

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO: LOK/INQ/14-A/383/2011/ARE-3

Multi Storied Building,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date:02/08/2018

RECOMMENDATION

Sub:-Departmental inquiry against;

- (1) Sri Arun Kumar, Assistant Executive Engineer, (Independent charge), Bruhat Bengaluru Mahanagara Palike, Rajajinagar Sub Division, Bengaluru;
- (2) Sri Somanna, Work Inspector, Ward No.16, Kamalanagar, Bruhat Bengaluru Mahanagara Palike, Bengaluru - Reg.

Ref:- 1) Government Order No.ನಅಇ 313 ಎಂಎನ್ಯು 2011,
Bengaluru dated 12/10/2011

2) Nomination order No. LOK/INQ/14-A/383/2011,
Bengaluru dated 4/11/2011 of Upalokayukta-1,
State of Karnataka, Bengaluru

3) Inquiry Report dated 30/7/2018 of Additional
Registrar of Enquiries-3Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 12/10/2011, initiated the disciplinary proceedings against (1) Sri Arun Kumar, the then Assistant Executive Engineer, (Independent charge), Bruhat Bengaluru Mahanagara Palike, Rajajinagar, Bengaluru and (2) Sri Somanna, Work Inspector, Ward No.16, Kamalanagar, Bruhat Bengaluru Mahanagara Palike, Bengaluru (hereinafter referred to as Delinquent Government Officials 1 & 2, for short as **'DGO-1 and DGO-2 respectively)** and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/383/2011, Bengaluru dated 4/11/2011 nominated Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGOs 1 & 2 for the alleged charge of misconduct, said to have been committed by them.

3. The DGO-1 Sri Arun Kumar, the then Assistant Executive Engineer, (Independent charge), Bruhat Bengaluru Mahanagara Palike, Rajajinagar, Bengaluru and DGO-2 Sri Somanna, Work Inspector, Ward No.16, Kamalanagar, Bruhat Bengaluru Mahanagara Palike, Bengaluru were tried for the following charges:-

“That you, Sri Arun Kumar (hereinafter referred to as Delinquent Government Official-1, in short DGO-1), while working as Asst. Ex. Engineer (Independent charge), Bruhat Bangalore Mahanagara Palike, Rajajinagara, Bengaluru demanded bribe of ₹25,000/- on 06/06/2009 from the Complainant Sri T. Nagaraju S/o. Late Thimmaiah No.120, 4th Cross, 16th Main, Bengaluru-86 and that on the same day you accepted the bribe of Rs.25,000/- from Complainant through Sri Somanna, Work Inspector, Ward No.16, Kamalanagar, Bruhat Bangalore Mahanagara Palike, Bangalore (hereinafter referred to as Delinquent Government Official-2, in short DGO-2) to grant permission for cutting the road to enable the Complainant to have water and sewerage connection to his house under construction situated at No.121, Sathyanarayana Layout in Basaveshwaranagar, Bangalore that is for doing an official act, and thereby both of you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a

Government servant and thus both of you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966.

That you Sri Somanna (hereinafter referred to as Delinquent Government Official-2, in short DGO-2) while working as Work Inspector, Ward No.16, Kamalanagar, Bruhat Bangalore Mahanagara Palike, Bangalore demanded and accepted a bribe of Rs.25,000/- on 06/06/2009 from the Complainant Sri T. Nagaraju S/o. Late Thimmaiah, No. 120, 4th Cross, 16th Main, Bangalore – 86 for you and for DGO No.1 to get the permission granted for cutting the road to enable the complainant to have water and sewerage connection to his house under construction situated at Site No. 121 of Satyanarayana Layout in Basaveshwaranagar, Bengaluru that is for doing an official act and thereby both of you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus both of 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 charges against DGO-1 Sri Arun Kumar, the then Assistant Executive Engineer, (Independent charge), Bruhat Bengaluru Mahanagara Palike, Rajajinagar, Bengaluru and DGO-2 Sri Somanna, Work Inspector, Ward No.16, Kamalanagar, Bruhat Bengaluru Mahanagara Palike, Bengaluru

5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry

Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGOs 1 and 2;


- (i) DGO-1 Sri Arun Kumar has retired from service on 31/7/2017 (during the pendency of inquiry); and
- (ii) DGO-2 Sri Somanna, has retired from service on 31/7/2018 (during the pendency of inquiry).

7. Having regard to the nature of charges (demand and acceptance of bribe) proved against DGO-1 Sri Arun Kumar and DGO-2 Sri Somanna;

- (i) it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO-1 Sri Arun Kumar, the then Assistant Executive Engineer, (Independent charge), Bruhat Bengaluru Mahanagara Palike, Rajajinagar, Bengaluru;
- (ii) it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO-2 Sri Somanna, Work Inspector, Ward No.16, Kamalanagar, Bruhat Bengaluru Mahanagara Palike, Bengaluru

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

Connected records are enclosed herewith.


