

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/38/2016/ARE-13

M.S. Building,
Dr.B.R. Ambedkar Road,
Bangalore-56001
Date: 20/02/2021.**: Present:****Patil Mohankumar Bhimanagouda**Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.**:: ENQUIRY REPORT ::****Sub:-** Departmental Enquiry against,
Smt. Shamala, the then Assistant
Engineer, Pattana Panchayath, Yalaburga
(Presently working as Assistant Executive
Engineer, N.K.U.S.I.P Cell, Gadag-Betageri
City Municipal Office, Gadag) - reg.**Ref :-** 1) Report u/s 12(3) of the K.L Act, 1984
in Compt/Uplok/GLB/112/2010/ARE-3,
dated: 20/11/2015.2) Govt. Order No. ನಅಇ 128 ಡಿಎಂಕೆ 2015,
ಬೆಂಗಳೂರು, dated: 02/02/2016.3) Nomination Order No.UPLOK-1/DE/
38/2016, Bengaluru, dated:
15/02/2016.

1. This departmental enquiry is directed against Smt. Shamala, the then Assistant Engineer, Pattana Panchayath, Yalaburga (Presently working as Assistant Executive Engineer, N.K.U.S.I.P Cell,

Gadag-Betageri City Municipal Office, Gadag District (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 : 15/02/2016 cited above at reference-4, nominated Additional Registrar of Enquiries-1 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-1 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 her to appear before this authority and to submit written statement of her defence. Later on the file was transferred from ARE-1 to ARE-7.

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-7 to ARE-13.

5. The Articles of Charge framed by ARE-1 against the DGO are as below:

ANNEXURE-1**CHARGE:**

6. While you DGO-1 Smt. Shamala working as then the Assistant Engineer in Town Panchayath of Yalaburga in Koppal District was responsible for execution of the development works under SFC grants during the year 2008-09 in Pattan Panchayath, Yalaburga and on investigation it is found that (i) No proper excavation of the earth work was done, (ii) Excavated surface not leveled properly as per the specifications, (iii) Road embankment was not properly formed, (iv) Cement concrete laying was not properly done, (v) Did not use good quality materials as per the orders of the Deputy Commissioner dated :26/02/2009 and thereby violated the government order dated :21/08/2008, (vi) You have not obtained clear permission from the competent authority, before calling for/inviting/publishing the short term tender notification, (vii) Did not conclude single agreement/issue single work order for package 1 to 3 works and therefore you the DGO has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and therefore you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966. Hence, this charge.

ANNEXURE-II**STATEMENT OF IMPUTATION OF MISCONDUCT:****7. Brief facts of the case are:-**

Sri. Chandu Sab S/o Husensab Kavalooru, resident of Yelburga, the then Vice-President, Pattan Panchayath, Yelburga in Koppal District (hereinafter referred to as '**Complainant**' for short), filed a complaint against Smt. Shamala, Assistant Engineer, Pattan Panchayath, Yelburga in Koppal District (hereinafter referred to as '**Respondent**' for short) alleging dereliction of duty in undertaking developmental works under SFC grants during 2008-09 by the respondent. So, an investigation was taken up under Section 9 of the Karnataka Lokayukta Act, 1984.

8. According to the complaint: The respondent while working as Assistant Engineer, Pattan Panchayath, Yelburga under took developmental works under SFC grants during the year 2008-09 and those works were sub-standard in quality for which the respondent is responsible.

9. As such, complaint was referred to DSP, KLA, Koppal (hereinafter referred to as I.O. for short) for investigation and report. The DSP Koppal after visiting the works listed from sl.no.1 to 19 and 26 and after the examining the complainant and the witnesses reported that the constructions of CC roads are not properly done

and the cement is found removed at various places and potholes were found and that the works done were sub-standard.

