು ಕೊಟ್ಟ ಹಣ ಕೊಡುತ್ತಿದ್ದಾರೆ ಎಂದು ತೆಗೆದುಕೊಂಡಿದ್ದೇನೆ. ಬಿಲ್ಲು ಐದು ದಿವಸ ಮೊದಲೆ ಪಾಸು ಮಾಡಿರುತ್ತೇನೆ. ಅವತ್ತಿನ ದಿವಸ ಚೆಕ್ ರೆಡಿ ಆಗಿರುತ್ತದೆ. ಆದರೆ ಸಂಬಂಧಿಸಿದ ಕ್ಲರ್ಕ್ ಅವರು, ಅವರ ಚೆಕ್ ಕೊಟ್ಟಿರುವುದಿಲ್ಲ. ಇದರಲ್ಲಿ ನಾನು ಬಿಲ್ಲಿನ ವಿಷಯದ ಬಗ್ಗೆ ಯಾವುದೇ ತರಹದ ಬಗ್ಗೆ ಹಣ ಕೇಳಿರುವುದಿಲ್ಲ. ವಿನಾಕಾರಣ ಲೋಕಾಯುಕ್ತ ಅವರಿಗೆ ತಿಳಿಸಿರುತ್ತಾರೆ.”

35. In Ex-P6 he has claimed that, he had acquaintance with the complainant since about 2½ years and he is his close friend and used to borrow hand loan from him. But to establish this contention, he has not produced any evidence with regard to the earlier lending of money to the complainant or repayments of the alleged loans borrowed by the complainant from him by way of hand

loan. Therefore, except his self servicing testimony, absolutely there are no other materials available on record or produced by the DGO to believe his defense contention. Since the DGO has taken a specific stand regarding the existence of friendship with the complainant and the alleged monetary transactions between them and the alleged borrowing of hand loans by the complainant from him/DGO, it is for him to establish with cogent and convincing evidence regarding this defense contention taken by him. But, the DGO except examining himself, has not produced any other evidence to believe his defense contention. The evidence given by DGO has been categorically denied by the complainant during his cross examination. Hence, I am of the considered opinion that, the DGO has miserably failed to establish his defense contention by producing convincing evidence.

36. Since the fact of receipt of Rs. 2000/- from the complainant has not been denied by the DGO, there is no need to consider the evidence regarding obtaining of hand wash of the DGO, recovery of tainted notes from the pant pocket of the DGO and the seizure of the pant of the DGO and other details of the trap proceedings. Since I have disbelieved the defense contention taken by the DGO since not established to the satisfaction of this authority, I have no hesitation to reject the defense of the DGO and to conclude that, the DGO demanded bribe of Rs. 2000/- from the complainant when the complainant met the DGO on 31.7.2009, without disclosing the fact that, the cheque was already made ready on 30.7.2009 itself, which fact has been established by means of producing transcription of the conversation as per Ex-P7 recorded by the complainant in the micro tape recorder entrusted to him and received Rs. 2000/- by way of bribe from the complainant on the day of trap, thus guilty of committing misconduct having failed to maintain absolute integrity

in discharging his official duty as a Government servant. Accordingly, I hold that, the disciplinary authority is able to establish the charge against the DGO and hence I answer point no.1 in the affirmative.

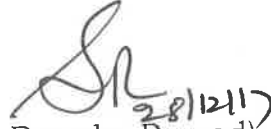
Point No.2:

37. Having regard to the discussion made above, and in view of my findings on point no.1 as above, my conclusion is as follows:

Conclusion

i) The Disciplinary Authority has proved the charge as framed against the DGO Sri Chandrasha, FDA, Sub-Treasury, Afzalpur Taluk, Gulbarga District.

ii) As per the first oral statement, the date of birth of the DGO is 01.04.1958 and he is due for retirement on 31.3.2018



(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta, Bengaluru.

ANNEXURES**I. Witnesses examined on behalf of the Disciplinary Authority:**

PW-1	Sri Subhaschandra Alur (complainant)
PW-2	Sri M. Basavaraj (shadow witness)
PW-3	Sri S.U. Maheshwaragouda (investigation officer)

II. Witnesses examined on behalf of the DGO:

DW-1	Sri Chandrasha (DGO)
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III Documents marked on behalf of D.A.

Ex.P-1	Certified copy of the complaint
Ex.P-2	Certified copy of the entrustment mahazar
Ex.P-3	Certified copy of the sheet containing the details of the notes
Ex.P-4	Certified copy of the trap mahazar
Ex.P-5	copy of the records seized along with the extract of attendance register
Ex.P-6	Certified copy of statement of DGO
Ex.P-7	Xerox copy of the transcription of the conversation
Ex.P-8&9	Xerox copy of the photographs
Ex.P-10	Certified copy of the sketch of scene of occurrence from PWD Engineer
Ex.P-11	Certified copy of the chemical examination report
Ex.P-12	Xerox copy of the service particulars of DGO
Ex-P13	Xerox copy of call records

IV. Documents marked on behalf of DGO: Nil**V. Material Objects marked on behalf of the D.A: Nil**


(S. Renuka Prasad)

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