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

KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/383/2011/ARE-3

M.S.Building,
Dr. B.R.Ambedkar Veedhi,
Bengaluru - 560001.Date: ~~30~~.7.2018 (30.7.2018)**Enquiry report**

Present: Sri.S. Renuka Prasad
Additional Registrar Enquiries-3

Sub: Departmental Enquiry against Sri Arun Kumar, the then Assistant Executive Engineer, (Independent charge), BBMP, Rajajinagar, Bengaluru and (2) Sri Somanna, Work Inspector, Ward No. 16, Kamalanagar, BBMP, Bengaluru
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- Ref: 1. Report under Section 12(3) of the Karnataka Lokayukta Act, 1984, in No. Compt/Uplok/BCD/593/2009/ARE-10 dated 10.8.2011
2. Government Order No. UDD 313 MNU 2011 Bengaluru dated 12.10.2011
3. Nomination Order No.LOK/INQ/14-A/383/2011 dated 4.11.2011 of Hon'ble Upalokayukta, Karnataka State, Bengaluru.

1. The complainant Sri T. Nagaraju S/o Late Thimmaiah, No.120, 4th Cross, 16th Main, Bangalore-86 (hereinafter referred to as 'complainant') has filed a complaint to Lokayukta police, Bengaluru City Division on 06.06.2009 against (1) Sri Arun Kumar, Assistant Executive Engineer, (Independent charge), BBMP, Rajajinagar, Bengaluru and Sri Somanna, Work Inspector, ward no. 16, Kamalanagar, BBMP, Bengaluru (hereinafter referred to as 'Delinquent Government Officials-1 & 2' for short 'DGOs-1&2')

making allegations against them, DGOs ^{1 & 2 are} ~~1 & 2~~ demanding him to pay Rs. 25,000/- by way of bribe in order to grant permission for road cutting, so as to enable him/complainant to lay water pipeline and drainage line and to take underground electric connection.

2. On registering a case on the basis of the said complaint, a trap was held on 6.6.2009 in the office of the ward office of BBMP, Rajajingar, situated in the Rajajinagar RTI complex wherein, Sri Somanna, Work Inspector, Ward No. 16, Kamalanagar, BBMP, Bengaluru/DGO-2 having demanded bribe from the complainant on behalf of DGO-1, received Rs. 25000/- from him. The tainted money of Rs. 25000/- was recovered from ^{the} right side pant pocket of DGO-2. Since it was revealed during investigation that, DGOs-1&2 have demanded bribe of Rs. 25000/- from the complainant in order to grant permission to him/complainant for road cutting so as to enable the complainant to lay water pipeline drainage line and to take underground electric connection and received Rs. 25,000/- from the complainant by way of bribe in order to attend the said work, and it was also revealed during investigation that, DGO-2, as per the instruction of DGO-1, received Rs. 25000/- on behalf of DGO-1, being the bribe amount from the complainant, the Police Inspector having conducted investigation, filed charge sheet against both DGOs 1 and 2. Further, since DGO-1 fled away from the office on the day of trap and remained absconded and avoided custodial interrogation by Lokayukta police, the name of DGO-1 has been shown in the absconding column of the charge sheet and thus filed charge sheet both against DGOs 1 and 2.
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 DGOs 1 and 2 providing them an opportunity to show-cause as to why recommendation should not be made to the Competent Authority, for initiating disciplinary proceedings against them. DGO-1 never bothered to submit any reply to the observation note whereas, DGO-2 has submitted his reply dated 19.8.2010 denying each and every allegations made against him and further pleaded his ignorance about registration of a case against him in Cr.No. 43/2009. He further contended that, he never seen the complainant at any point of time and he never received any money by way of bribe from the complainant on behalf of DGO-1. It is his contention that, the complainant has foisted a false case against him in order to spoil his career. Since the explanation offered by the DGO-2 was not satisfactory and DGO-1 since not filed any reply, a recommendation under Section 12(3) of the Karnataka Lokayukta Act was forwarded to the Competent Authority recommending to initiate disciplinary enquiry against DGOs 1 and 2 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 Urban Development Department by its order in No. UDD 313 MNU 2011 Bengaluru dated 12.10.2011 initiated disciplinary proceedings against DGOs 1 and 2 and entrusted the same to Hon'ble Upalokayukta to hold enquiry. As per the order issued against DGOs 1 and 2, the Hon'ble Upalokayukta issued a nomination order dated 4.11.2011 nominating ARE-3 to frame charges and to conduct enquiry against the DGO. Accordingly, charges were framed by the then ARE-3 against the DGOs 1 and 2 as under.

