

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/362/2015/ARE-13

M.S. Building,
Dr.B.R. Ambedkar Road,
Bangalore-56001
Date: 10/02/2021.**: Present:****Patil Mohankumar Bhimanagouda**
Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.**:: ENQUIRY REPORT ::****Sub:-** Departmental Enquiry against,
Sri L Manjegowda, Assistant Engineer,
BBMP, Bangalore-reg.**Ref :-** 1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/BCD/417/2006/ARE-10,
dated: 11/12/2014.2) Govt. Order No. ನಅಇ 703 ಎಂಎನ್‌ಯು 2014,
Bengaluru, dated:10/06/2015.3) Nomination Order No.UPLOK-1/DE/
362/2015, Bengaluru, dated:
04/07/2015.

1. This departmental enquiry is directed against Sri L. Manjegowda, Assistant Engineer, BBMP, Bangalore (herein after referred to as the Delinquent Government Official in short "DGO").

2. After completion of the investigation, a report U/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No-1.
3. In view of the Government Order cited above at reference-2, the Hon'ble Upa Lokayukta-1, vide order dated : 04/07/2015 cited above at reference-3, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the enquiry officer to frame charges and to conduct enquiry against the aforesaid DGO. The Additional Registrar Enquiries-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Articles of Charge. Copies of same were issued to the DGO calling upon him to appear before this authority and to submit written statement of his defence.
4. As per order of Hon'ble Uplok-1 & 2/DE/Transfers/2018 of Registrar, Karnataka Lokayukta dated 06/08/2018 this enquiry file was transferred from ARE-4 to ARE-13.
5. The Articles of Charge framed by ARE-4 against the DGO are as below:

ANNEXURE NO-1

6. That, you-DGO/Sri. L. Manjegowda while working as Assistant Engineer, BBMP, Bangalore got executed the improvement of cement concrete road works of 5th main, 12th main, 27th cross and surrounding roads near BNM college of Banashankari, 2nd stage at Bangalore through the contractor during the year 2005-06 at a cost of Rs.10,65,889/-. You-DGO did not properly supervise, recorded the false measurement in MB and caused loss to the tune of Rs.3,99,700/- (37.5%). Thereby, you-DGO being a Government Servant failed to maintain absolute integrity besides devotion to duty and the act of you-DGO is 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.

ANNEXURE NO-II**STATEMENT OF IMPUTATIONS OF MISCONDUCT**

7. On the complaint filed by Sri P.V. Aravind, KPWD Contractor R/o 74/A, Banashankari 2nd stage in Bangalore alleging that, the engineers, being Government Servants have committed misconduct and thereby caused loss to exchequer of the Government (herein after referred as "complainant" for short),

against DGO committed misconduct, an investigation was taken up u/sec. 9 of Karnataka Lokayukta Act 1984).

8. According to the complainant: The improvement work of 5th main, 27th cross road, 12th main and surrounding roads of Banashankari 2nd stage at Bangalore, were taken up for cement concreting by the jurisdictional engineers and got executed the same through contractor, but that is of sub-standard and thereby caused loss to the exchequer of the Government.

9. So, the complaint was referred to the Chief Engineer in TAC of our Institution i.e., Karnataka Lokayukta for investigation and report. The CE, in turn, entrusted it to the Assistant Executive Engineer-2 in TAC. Thereafter, on the orders, the CE got further investigation done and submitted report on 30/07/2012 stating that you-DGO the then Assistant Executive Engineer, is responsible for financial irregularities and causing loss to exchequer of the Government. In view of the said report of the TAC, the said engineers have been brought on record as respondent. Your comments were called for. For that you filed your comments.

10. You-DGO filed your comments contending that the concrete work was undertaken in the year 2006, whereas the TAC made spot inspection on 11/05/2012 in your absence. In fact,

according to you, stating that, you are executed the work strictly following the procedure prescribed and inspected the work executed by the contractor and as such, no fault lies with you and prayed to close the complaint.

11. A careful consideration of the material on record shows that,

- i) You-DGO failed to make periodical visits of the ongoing execution of cement concrete work and also to inspect that the execution of the work was going on as per tender specifications.
- ii) You-DGO failed in his duty by not properly supervising the ongoing execution of cement concrete works and thereby allowed the execution of the inferior quality of works;
- iii) The material further shows that you-DGO has recorded the fraudulent/wrong measurements in MB book and caused loss to the exchequer of the Government and as such, you are responsible for Rs.3,99,700/- (i.e, 37.5% of loss)
- iv) Due to you-DGO not discharging your duties properly, not making periodical visits and spot inspection and

supervision of ongoing cement concrete work as required under law, the execution of work of CC roads was of substandard/inferior quality and the said roads were found spoiled within 5 years, though normal life of CC roads is for 25 years and thereby caused wasteful expenditure of the entire amount of Rs.28.80 lakhs.