10. The complaint was also referred to TAC, for investigation and report to the Chief-Engineer in Technical and Audit Cell of our Institution, for investigation and report. The Chief-Engineer in turn, entrusted the investigation to Sri T.N. Shivaram Samanth, Executive Engineer for investigation (hereinafter referred to as I.O for short) for investigation and report, who reported as under:

- I. Sri Ismail Khan, the then Chief Officer, Pattan Panchayath, Yelburga has not obtained prior permission from the Competent Authority, before calling for (inviting/publishing) the short term tender notification and
- II. Has concluded (made) single agreement (issued single work order) for package 1, 2 and 3 works (instead of separate work orders/agreements)

11. The short term tender notification was issued by the respondent, Sri Ismail Khan, the then Chief Officer, Pattan Panchayath, Yelburga and Smt. Gouramma w/o Suresh Naduvalamani, the then president of Pattan Panchayath, Yelburga. Hence, Sri Ismail Khan and Smt. Gouramma w/o Suresh

Naduvalamani are arrayed as respondent no.2 and 3 and their comments were called for.

12. The respondent no.1 filed her comments denying the allegations and submitted that she has under taken the works during 2008-09 under SFC scheme and after inspection by the third party and recording of measurement in the measurement book and after verification of measurements by the Assistant Executive Engineer, District Development Cell, Koppal and Executive Engineer, District Development Cell, Bellary the bills have been finalized and sent to accounts section and no audit objections or recoveries were made.

13. The respondent no.2 in his comments submitted that there are no allegations against him and there is no truth in the complaint and for the alleged sub-standard works the technical wing is fully responsible and that the works were inspected by third party and the measurements have been recorded by the Engineer and check measured by the Assistant Engineer and hence, prayed to drop the investigation.

14. The respondent no.3 has submitted the comments stating that the tender process has been finalized as per the Karnataka Transparency in Public Procurement Act, 1999 and also under the guidelines of the Assistant Executive Engineer, District

Development Cell, Koppal and after third party inspection, the integrity besides absolute devotion to duty and also acted in manner unbecoming of government/public servants, and thereby committed misconduct and made themselves liable for action. Further the respondent no.3 did not discharge her duties in accordance with the provisions of Karnataka Municipalities Act, 1964.

15. Since said facts and material on record prima-facie showed that DGO has committed misconduct under Rule 3(1)(ii) & (iv) of KCS (Conduct) Rules, 1966, acting under section report U/s 12(3) of Karnataka Lokayukta Act, recommendation was made to the Competent Authority to initiate disciplinary proceedings against the DGO. The Government after consideration of materials, has entrusted enquiry to Hon`ble Upalokayukta. Hence the Charge.

16. The DGO appeared before this Enquiry Authority on 20/04/2016 and on the same day her 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 her written statement of defence by denying the articles of charge and statement of imputations contending that, there is no such evidence to prove that, she has committed misconduct U/Rule 3(1) of KCS (Conduct) Rules, 1966. Accordingly, she prayed to exonerate her from the charges framed in this case.

17. In order to substantiate the charge, the Disciplinary Authority examined four witnesses as PW-1 to PW-4 and got marked the documents at Ex.P-1 to P-10 and closed the evidence.

18. 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 she has submitted that, the witnesses has deposed falsely against her. The DGO in support of her contention got examined herself as DW-1, produced the documents at Ex.D-1 to D-13 and closed her side.

19. The Defence Assistant for DGO filed the written submissions. Heard the oral arguments of Learned Presenting Officer.

20. 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 Smt. Shyamala while working as the then Assistant Engineer, Pattana Panchayath, Yalaburga in Koppal District was responsible for execution of the development works under SFC

grants during the year 2008-09 in Pattana Panchayath, Yalaburga and on investigation it was found that for the construction of cement roads in Yalaburga town i) No proper excavation of the earth work was done, ii) Excavated surface was not leveled properly as per the specifications, iii) Road embankment was not properly formed, iv) Cement concrete laying was not properly done, v) Did not use good quality materials as per the orders of the Deputy Commissioner dated :26/02/2009 and thereby violated the Government order dated : 21/08/2008, vi) did not obtain permission from the Competent Authority, before calling for/inviting /publishing the short term tender notification, vii) Did not conclude single agreements and issued single work order for package of 1 to 3 works and thereby the DGO has failed to maintain absolute integrity and devotion to duty, which act is unbecoming of a Government Servant and thus committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