“Charge:

That you, Sri Arun Kumar (here in after referred to as Delinquent Government Official-1, in short DGO-1), while working as Asst. Ex. Engineer, (independent Charge), Bruhat Bangalore Mahanagara Palike, Rajajinagara, Bangalore demanded a bribe of ₹ 25,000/- on 06/06/2009 from the complainant Sri T. Nagaraju S/o Late Thimmaiah, No.120, 4th Cross, 16th Main, Bangalore-86 and that on the same day you accepted the bribe of Rs. 25000/- from the complainant through Sri Somanna, Work Inspector, Ward No.16, Kamalanagar, Bruhat Bangalore Mahanagara Palike, Bangalore (here in after referred to as Delinquent Government Official-2, in short DGO-2) to grant permission for cutting the road to enable the complainant to have water and sewerage connection to his house under construction situated at site no. 121 of Satyanarayana Layout in Basaveshwaranagar, Bangalore that is for doing an official act, and thereby both of you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus both of you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct)Rules 1966.

That you Sri Somanna (here in after referred to as Delinquent Government Official-2, in short DGO-2) while working as Work Inspector, Ward No.16, Kamalanagar, Bruhat Bangalore Mahanagara Palike, Bangalore demanded and accepted a bribe of Rs. 25000/- on 06/06/2009 from the complainant Sri T. Nagaraju S/o Late Thimmaiah, No.120, 4th Cross, 16th Main, Bangalore-86 for you and for DGO no.1 to get the permission granted for cutting the road to enable the complainant to have water and sewerage connection to his house under construction situated at site no. 121 of Satyanarayana Layout in Basaveshwaranagar, Bangalore that is for doing an official act, and thereby both of you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and thus both of 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 Nagaraju S/o Late Thimmaiah, No.120, 4th Cross, 16th Min, Bangalore-86 lodged a complaint on 06/06/2009 before the Police Inspector, Karnataka Lokayukta City Division, Bangalore alleging that he has been constructing his house in Satyanarayana Layout of Basaveshwaranagar of Bangalore after obtaining the sanction plan from BBMP and that water and sewerage connections are necessary to the said house and that he went to Sri Arun Kumar, Asst. Ex. Engineer, (independent Charge), Bruhat Bangalore Mahanagara Palike, Rajajinagara, Bangalore (here in after referred to as Delinquent Government Official-1 in short DGO-1) and asked him to grant the permission for road cutting to enable him to get water and sewerage connection to his house under construction and that the DGO no.1 demanded a bribe of Rs. 25000/- for granting the road cutting permission.

As the complainant was not willing to pay any bribe to DGO no.1, he went to Police Inspector, Karnataka Lokayukta City Division, Bangalore on 06/06/2009 and lodged a complaint. On the basis of the same a case was registered in City Division, Bangalore Lokayukta Police Station Cr. No. 43/2009 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 Sri Somanna DGO no.2 was trapped on 06/06/2009 by the Investigating Officer after DGO-2 demanding and accepting the bribe amount of ₹ 25,000/- for himself and for DGO no.1 from the complainant in the presence of shadow witness and the said bribe amount of ₹ 25,000/- was recovered from the possession of DGO no.2 under the seizure mahazar after following the required post trap formalities. At the time of the trap mahazar when the complainant insisted that he would pay the bribe amount of Rs. 25000/- demanded by DGO no.1 in his hands only, DGO no.2 insisted the complainant stating that he was the person who was to

prepare the file and put it up before the DGO no.1 and that he would get the permission signed by DGO no.1 and inspite of the complainant telling that the said bribe amount of Rs. 25000/- would be paid in the hands of DGO no.1, DGO no.2 insisted for the payment of the same.

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 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 nos.1 and 2 demanded a bribe of Rs. 25000/- from the complainant and DGO no.2 accepted the bribe of ₹ 25,000/- from the complainant on 06/06/2009 for himself and for DGO no.1 for doing an official act i.e., for granting permission for cutting the road to enable the complainant to have water and sewerage connection to his house under construction situated at site no. 121 of Satyanarayana Layout in Basaveshwaranagar, Bangalore. Thus you, the DGOs 1 and 2, have failed to maintain absolute integrity and devotion to duty and this act on your part is unbecoming of a Government servant. Hence, both of 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 both of you. Thereafter after considering the material on record, recommendation was made to the Competent Authority under Section 12(3) of the Karnataka Lokayukta, Act 1984, to initiate Departmental Proceedings against you both, the DGOs no.1 and 2. The Government after considering the recommendation made in the said report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/ disciplinary proceedings against you both, the DGOs 1 and 2 and to submit report. Hence the charge."

4. The Articles of Charges and Statement of Imputations are duly served on the DGOs 1 and 2. They have appeared in response to the notice issued to them and First Oral Statement of the DGOs 1 and 2 was recorded. They have denied the allegations made against them in the AOC. They have engaged the services of an advocate to appear on their behalf and to defend them, in this enquiry.