12. In view of the facts stated above and on consideration of the material on record, replies of you-DGO has not been found satisfactory to drop the proceedings.

13. The said facts supported by the material on record prima facie show that, you-DGO being a Government Servant, has failed to maintain absolute integrity besides absolute devotion to duty and acted in a manner unbecoming of a Government Servant and thereby committed misconduct under rule 3(1)(i) (ii) & (iii) of KCS (Conduct) Rules 1966 and made yourself liable for disciplinary action, now acting u/sec. 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against you-DGO and to entrust the enquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. In turn Competent Authority initiated disciplinary proceedings against you-DGO and entrusted the Enquiry to this institution vide Reference No-1 and Hon'ble Upalokayukta-1

nominated this enquiry Authority, to conduct enquiry and report vide reference No-2. Hence, this charge.

14. The DGO appeared before this Enquiry Authority on 25/01/2016 and on the same day his First Oral Statement was recorded U/Rule 11(9) of KCS (CC &A) Rules 1957. The DGO pleaded not guilty and claimed to hold an enquiry. Subsequently the DGO has filed his written statement of defence by denying the articles of charge and statement of imputations contending that, there is no such evidence to prove that, he has committed misconduct U/Rule 3(1) of KCS (Conduct) Rules, 1966. Accordingly, he prayed to exonerate him from the charge framed in this case.

15. In order to substantiate the charge, the Disciplinary Authority examined two witnesses as PW-1 and PW-2, got marked the documents at Ex.P-1 to P-5 and closed the evidence.

16. After closing the case of the Disciplinary Authority, the Second Oral Statement of DGO was recorded as required U/Rule 11 (16) of KCS (CC & A) Rules, 1957 and wherein he has submitted that, the witnesses have deposed falsely against him. The DGO has led evidence on his behalf. He got himself examined as DW-1.

17. The Advocate for DGO filed his written submissions. Heard the oral arguments of Learned Presenting Officer.

18. Upon consideration of the charge leveled against the DGO, the evidence led by the Disciplinary Authority and the DGO by way of oral and documentary evidence and their written brief/submissions, the point that arises for my consideration is as under:

Point No-1) Whether the Disciplinary Authority has satisfactorily proved that the DGO Sri. L. Manjegowda while working as Assistant Engineer, BBMP, Bangalore got executed the improvement of cement concrete road works of 5th main, 12th main, 27th cross and surrounding roads near BNM college of Banashankari, 2nd stage at Bangalore through the contractor during the year 2005-06 at a cost of Rs.10,65,889/-, the DGO did not properly supervise the works, recorded false measurements in Measurement Books and caused loss to the Government to the tune of Rs.3,99,700/- (37.5%) and thereby the DGO failed to maintain absolute integrity and devotion to duty, which act is

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

19. My finding on the point No-1 is held in the “**Affirmative**” for the following:

:: REASONS ::

20. **Point No-1:-** The complainant Sri P.V. Aravind, KPWD Contractor, R/o 74/A, Banashankari 2nd stage, Bengaluru has been examined as PW-1. The complainant states that he knows the DGO and he was working as Assistant Engineer in BBMP. The DGO had under taken the developmental works in 5th main, 12th main roads and 27th cross road of Banashankari 2nd phase. The DGO was responsible for supervising these works entrusted to the contractors. The said works were under taken in the years 2005 and 2006. However the road works under taken were not properly executed. Wrong measurements were written and the amount was misappropriated. Hence in this regard he has lodged a complaint as per Ex.P-1.

21. PW-1 further states that after lodging the complaint the Engineer of Karnataka Lokayukta came to the spot on 19/09/2006 and inspected the works. In this regard the

Mahazar was conducted as per Ex.P-2. He further states that he was present when the Mahazar was conducted. The Lokayukta Engineer has taken the samples of jelly (gravels) and concrete. The height of the concrete should have been 4 inches but it was only 1.30 inches. The specifications of the road were not as per the estimate. As per the estimate 6 inches of jelly concrete was to be laid in the bed. However only jelly stones were used. PW-1 has been cross examined. Nothing material has been examined to discredit his testimony.