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

:: REASONS ::

22. **Point No-1** : The complainant Sri. Chandu Sab S/o Husensab Kavalooru, resident of Yalaburga has been examined as PW-1. PW-1 states that he knows the DGO and she was working as Engineer in Pattana Panchayath, Yalaburga. In the year 2008-09 under the SFC project of several wards of Yalaburga town were selected for construction of cement roads. The amount was also sanctioned and released under the SFC project. The DGO has implemented the project but the works carried out are of sub standard nature. About 6 to 7 crores of rupees have been misappropriated. The cement concrete roads constructed were of substandard nature and they were damaged in 3 to 4 months of construction. The said roads were of no use for the public. Hence in this regard he has lodged the complaint in Form No-I and II. The said complaint and affidavit are at Ex.P-1 and Ex.P-2. The complainant further states that necessary action may be taken against the DGO.

23. PW-2 Sri. Chakravarthi Mohan was the Deputy Commissioner of Koppal during the period from 02/01/2009 to 25/06/2009 and from 11/08/2009 to 23/09/2009. PW-1 states that he was the Deputy Commissioner of Koppal during the said period. The Chief

Officer, Pattana Panchayath, Yalaburga had submitted the proposal for construction of cement roads in Yalaburga town on 26/02/2009 as per Ex.P-3. He has approved the said proposal and it is at Ex.P-4. The order dated 26/02/2009 is subject to 9 conditions. He has also approved the annexure-1 which is at Ex.P-5.

24. PW-1 and 2 have been cross examined at length, nothing material has been elicited so as to discredit their testimony.

25. PW-3 Sri. T.N. Shivaram Samanth is the retired Executive Engineer, Karnataka Lokayukta, Bengaluru. He states that from August 2013 to March 2015 he was working in TAC, Karnataka Lokayukta, Bengaluru as Executive Engineer No-2. The Chief Engineer, TAC, Karnataka Lokayukta, Bengaluru deputed him to investigate in the matter on 07/07/2014.

26. PW-3 further states that he has investigated whether the tender guidelines have been followed in calling the tenders by the DGO for executing the cement roads in Yalaburga town. From investigation he has found the following ambiguities. On 12/12/2008 the Deputy Commissioner of Koppal had approved the action plan for 47 work orders under the Karnataka Transparency in Public Procurements Act, 1999 and Rules 2001. However the Chief Officer, Pattana Panchayath had not obtained the prior

approval from the Competent Authorities to call for short term tenders.

27. The Chief Officer, Pattana Panchayath, Yalaburga had called for tender in respect of 47 works in 4 packages. However the tender for package No-1, 2 and 3 was called for in single package and only one agreement was executed with regard to 3 packages and only one work order was issued with regard to all the 3 packages. Hence the tender guidelines were violated. PW-3 further states that in this regard he has submitted his report which is at Ex.P-6. The approval given by Deputy Commissioner, Koppal for the tenders is at Ex.P-7.

28. PW-4 Sri Mudiyyappa Chikkareddy is the retired Deputy Superintendent of Police, Karnataka Lokayukta, Koppal. He was appointed as the Investigation Officer to conduct the investigation and submit his report. PW-4 states that in the year 2014 he was working as Deputy Superintendent of Police, Karnataka Lokayukta, Koppal. The complainant Sri. Chandu Sab had lodged a complaint to the Hon'ble Upalokayukta, Bengaluru with regard to sub standard construction of cement roads in Yalaburga town during the year 2008-09. The Hon'ble Upalokayukta directed him to conduct investigation and submit his report. Accordingly on 23/07/2014 he visited Yalaburga town. He summoned the complainant Chandu Sab, Mallappa and Prakash. In their

presence he inspected the work orders bearing No.1 to 19 and 26. He inspected the said cement roads and he has taken the photographs of the said roads. He further states that the said cement roads were of substandard nature and the work was not properly executed. In the cement roads the cement concrete had worn-out at several places and pits were formed in the roads. He further states that he secured the documents pertaining to these works from the Pattana Panchayath, Yalaburga. On perusal of the tender works the Investigation Officer is of the opinion that the tender works were of substandard nature. In this regard he has submitted his report to the Hon'ble Upalokayukta. He identifies his report at Ex.P-8. At the time of investigation he has recorded the statements of complainant, Prakash and Mallappa. PW-4 has produced the approved action plans issued by the Deputy Commissioner, Koppal and they have been commonly marked as Ex.P-9. At the time of investigation he has taken 56 photographs of the cement roads. The said photographs have been commonly marked as Ex.P-10.