5. DGO-1 has filed his written statement on 21.11.2012 and DGO-2 has filed his written statement on 9.10.2012 denying the charges made against them. DGO-1 has taken up a contention that, during his tenure as Assistant Executive Engineer he has received many complaints against one Sri B.R. Jayalakshmi making allegations against her that, she is constructing house just below the high tension electrical line, within the jurisdiction of ward no. 16 of Kamalanagar and hence he/DGO-1 reported the said matter to Executive Engineer and he also apprised the fact to Assistant Director (West) City Planning, who issued notice against the said owner and further withdrawn the license. On the basis of the said order of Assistant Director, he/DGO-1 issued notice to the owner of the building to stop construction and not to proceed with the construction as the license granted has been cancelled. According to DGO-1, though the construction was stopped temporarily, the construction activities were once again commenced without obtaining fresh license and hence he issued a provisional order ordering for demolition of the construction and because of this reason, the complainant developed grouse against him and has filed a false complaint against him making false allegations against him. It is his further contention that, no application seeking for permission road cutting was pending with him, as such there was no occasion for him to demand any bribe from the complainant. He has also taken up a further contention that, he never instructed

DGO-2 to receive bribe money on his behalf from the complainant and he has been falsely implicated in the case. He has also made allegations against the Work Inspector Somanna, (DGO-2) that, unscrupulous man Somanna tried to make his own gain by receiving money from the complainant and in order to save himself, he/DGO-2 took his name (name of DGO-1) and having conspired with Lokayukta police, falsely implicated him in this case.

6. DGO-2 has filed separate written statement denying each and every allegations made against him in the AOC and reiterated his contention that, he never seen the complainant at any point of time and never demanded or received any bribe from the complainant and a false case has been foisted against him.
7. Taking up such contentions, both DGOs 1 and 2 have requested this authority to absolve them from the charges levelled against them.
8. During enquiry, on behalf of the Disciplinary authority 3 witnesses have been examined as PW1 to PW3 and 18 documents came to be marked as Ex-P1 to Ex-P18. After closure of the evidence on behalf of the disciplinary authority, second oral statement of the DGOs 1 and 2 was recorded. Since, DGOs desired to lead defence evidence by examining themselves in order to put forth their defence, permission was granted to them accordingly. DGO-1 has examined himself as DW-1 and 10 documents were got marked on his behalf as Ex-D1 to Ex-D10 and DGO-2 examined himself as DW-2 and he did not chose to produce any documents in support of his defence.
9. Thereafter, the learned Presenting Officer has filed written arguments. The learned counsel for DGO has submitted his written

arguments and also produced the copy of the judgment dated 23.4.2018 in Spl. C.C. No. 46/2010 and vehemently argued that, since the Spl. Court acquitted both DGOs 1 and 2, by absolving them from the charges levelled against them, it has to be held that charges against DGOs 1 and 2 are not proved in this enquiry. Thereafter, this matter is taken up for consideration,

10. The points that would arise for my consideration are:

Point No.1: Whether the charge framed against the DGO-1 is proved by the Disciplinary Authority?

Point No.2: Whether the charge framed against the DGO-2 is proved by the Disciplinary Authority?

Point No.3: What order?

11. The above points are answered as under:

Point No.1: In the 'Affirmative'

Point No.2: In the 'Affirmative'

Point No.3: As per the conclusion.

REASONS

Point No.1 & 2:-

12. DGO-1 was working as Assistant Executive Engineer, (Independent charge), BBMP, Rajajinagar ward office, Bengaluru and DGO-2 was working as Work Inspector, Ward no. 16, Kamalanagar ward office of BBMP during the relevant period.

13. The complainant in his complaint Ex-P7 has stated that, he is constructing a house in his plot situated at Sathyanarayana Extension, Basaveshwaranagar and in order to lay water pipe line, drainage line and to obtain underground electricity connection, road cutting is necessary and in order to obtain necessary permission for

road cutting, he approached DGO-1 and 2 and enquired with them about permission for road cutting. It is his allegation that, DGO-1 asked him to file necessary application seeking permission and further demanded him to pay Rs. 25000/- by way of bribe in order to grant him required permission for road cutting and even DGO-2 who took him to DGO-1 also demanded for money. The complainant claimed that, he has recorded the said conversation of demand for bribe made by the DGOs^{1 & 2} and produced the said recording in a CD while filing his complaint to Lokayukta police.

14. On the basis of the complaint so filed by the complainant on 6.6.2009 the Police Inspector, Karnataka Lokayukta, Bengaluru City Division has registered a case in Cr. No. 43/2009 under Sections 7,13(1)(d) R/w 13(2) of P.C Act, 1988 against both DGOs 1 and 2 and took up investigation.
15. An entrustment proceedings was conducted in the Lokayukta Police Station on 6.6.2009 in the presence of two panch witnesses viz., Sri P.B. Manjunath, SDA, Treasury Department and Sri R. Nagaraj, Junior Work Inspector O/o Assistant Executive Engineer, Building Sub-Division, PWD and in the said proceedings, the bait money of Rs. 25000/- consisting of 25 currency notes of Rs. 1000/- denomination each, given by the Complainant, were smeared with phenolphthalein powder making it as tainted money, and the said tainted notes was entrusted to the Complainant, asking him to give that money to the DGOs 1 and 2 when he meets them and only in case if they demand for bribe. Panch witness Sri Manjunath was sent along with the complainant, as a shadow witness. The complainant was given a voice recorder asking him to switch on the same when he meets the DGOs 1 and 2 and to record the conversation with them, while paying money to them.