22. PW-2 is one Sri B. Nanjappa, Retired Executive Engineer, TAC, Karnataka Lokayukta, Bengaluru. He states that from 21/03/2003 to 30/09/2011 he has worked as Assistant Executive Engineer and later on as Executive Engineer in TAC, Karnataka Lokayukta, Bengaluru. The complaint bearing No. 417/2016 was referred to him for investigation. The complainant Sri P.V. Aravind had alleged that the concrete roads in Banashankari 2nd stage, near BNM institute of technology were not properly executed and the work was substandard nature. PW-2 further states that the Chief Engineer, TAC, Karnataka Lokayutka, Bengaluru referred the matter to him for investigation. On 19/09/2006 he carried out spot inspection, he had directed all the concerned officers and the complainant to be present. On the said date all of them were present at the time of spot inspection. He inspected the 12th main road near BNM

College, he took the concrete samples at 5 places and also the samples of the bed concrete i.e cement concrete 1:4:8. The bed concrete was also measured.

23. PW-2 further states that similarly the 27th cross road and 15th main road were also inspected and 5 samples of concrete core were taken from each road to test the width and strength of the concrete road. PW-2 further states that the concrete samples were taken by using the Mobile Core Cutting Unit.

24. PW-2 further states that he has taken the samples of 12th main road at 5 different places. As per the approved estimate the bed concrete should have been 150 MM. However the actual bed concrete was only 89.50 MM. PW-2 further states that as per the approved estimate the surface of the concrete road should have been 100MM. However the actual surface of the cement road was only 60.50MM.

25. PW-2 further states that he has further inspected the 15th main road. As per the approved estimate the bed concrete should have been 150 MM. However the actual bed concrete was 89.50 MM. Similarly the surface of the cement road as per the approved estimate was 100MM but the actual surface executed was only 60.50MM.

26. PW-2 further states that he has also inspected 27th cross road and taken 5 samples of the concrete road at 5 different places. As per the approved estimate the bed concrete should have been 150 MM. However the actual bed concrete was 89.50 MM. Similarly the surface of the cement road as per the approved estimate was 100MM but the actual surface executed was only 60.50MM.

27. PW-2 further states that the DGO and one Rangaswamy have not furnished the Measurement Books bearing No.936 of 2005-06 and 532 of 2003-04. He states that he has conducted the Mahazar as per Ex.P-2. He further states that in this regard he has submitted his report as per Ex.P-4. He has also produced the strength report of the concrete samples as per Ex.P-5. As per the approved estimate the test value should have been 15. However the actual test value of the samples was 10.03. PW-2 has been cross examined. Nothing material has been examined to discredit his testimony.

28. After closure of the evidence of the Disciplinary Authority the DGO has got examined himself as DW-1. He states that the complainant Sri P.V. Aravind is a KPWD contractor and he has filed a frivolous complaint. The allegations are unfounded and the complaint has been filed due to professional Jealousy against the contractor who has carried out the work. He further states

that, the complainant has withdrawn the complaint on 19/09/2006. Therefore the enquiry has to be stopped. The Investigation Officer has filed false and imaginary report. He further states that he has not committed any misconduct.

29. DW-1 further states that he has made periodical visits during the execution of the work. He has not made any wrong measurements in the Measurement Book. He has not caused any loss of the state exchequer. There is absolutely no material to support the charges leveled against him. Hence he prays for exonerating him from the charges levelled against him.

30. The Learned Presenting Officer has canvassed his arguments and he has drawn the attention of the evidence of PW-2 and the reports at Ex.P-4 and Ex.P-5. He submits that the concrete works were not executed as per the approved estimates and the concrete roads were of substandard quality. The Disciplinary Authority by cogent evidence has proved its case.

31. On the other hand the Advocate for the DGO has canvassed his arguments. He submits that the works were executed in the year 2005-06. However the inspection was taken up after the lapse of 6 long years. The quality of the roads cannot be ascertained if there is delay in inspection of the roads. The DGO

has properly supervised the execution of the concrete roads. The concrete roads have been executed as per the approved estimate.

32. He further states that the complainant is a KPWD contractor and due to professional jealousy against the contractor who has executed the work, has filed this frivolous complaint. The advocate for DGO has drawn the attention to the document at Ex.D-1 and submits that the complainant by his letter dated : 19/09/2006 has withdrawn the complaint.

33. The Advocate for DGO further states that the DGO is only the Assistant Engineer in BBMP. He is not the final authority to approve the works. Final authority is vested with Assistant Executive Engineer and Executive Engineer. The DGO who is an Assistant Engineer cannot be held a responsible for the said lapses. Hence he prays for exonerating the DGO.