29. PW-3 and PW-4 have been cross examined by the Defence Assistant for DGO, nothing material has been elicited to discredit their testimony.

30. After closure of the evidence of the Disciplinary Authority the DGO has got herself examined as DW-1. Smt. Shyamala states

that from 07/01/2009 to 15/6/2009 she has worked as Junior Engineer, Pattana Panchayath, Yalaburga. On 27/11/2008 the Chief Officer, Pattana Panchayath, Yalaburga has got the administrative approval for 47 work orders. The Deputy Commisisoner, Koppal has approved the said action plans in the SFC project. As per the approved plans she got prepared estimates and obtained the technical approval for the estimates. The tender was called for and the contractors were selected. The contractors who had quoted the lowest price were selected and agreement was entered into. The Chief Officer, Pattana Panchayath, Yalaburga issued the work order to the contractors. She further states that the conditions imposed by the Deputy Commissioner, Koppal were followed and the tender works were executed as per the estimates.

31. DW-1 further states that the cement roads were constructed using the best quality materials and no substandard work was done. She states that she executed the work orders i.e serial no.1 to 5, 11, 13 to 19 and 26. She further states that the Deputy Commissioner, Koppal had appointed TMAE Societies Polytechnic Chief Sri. Y.M Umashankar as 3rd party audit. DW-1 further states that the 3rd party audit has submitted his report to the effect that ***“The work inspected during execution and technical instructions were given. The work is executed by our technical staff and me with the concerned section officer. The***

work is completed. The work is executed as per estimated quality and DSR, Bellary Circle ”.

32. DW-1 categorically denies that substandard work was carried out and the cement roads constructed were of substandard quality. DW-1 in support of her contention has produced the following documents.

33. Ex.D-1 is the 3rd party audit report of cement concrete road from Basalingaswamy gadduge to Rudrabhavani Hanumappa Temple.

Ex.D-2 is the 3rd party audit of cement concrete road from Yalamma temple to the house of Erappa Simpara.

Ex.D-3 is the 3rd party audit report of the cement concrete road from the house of Budensab Doulathtar to Kodadabhavi.

Ex.D-4 is the 3rd party audit report of the cement concrete road from Sulabha Souchalaya Block to Urdu School.

Ex.D-5 is the 3rd party audit report of the cement concrete road in Prashanthanagara.

Ex.D-6 is the 3rd party audit report of the cement concrete road from School No.2 to the house of Sri Hagada.

Ex.D-7 is the 3rd party audit report of the cement concrete road from the house of Yallappa Karamadi to the house of Jalihal.

Ex.D-8 is the 3rd party audit report of the cement concrete road from the house of Siddappa Dandin to the house of Hussein Sab Hiremani.

Ex.D-9 is the 3rd party audit report of the cement concrete road from the house of Suleman Sab Hiremani to Harshap Ali Darga Complex.

Ex.D-10 is the 3rd party audit report of the cement concrete road from the house of Yamanoor Sab to the house Mallappa Jogi.

Ex.D-11 is the 3rd party audit report of the cement concrete road from the house of Revappa Dandin to the Bread bakery.

Ex.D-12 is the 3rd party audit report of the cement concrete road from the house of Mallappa Dandin to the house of Kalakappa Charageri.

Ex.D-13 is the 3rd party audit report of the cement concrete road from the house of Bhutha to the house of Hanumappa Yammigudad.

34. DW-1 states that she has not executed any substandard work. The 3rd party audit was conducted and they have given the reports at Ex.D-1 to Ex.D-13. The 3rd party report is given by the Chief of TMAE Societies Polytechnic and they have submitted the report. They have observed that all the works have been completed. All the

works have been executed as per estimated quality and DSR, Bellary Circle.