16. The complainant accompanied with shadow witness went to the ward office of BBMP situated at Rajajinagar RTO complex and since DGO-1 was not available in office, the complainant enquired DGO-2 regarding whereabouts of DGO-1. DGO-2 told the complainant that, DGO-1 had gone to some work and asked the complainant to give money to him claiming that, DGO-1 instructed him to receive money from him/complainant. Initially the complainant was reluctant to give money in the hands of DGO-2 and hence he tried to contact DGO-1, but he could not contact him on his mobile. DGO-2 asked the complainant to give money to him stating that, DGO-1 had specifically instructed him to receive money from him/complainant, and hence he/DGO-2 was waiting for him and insisted the complainant to give money to him and he will pass on that money to DGO-1. By saying so, DGO-2 took the complainant to the verandha where his two wheeler was found parked and asked the complainant to give money and application to him. Hence, the complainant gave the tainted notes of Rs. 25000/- to DGO-2 and also gave the application with annexed documents seeking permission for road cutting, DGO-2 having receiving tainted notes from the complainant, kept those notes in the right side pocket of his pant and the application and documents received from the complainant have been kept by him in the dickey of his scooter bearing no. KA 04 874 . Thereafter, the complainant while standing near the said scooter of DGO-2 in the verandha, gave pre-arranged signal to the Police Inspector. Even the shadow witness who was with the complainant has seen all these happenings of DGO-2 receiving the tainted notes from the complainant on telling to him that, he has been instructed by DGO-1, to receive money by him.

17. On receiving the signal, the Police Inspector and his staff and another panch witness approached the complainant and he showed DGO-2 claiming that, DGO-2 has received money from him by telling him that, he had due instructions from DGO-1, to receive money on his behalf.
18. The Police Inspector introduced himself to DGO-2 and explained to him about the registration of a case against him and DGO-2^{and} asked him to co-operate in the investigation. DGO-2 disclosed his name as Somna Work Inspector, Ward No. 16, Kamalanagar, BBMP, Bengaluru.
19. The Police Inspector got prepared sodium carbonate solution in two separate bowls and asked DGO-2 to wash his both hand fingers separately in those two bowls containing solution. When DGO-2 washed his right hand fingers and left hand fingers separately in those two bowls containing sodium carbonate solution, the solution in both the bowls turned into pink colour. The said pink coloured solution of right hand wash and left hand wash of DGO-2 was collected in two separate bottles and sealed the same.
20. Thereafter, the Police Inspector asked the DGO-2 about the money he has received from the complainant. DGO-2 having taken out money from his right side pant pocket, produced the same before the Police Inspector which was containing 25 currency notes of Rs. 1000/- denomination each. 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 and seized the same.

21. By providing an alternate pant to DGO-2, pant worn by him was got removed and packed and sealed the same for the purpose of sending it to FSL.
22. The Police Inspector asked DGO-2 to give his explanation in writing. DGO-2 gave his explanation in writing as per Ex-P3 claiming that, as per the instructions of DGO-1, he has received that money from the complainant in order to hand over that money to DGO-1. He further claimed that, he never demanded the complainant, to pay any bribe.
23. DGO-2 was asked to produce the application and other documents given by the complainant along with the tainted money. DGO-2 took out those documents from the dickey of his scooter bearing no. KA 01 874 and produced the same before IO and IO seized those documents.
24. During enquiry, the complainant is examined as PW2 who narrated in detail explaining the circumstances which forced him to file a complaint against the DGO-1 on 6.6.2009. He reiterated the allegations he has made against DGO-1 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.25,000/- to him and preparation of entrustment mahazar as per Ex-P7.
25. While explaining the circumstances under which he has filed the complaint, he stated that, in order to obtain permission for road cutting, an application was to be filed to the BBMP ward office and hence he approached DGO-1 and 2 on 4.6.2009 and tried to give the said application seeking permission for road cutting. The

complainant has reiterated his allegation that, DGO-1 did not receive the said application and demanded him to pay Rs. 25000/- in order to give permission and thus refused to receive the application saying that, unless the amount is paid, application will not be received. PW1 has further contended that, he recorded the said conversation with the DGO-1 and 2 on his mobile and while filing complaint on 6.6.2009 as per Ex-P7 he has produced his mobile phone, containing his conversation with DGO-1 and 2 before the Police Inspector.