34. I have carefully gone through the contentions taken up by the Advocate for DGO. However these contentions of the advocate for DGO cannot be accepted. It is pertinent to note that PW-2 is the Investigation Officer/Executive Engineer of TAC, Karnataka Lokayukta, Bengaluru, who was directed to investigate the matter. He has conducted the investigation on 19/09/2006. The works are pertaining to the year 2005-06. Soon after the complaint was lodged, the matter was referred to TAC, Karnataka

Lokayukta, Bengaluru. The Chief Engineer, Karnataka Lokayukta, Bengaluru has appointed PW-2 Nanjappa as the Investigation Officer. PW-2 is the technical hand. He is the Executive Engineer working in Karnataka Lokayukta, Bengaluru. He has conducted the investigation on 19/09/2006 and submitted his report as per Ex.P-4. The Advocate for DGO has further canvassed his arguments that the DGO is not responsible for the substandard quality of concrete roads formed in 12th main, 15th and 27th cross of Banashankari 2nd stage. However this contention of the advocate for DGO cannot be accepted. The Investigation Officer i.e PW-2 has specifically stated that the DGO is the person to supervise the works entrusted to the contractor. Hence these contentions of the Advocate for DGO also cannot be accepted.

35. I have carefully gone through the evidence of the Investigation Officer i.e. PW-2 along with his report of Ex.P-4 and Sample Test Result Certificate issued by Sri Ram Institute for Industrial research i.e. Ex.P-5. On careful perusal of the evidence of PW-2 and the report of the Investigation Officer at Ex.P-4 it is observed that as per the approved estimate the cement road on 15th main road should have been as per the following specifications. The bed concrete should have been 150 MM. However the actual bed concrete was 89.50 MM. Similarly the

surface of the cement road as per the approved estimate was 100MM but the actual surface executed was only 60.50MM.

36. As per the approved estimate the cement road on 12th main road should have been as per the following specifications. The bed concrete should be 150 MM. However the actual bed concrete was only 89.50 MM. Similarly as per the approved estimate the surface of the concrete road should have been 100MM. However the actual surface of the cement road was only 60.50MM.

37. As per the approved estimate the cement road on 27th cross road should have been as per the following specifications. The bed concrete should have been 150 MM. However the actual bed concrete was 89.50 MM. Similarly the surface of the cement road as per the approved estimate was 100MM but the actual surface executed was only 60.50MM.

38. On careful perusal of the oral evidence of PW-2 and his reports at Ex.P-4 and Ex.P-5, it is observed that the cement concrete roads in 12th main, 15th main and 27th cross roads of Banashankari 2nd Stage have not been constructed as per the approved estimate. There are deficiencies in the thickness of the cement concrete roads and concrete surfaces. The DGO being the Assistant Engineer was responsible for inspecting concrete roads

in 12th main, 15th main and 27th cross road of Banashakari 2nd stage.

39. The evidence of PW-2 places the actual facts. Nothing is elicited in the cross examination of PW-2 to disbelieve or discredit his version. The DGO has not led any evidence to show that, PW-2 failed to record and report the actual facts and that his evidence cannot be believed. The evidence of PW-2 and his reports at Ex.P-4 and Ex.P-5 therefore deserve to be believed. Hence, I believe the reports at Ex.P-4, Ex.P-5 and evidence of I.O/PW-2. On careful perusal of the evidence of Disciplinary Authority, I am of the opinion that, the charge leveled against the DGO has been proved. Hence, on appreciation of the evidence of complainant/PW-1 and the Investigation Officer/PW-2, I am of the opinion that, the Disciplinary Authority has proved the charge leveled against the DGO.

40. The DGO has not properly supervised the concrete road works and thereby he has committed dereliction of duty. The DGO is responsible for the loss to the state exchequer to the tune of Rs.3,99,700/- (i.e 37.5% of loss).

41. For the reasons stated above the DGO, being the Government/Public Servant has failed to maintain absolute

integrity, besides devotion to duty and acted in a manner unbecoming of Government servant. On appreciation of entire oral and documentary evidence, I hold that the charge leveled against the DGO is established. Hence, I answer point No.1 in the "Affirmative".

:: ORDER ::

The Disciplinary Authority has proved the charge against the DGO Sri L. Manjegowda, Assistant Engineer, BBMP, Bangalore District.

An amount of Rs.3,99,700/- (i.e 37.5% of loss) has to be recovered from the DGO.