35. DW-1 further states that, PW-4 has investigated the cement roads after the lapse of 5 years. Due to natural calamities the cement roads have been destroyed and hence the report of the Investigation Officer cannot be accepted.

36. The Defence Assistant for the DGO has submitted his written submissions. The first contention taken by the Defence Assistant for the DGO is that the works bearing No. 1 to 5, 11 13 to 19 and 26 have been approved by the 3rd party audit i.e the Chief of TMAE Societies Polytechnic. The 3rd party has submitted the audit report and they have reported that the said works have been completed and the works have been executed as per the estimated quality and DSR Bellary Circle.

37. The Defence Assistant for the DGO has further taken up the contention that the works were under taken in the SFC scheme in the year 2008-09. However the investigation officer has visited the spot and conducted the investigation in the year 2014. Due to natural calamities the cement roads have been damaged and hence the investigation report cannot be taken into consideration.

38. The Defence Assistant for the DGO states that the contractor is under obligation to maintain the roads for 2 years after the completion. The cement roads have worn out due to lapse of time and hence the investigation carried out after lapse of 5 years cannot be taken into consideration.

39. The Learned Presenting Officer has canvassed his arguments and he has drawn the attention to the report of the I.O and the photographs taken at the time of investigation. He submits that the cement roads have minimum life of 15 years, whereas in the photographs it is seen that the roads have been damaged within a span of 4 to 5 years. The Learned Presenting Officer has further drawn the attention to the cross examination to DW-1. DW-1 has shown her ignorance to any of the natural calamities in Yalaburga town during the said period of 5 years. He further states that DW-1 admits that no river is flowing near the town of Yalaburga and she has no knowledge whether any natural calamities had taken place during the period from 2008-09 to 2014. He further states that DW-1 herself in the cross examination states that the life of cement roads is minimum 8 years. The Learned Presenting Officer submits that the Disciplinary Authority by cogent evidence has proved it is case that the cement roads were of sub standard nature.

40. I have carefully gone through the oral and documentary evidence adduced by both the sides. After lodging of the complaint the matter was referred for investigation PW-3 Sri. T.M. Shivaram Samanth is the Executive Engineer, TAC, Karnataka Lokayukta, Bengaluru. He has investigated the matter with regard to tender provisions. He has stated that the tender guidelines were violated.

41. PW-4 Sri. Mudiappa Chikkareddy is the Deputy Superintendent of Police, Karnataka Lokayukta, Koppal. The Hon'ble Upalokayukta, Bengaluru directed him to conduct the investigation and submit his report. Accordingly the Investigation Officer has visited Yalaburga town on 23/07/2014 and conducted the investigation. He has categorically stated that the cement roads constructed are of substandard nature. The cement concrete at several place had worn out and pits were formed in the roads. In this regard he has submitted his report at Ex.P-8. Along with his report he has produced 56 photographs which have been commonly marked as Ex.P-10. On careful perusal of the report at Ex.P-8 and the 56 photographs at Ex.P-10, it is observed that the cement roads constructed were of substandard nature. The cement concrete has worn out and pits have fallen in the cement roads. There are no reasons as such to disbelieve the investigation of the Investigation Officer and his report at Ex.P-8. On careful perusal of 56 photographs at Ex.P-10 it is observed that the cement concrete has come out from the cement roads and water pits have been

formed. The Investigation Officer has visited the spot in the month July 2014 and it is observed that rain water is collected in the pits of the cement roads.

42. The Defence Assistant for the DGO has taken several contentions the first contention is that the 3rd party audit was conducted by TMAE Societies Polytechnic and he has relied upon the reports at Ex.D-1 to D-13. However this contention of the Defence Assistant for DGO cannot be accepted. The 3rd party inspection has been conducted soon after the works were executed. However when the Investigation Officer visited the spot the substandard quality of the cement roads was very clear.