26. According to his evidence during the entrustment proceedings, the said conversation from his mobile phone was transferred into CD and further gave details of entrustment proceedings and entrustment of tainted notes of Rs. 25000/- to him in the said proceedings.
27. He further stated that, he accompanied with shadow witness and went to the O/o BBMP which is situated in the RTO complex Rajajinagar to meet DGO-1. He has further stated that, DGO-1 since was not in his office, he tried to contact him on his mobile but, he could not contact DGO-1 even on his mobile. Then he met DGO-2 and enquired him about the whereabouts of DGO-1. Then DGO-2 asked him to give money to him stating that, DGO-1 has instructed him to receive money and application from him/complainant. PW1 has further contended that, he initially reluctant to pay money to DGO-2 but, DGO-2 also tried to contact DGO-1 on his mobile but, even he could not contact DGO-1 on his mobile. PW1/complainant has further deposed that, DGO-2 asked him/complainant to pay money to him as he has got instruction from DGO-1 to receive money from him and further told the complainant that, he will hand over the said money to DGO-1 and see that, his work will be

attended without fail. Hence, he/complainant claimed that, he paid money to the hands of DGO-2 and also gave the application seeking permission for road cutting and DGO having received the same kept the application in the dicky box of his scooter and having counted the money, kept the money given to him in the right side pocket of his pant. Complainant claimed that, thereafter, he gave pre-arranged signal to the Police Inspector.

28. He further gave details regarding arrival of Police Inspector on receiving his signal and obtaining of right hand wash and left hand wash of the DGO-2 which gave positive result and recovery of tainted notes of Rs. 25000/- from right side pant pocket of DGO-2. He further stated that, by providing an alternate pant to DGO-2, the pant worn by him was got removed and the right side pocket portion of the pant when dipped in separate bowl containing sodium carbonate solution, the solution turned to pink colour and the said pink coloured solution was collected in a separate bottle and pant of DGO-2 was also seized by packing the same and seized along with hand wash of DGO-2 collected in two separate bottles. When DGO-2 was asked to give his explanation in writing, DGO-2 gave his explanation as per Ex-P3. He further gave details regarding preparation of the trap mahazar as per Ex-P4 and other details of the trap proceedings. He has further stated that, the voice recorder entrusted to him was taken back from him and it was played in the presence of panch witnesses and DGO-2, which was found to contain the conversation taken place between him and DGO-2 recorded in it.
29. The complainant was thoroughly cross examined by the learned counsel for DGOs 1 and 2 separately. On behalf of DGO-1 complainant was cross examined by putting various suggestions to him regarding the issue of notice to one Jayalakshmi the erstwhile

owner of the said site, where the complainant is constructing a house. He pleaded his ignorance about those details and contended that, the said site no. 138 was originally belonged to Smt. Jayalakshmi and the said site was purchased in the name of his wife Smt. Champa and the house is being constructed in the said site by him. The complainant was cross examined with reference to his allegation of payment of Rs. 5000/- as part payment to DGO-1 on 4.6.2009. But the complainant has admitted that, he has not stated those details in his complaint. He has reiterated his allegation that, DGO-1 demanding him to pay Rs. 25000/- by way of bribe, received Rs. 5000/- as part payment on 4.6.2009 but did not receive his application, but asked him to give the application along with the entire amount of Rs. 25000/- as demanded by him and then only he would receive the application along with Rs. 25000/-.

30. He has further claimed that, after he met DGO-2 in the ward office of BBMP and since DGO-2 asked him to pay money claiming that, he has instruction from DGO-1 to receive money from him, he tried to contact DGO-1 on his mobile but he could not contact him. During his cross examination he has further stated that, he does not remember whether on 6.6.2009 he called DGO-1 on his mobile or whether DGO-2 called DGO-1 through his mobile.
31. A further suggestion was put to him on behalf of DGO-1 that, the building plan sanctioned in the name of Jayalakshmi was subsequently cancelled. The complainant claimed that, after he filed complaint to Lokayukta police, and after the trap of DGO-2, the building plan issued in the name of Jayalakshmi came to be cancelled. He pleaded his ignorance as to whether the building plan sanctioned in the name of Jayalakshmi was already cancelled even prior to obtaining of the sale deed from Jayalakshmi in the name of

his wife Champa. He has further admitted that, construction of his house in the said site was in progress even prior to obtaining of the sale deed in the name of his wife. The suggestion put to him that, since DGO-1 tried to stop the construction of the house in the said plot on the ground that the said plot is situated just below the high tension line, he has filed a false complaint against DGO-1. This suggestion has been denied by the complainant. The complainant has further admitted that, he has filed two more similar cases against the electrical inspector and KEB officials, but denied the suggestion that, he is a habitual person filing complaint against Government officials to coerce them to do his work.