42. This report is submitted to Hon'ble Upa Lokayukta-1 in a sealed cover for kind perusal and for further action in the matter.

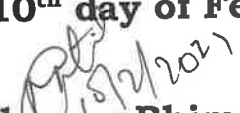
Dated this the 10th day of February 2021

(Patil Mohankumar Bhimanagouda)
Additional Registrar Enquiries-13
Karnataka Lokayukta
Bangalore

ANNEXURES

Witness examined on behalf of the Disciplinary Authority
PW-1: Sri P.V. Aravind (Original)
PW-2: Sri. B. Nanjappa (Original)
Witness examined on behalf of the Defence
DW-1: Sri. L. Manjegowda (Original)
Documents marked on behalf of the Disciplinary Authority
Ex. P-1: Complaint (Original)
Ex. P-1(a): Signature of the complainant
Ex.P-2: Spot Mahazar dated :19/09/2006 (Original)
Ex. P-2(a): Signature of the complainant.
Ex. P-2(b): Signature of I.O
Ex. P-3: Spot Mahazar, dated :11/05/2012 (Xerox copies)
Ex. P-3(a): Signature of the complainant.
Ex.P-4: Investigation Report dated 22/12/2006 (Original)
Ex. P-4(a): Signature of the I.O
Ex.P-5: The Sample Test Result Certificate issued by Sri Ram Institute for Industrial Research, page no.110 -113 originals, page no.114-141 xerox copies, page no.142-146 originals.
Documents marked on behalf of the DGO
Ex.D-1: xerox copy of letter of complainant dated 19/09/2016.

Dated this the 10th day of February 2021


(Patil Mohankumar Bhimanagouda)
 Additional Registrar Enquiries-13
 Karnataka Lokayukta
 Bangalore.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/362/2015/ARE-13

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: **20/02/2021**

RECOMMENDATION

Sub:- Departmental inquiry against;
Sri L. Manjgowda, Assistant Engineer, Bruhat
Bengaluru Mahanagara Palike, Bengaluru – Reg.

Ref:- 1) Govt. Order No.ಸಅಇ 703 ಎಂಎನ್ಯು 2014, Bengaluru
dated 10/6/2015.

2) Nomination order No.UPLOK-1/DE/362/2015,
Bengaluru dated 4/7/2015 of Upalokayukta-1, State
of Karnataka, Bengaluru

3) Inquiry Report dated 10/2/2021 of Additional
Registrar of Enquiries-13, Karnataka Lokayukta,
Bengaluru

The Government by its order dated 10/6/2015 initiated the disciplinary proceedings against Sri L. Manjgowda, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru (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.UPLOK-1/DE/362/2015, Bengaluru dated 4/7/2015 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. UPLOK-1&2/DE/Transfers/2013 dated 6/8/2018, the Additional Registrar of

Enquiries-13, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO.

3. The DGO Sri L. Manjgowda, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru was tried for the following charge:-

“That, you – DGO Sri L. Manjgowda, while working as Assistant Engineer, BBMP, Bengaluru got executed the improvement of cement concrete road works at 5th Main, 12th Main, 27th Cross and surrounding roads near BNM College of Banashankari, 2nd Stage at Bengaluru through the Contractor during the year 2005-06 at a cost of Rs.10,65,889/-. You – DGO did not properly supervise, recorded the false measurements in MB and caused loss to the tune of Rs.3,99,700/- (37.5%). Thereby, you – DGO being a Government Servant failed to maintain absolute integrity besides devotion to duty and the act of you – DGO is unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-13) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO Sri L. Manjgowda, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru. The Inquiry officer has further held that the DGO is responsible for causing loss of Rs.3,99,7000/- (i.e., 37.5% of the total loss) to the State exchequer.


5. On re-consideration of inquiry report and totality of the circumstances of the case, 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 31/7/2022.

7. Having regard to the nature of charge proved against DGO Sri L. Manjgowda, Assistant Engineer, Bruhat Bengaluru Mahanagara Palike, Bengaluru, it is hereby recommended to the Government for imposing penalty of reducing the pay of DGO Sri L. Manjgowda in the time scale of pay by two lower stages till the date of his retirement i.e., 31/7/2022; such reduction of pay will have the effect of postponing his future increments and during the above period the DGO will not earn increments. Further, it is recommended to recover the loss of Rs.3,99,700/- from the salary and allowances payable to DGO Sri L. Manjgowda. If the entire amount cannot be recovered from the salary and other allowances, the remaining amount shall be recovered from the pensionary benefits payable to DGO.

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

Connected records are enclosed herewith.


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