43. The Defence Assistant for DGO has taken up another contention that due to the natural calamities the cement roads have been damaged. However DW-1 in her cross examination categorically states that she does not know whether any natural calamities had occurred in Yalaburga town. From the cross examination of DW-1 it is quite clear that Yalaburga town is not situated on the banks of any river, hence there is no threat of floods, heavy rains have also not affected Yalaburga town. The DGO has not produced any documents to show the natural calamities have affected Yalaburga town and hence the roads were damaged.

44. The Defence Assistant has taken up another contention that the investigation has been done after the lapse of 5 years, hence due to the natural calamities the roads have worn out. However this contention of the Defence Assistant for the DGO cannot be accepted. In general the minimum life of cement roads is about 15 years. The DGO/DW-1 in her cross examination states that the minimum life of cement roads is about 8 years. The cement roads have been inspected by the Investigation Officer within 5 years. Usually the cement roads are laid so that the durability of the roads is more. The DGO /DW-1 in her cross examination referred above has admitted that no natural calamities have affected Yalaburga town in the said period of 5 years. Hence this contention also cannot be accepted.

45. The evidence of Investigation Officers PW-3 and PW-4 places the actual facts on record. Nothing is elicited in the cross examination of PW-3 and PW-4 to disbelieve or discredit their version. The DGO has not led any evidence to show that, PW-3 and PW-4 failed to record and report the actual facts and that their evidence cannot be believed. The evidence of PW-3 and PW-4 and their reports at Ex.P-6 and Ex.P-8 therefore deserve to be believed. Hence, I believe the reports at Ex.P-6 and Ex.P-8, and evidence of I.Os/PW-3 and Ex.P-4.

46. Hence on Careful perusal of the evidence of PW-1 to PW-4 and the documents at Ex.P-1 to Ex.P-10, I am of the opinion that the Disciplinary Authority has proved that the DGO who had undertaken the construction of cement roads in Yalaburga town i.e work order No.1 to 5, 11, 13 to 19 and 26 were of substandard nature. From careful perusal of the report at Ex.P-8 and the photographs at Ex.P-10, it is quite clear that the cement roads constructed were of substandard nature. Therefore I am of the opinion that, the charge leveled against the DGO has been proved.

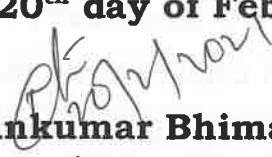
47. For the reasons stated above the DGO, being the Government/Public Servant has failed to maintain absolute integrity, besides devotion to duty and acted in a manner unbecoming of Government servant. On appreciation of entire oral and documentary evidence, I hold that the charge leveled against the DGO is established. Hence, I answer point No.1 in the "Affirmative".

:: ORDER ::

The Disciplinary Authority has proved the charge against the DGO Smt. Shamala, the then Assistant Engineer, Pattana Panchayath, Yalaburga (Presently working as Assistant Executive Engineer, N.K.U.S.I.P Cell, Gadag - Betageri City Municipal Office, Gadag).

48. 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 20th 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 Chandu Sab (Original)
PW-2: Sri Chakravarthi Mohan (Original)
PW-3: Sri. T.N. Shivaram Samanth (Original)
PW-4: Sri. Mudiappa Chikkareddy (Original)
Witness examined on behalf of the Defence
DW-1: Smt. Shamala (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: Affidavit (Original) Ex.P-2(a): Signature of the complainant
Ex.P-3: The Chief Officer, Pattana Panchayath, Yalaburga had submitted the proposal for construction of cement roads in Yalaburga town on 26/02/2009 (Certified copy)
Ex.P-4: Proceedings of the Deputy Commissioner, Koppal (Certified copy)
Ex.P-5: The order dated 26/02/2009 is subject to 9 conductions. He has also approved the annexure-1(Certified copy)
Ex.P-6: Report of I.O (xerox copies) Ex.P-6(a): Signature of I.O
Ex.P-7: The approval given by Deputy Commissioner, Koppal for the tenders (certified copies)