32. The complainant has been cross examined even on behalf of DGO-2 by his counsel. A suggestion was put to him that, though DGO-2 never demanded any money from him, he has forcibly paid the money and the application to DGO-2. All other suggestions put on behalf of DGO-2, have been categorically denied by him.
33. Shadow witness Sri P.B. Manjunath has been examined as PW1. In his evidence, he has narrated in detail regarding conducting of entrustment proceedings in the Police Station and entrustment of tainted notes of Rs.25000/- to him. He has further stated that, he accompanied the complainant and went along with him and went inside the BBMP office in RTO complex at Rajajinagar. According to him, the complainant spoke to DGO-2 and thereafter, gave money to him and also the application and DGO-2 having received the money from the complainant kept it in his shirt pocket. He further gave details regarding the recovery of tainted notes from the possession of DGO-2. He further gave details regarding obtaining of hand wash of both the hands of DGO-2 which gave positive result and recovery of tainted notes from the right side pant pocket of DGO-2 and also

subjecting the right side pant pocket of DGO-2 to phenolphthalein test which gave positive result. He also gave details regarding the voice recorder entrusted to the complainant when played was found to contain the conversation took place between the complainant and DGO-2 found recorded in it and one Gurunath identified the voice of the DGO in the said conversation. Though DGO-2 having received tainted notes from the complainant kept the same in his right side pant pocket, but this witness/PW1 has stated that, he/DGO-2 kept the money in his shirt pocket. But further admitted recovery of tainted notes from the right side pant pocket of DGO-2 and subjecting the right side pocket portion of the pant of DGO-2 to phenolphthalein test.

34. Since PW2 failed to support the case of the disciplinary authority with reference to certain material particulars of the trap proceedings, he has been treated as partly hostile witness and he has been cross examined to that extent. During his cross examination he has admitted that, the complainant enquired DGO-2 about the whereabouts of DGO-1 and DGO-2 told the complainant that, his sahib/DGO-1 asked him to collect money from him/complainant and give that money to him/DGO-1 afterwards. He has further admitted that, the money given by the complainant was collected by DGO -2 and he/DGO-2 having received that money from the complainant kept that money in the right side pocket of his pant.
35. PW1 has been cross examined by the learned counsel for DGO-1 but nothing was elicited to disbelieve his evidence in so far as the role of DGO-1 in this trap proceedings. PW1/shadow witness has been cross examined even on behalf of DGO-2 by his counsel. During his cross examination, the learned counsel except putting suggestion

that complainant did not directly give the money to DGO-2, no suggestion was put to him that, complainant forcibly gave that money to DGO-2. But the fact of DGO-2 received money from the complainant is not at all disputed or denied on behalf of DGO-2 during the cross examination of PW1/shadow witness.

36. 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 Police Station and entrustment of tainted notes of Rs. 25000/- to the complainant. He has stated that, the complainant while filing his complaint has produced one CD containing recorded conversation claiming that, he has recorded the conversation with DGOs 1 and 2 regarding demand for money by way of bribe from him, to give permission for road cutting.
37. He further gave details regarding the trap proceedings and obtaining of the hand wash of both the hands of DGO-2 which gave positive result and recovery of tainted from the right side pant pocket of DGO-2 and seizure of the application given by the complainant to DGO-2 from the dicky box of his scooter. He further deposed regarding giving of written explanation by the DGO-2 as per Ex-P3 claiming that, as per instructions of DGO-1 he received that mount from the complainant.
38. He further deposed in his evidence claiming that, the conversation recorded by the complainant which he has produced by way of CD at the time of filing of the complaint and also the conversation recorded in the voice recorder during the trap proceedings, were got transcribed and the transcription of those conversation are marked during his evidence as per Ex-P11 to P13. .

39. The learned counsels for DGOs 1 and 2, have thoroughly cross examined him with regard to various aspects of investigation he has conducted. During his evidence PW3 has stated that, he sent all the seized articles for chemical examination and obtained chemical examiners report as per Ex-P14 and obtained service particulars of DGOs 1 and 2 as per Ex-P16(1)&(2).
40. PW-3 has further claimed that, on the day of trap he tried to apprehend DGO-1 but, DGO-1 was not available in the office as he ran away from the office and thereafter, he remained absconded and hence DGO-1 could not be arrested. He has further stated that, since the date of trap, DGO-1 did not attend the office and hence DGO-1 could not be arrested and interrogated and hence by showing his name in the absconding column of the charge sheet, charge sheet was filed both against DGO-1 and DGO-2.
41. Though PW3 was cross examined on behalf of DGOs 1 and 2 separately by their learned counsels, nothing was elicited to disbelieve his evidence. Certain questions were put to him about the alleged money transactions between the complainant and one Taranath but PW3 claimed that, the said Taranath has no role to play in the episode of demand for bribe by DGO-1 and acceptance of bribe money by DGO-2 on behalf of DGO-1.
42. Both DGOs 1 and 2 have adduced their defence evidence. DGO-1/DW-1 in his defence evidence has stated regarding the issuance of notice to Smt. B.R. Jayalakshmi, the erstwhile owner of plot no. 138 which was subsequently purchased by the complainant in the name of his wife Champa. He has produced various documents Ex-D1 to D10 to support his defence contention and reiterated his contention

that, no work of the complainant was pending with him and the complainant has not given any application seeking for road cutting to him and further claimed that, hence question of he demanding any bribe from the complainant does not arise. He further denied the suggestion put to him that, DGO-2 received money from the complainant as per the instructions given by him, to him, but DGO-1 /DW-1 has denied this suggestion. During his cross examination, suggestion was put to him that, on coming to know about the trap of DGO-2, he went absconded to evade arrest by Lokayukta police. He has denied this suggestion. A further suggestion put to him that, after he resumed attending his duties, he has manipulated the attendance register by signing even on the dates of his abscondance and produced the extract of attendance register as per Ex-D10 to take advantage of that document. He has denied even that suggestion.