<p>Ex.P-8: Investigation report of I.O (Original) Ex.P-8(a): Signature of the Dy.S.P</p>
<p>Ex.P-9: PW-4 has produced the approved action plans issued by the D.C., Koppal (xerox copies)</p>
<p>Ex.P-10: Photographs (Originals)</p>
<p>Documents marked on behalf of the DGO</p>
<p>Ex.D-1 is the 3rd party audit report of cement concrete road from Basalingaswamy gadduge to Rudrabhavani Hanumappa Temple (Attested)</p>
<p>Ex.D-2 is the 3rd party audit report of cement concrete road from Yalamma temple to the house of Erappa Simpara (Attested)</p>
<p>Ex.D-3 is the 3rd party audit report of cement concrete road from the house of Budensab Doulatdar to Kodadabhavi(Attested)</p>
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Hiremani to Harshap Ali Darga Complex (Attested)

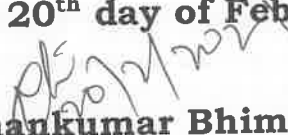
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Dated this the 20th day of February 2021


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

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. UPLOK-1/DE/38/2016/ARE-13

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001
Date: **05/03/2021**

RECOMMENDATION

Sub:- Departmental inquiry against;
Smt. Shyamala, the then Asst. Engineer, Pattana
Panchayath, Yalaburga, Koppal District (Presently
working as Asst. Executive Engineer, NKUSIP Cell,
Gadag - Betageri City Municipal Council, Gadag - Reg.

- Ref:- 1) Govt. Order No. ಸಆಇ 128 ಡಿಎಂಕೆ 2015, Bengaluru dated
02/02/2016
- 2) Nomination order No.UPLOK-1/DE/38/2016,
Bengaluru dated 15/2/2016 of Upalokayukta-1,
State of Karnataka, Bengaluru
- 3) Inquiry Report dated 20/02/2021 of Additional
Registrar of Enquiries-13, Karnataka Lokayukta,
Bengaluru

The Government by its order dated 20/11/2015 initiated the disciplinary proceedings against Smt. Shyamala, the then Asst. Engineer, Pattan Panchayath, Yalaburga, Koppal District (Presently working as Asst. Executive Engineer, NKUSIP Cell, Gadag-Betatgeri City Municipal Council, Gadag) (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/38/2016 Bengaluru dated 15/2/2016 nominated Additional Registrar of Enquiries-1, 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 her. Subsequently, by Order No. UPLOK-1/DE/2017, dated 6/7/2017, Additional Registrar of Enquiries-7,

Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO. Again as per Order No. UPLOK-1&2/DE/Transfers/2018 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 Smt. Shyamala, the then Asst. Engineer, Pattan Panchayath, Yalaburga, Koppal District (Presently working as Asst. Executive Engineer, NKUSIP Cell, Gadag-Betatgeri City Municipal Council, Gadag) was tried for the following charge:-

“While you DGO-1 Smt. Shamala working as then the Assistant Engineer in Town Panchayath of Yalaburga in Koppal District was responsible for execution of the development works under SFC grants during the year 2008-09 in Pattan Panchayath, Yalaburga and on investigation it is found that (i) No proper excavation of the earth work was done, (ii) Excavated surface not leveled properly as per the specifications, (iii) Road embankment was not properly formed, (iv) Cement concrete laying was not properly done, (v) Did not use good quality materials as per the orders of the Deputy Commissioner dated 26/02/2009 and thereby violated the Government Order dated 21/08/2008, (vi) You have not obtained clear permission from the competent authority, before calling for/inviting/ publishing the short term Tender Notification, (vii) Did not conclude single agreement/issue single work order for package 1 to 3 works and therefore you the DGO has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and therefore 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-13) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO Smt. Shyamala, the then Asst. Engineer, Pattan Panchayath, Yalaburga, Koppal District (Presently working as Asst. Executive Engineer, NKUSIP Cell, Gadag-Betatgeri City Municipal Council, Gadag).

5. On re-consideration of inquiry report and taking note of 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, she is due to retire from service on 14/5/2031.

7. Having regard to the nature of charge proved against DGO Smt. Shyamala, the then Asst. Engineer, Pattan Panchayath, Yalaburga, Koppal District (Presently working as Asst. Executive Engineer, NKUSIP Cell, Gadag-Betatgeri City Municipal Council, Gadag), it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO Smt. Shyamala with cumulative effect.

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