43. DW-2/DGO-2 in his evidence has claimed that, the complainant never filed any application seeking for permission for road cutting either to the office or to him personally, and he never put forth any demand for bribe to the complainant. He further taken up a defence contention in his sworn affidavit produced in lieu of his chief examination, which reads as follows:

“6. ದಿನಾಂಕ 6.6.2009 ರಂದು ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಏಕಾಏಕಿ ನನ್ನನ್ನು ಹಿಡಿದು ಬಲವಂತವಾಗಿ ನೋಟಿನ ಕಂಠೆಯನ್ನು ಕೈಗಳಿಂದ ಮುಟ್ಟಿಸಿ ನನ್ನನ್ನು ತಾಣೆಗೆ ಕರೆತಂದು ಪೊಲೀಸ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಹೇಳಿದಂತೆ ನನ್ನಿಂದ ಹೇಳಿಕೆಯನ್ನು ಒತ್ತಾಯಪೂರ್ವಕವಾಗಿ ಬರೆಸಿಕೊಂಡು ಬಲವಂತವಾಗಿ ನನ್ನಿಂದ ಸಹಿ ಪಡೆದಿರುತ್ತಾರೆ.

7. ಈ ವಿಚಾರಣೆಗೆ ಮತ್ತು ಈ ಪ್ರಕರಣಕ್ಕೆ ಅನುಕೂಲವಾಗುವಂತೆ ನನ್ನಿಂದ ಬಲವಂತವಾಗಿ ದಾಖಲೆ ಮತ್ತು ವಸ್ತುಗಳನ್ನು ವಶಪಡಿಸಿಕೊಂಡಿರುತ್ತಾರೆ.”

44. During his cross examination, he even went to an extent of denying the recovery of tainted notes of Rs. 25000/- from his pant pocket and giving of written explanation as per Ex-P3. Whatever suggestion put to him during his cross examination, he/DGO-2 went on denying those suggestions. But he never taken up any such contention that, complainant has forcibly given money to him, though such a defence contention was taken on behalf of DGO-2 during the cross examination of PW-1 and PW2. Therefore, it can be concluded that, DGO-2 has not taken up such a defence contention at the earliest opportunity available to him, while filing his reply to the observation note and ~~submitting~~^{on} filing his written statement during this enquiry. Therefore, it appears that, DGO-2 has taken up such a contention during his defence evidence, by way of an afterthought, though no such contention was taken while cross examining PW3/IO.

45. It is pertinent to note that, DGO-2 gave his explanation in writing as per Ex-P3 wherein he has categorically admitted that, DGO-1 gave him instructions asking him to receive Rs. 25000/- from Nagaraj/complainant and give that money to him afterwards, as he was going out of the office on some work. The relevant portion of the written explanation given by DGO-2 in Ex-P3, reads as follows:

“ ವಾರ್ಡ್ ಸಂಖ್ಯೆ: 16 ರಲ್ಲಿ ಕೆಲಸ ಪರಿವೀಕ್ಷಕರಾಗಿ ಸುಮಾರು 6 ತಿಂಗಳಿಂದ ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿದ್ದು ವಾರ್ಡ್ ಸಂಖ್ಯೆ 16 ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ಸತ್ಯನಾರಾಯಣ ಬಡಾವಣೆಯಲ್ಲಿ ನಾಗರಾಜು ಎಂಬುವರು ಕಟ್ಟಡ ಕಟ್ಟುತ್ತಿದ್ದು ಇವರು ಕಟ್ಟಡ ಮತ್ತು ಕಟ್ಟಡಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ರಸ್ತೆ ಅಗೆತದ ಪರವಾನಿಗೆ ನೀಡಲು ಸಹಾಯಕ ಅಭಿಯಂತರರು ಅರುಣ ಕುಮಾರ್ ರವರ ಹತ್ತಿರ ನಾಗರಾಜು ರವರು ಪರವಾನಿಗೆ ಬಗ್ಗೆ ಮಾತುಕತೆ ನಡೆಸಿ, ಅರುಣ ಕುಮಾರ್ ರವರು ನನಗೆ ನಾಗರಾಜು ರವರು 25000/- ಗಳನ್ನು ಕೊಡುತ್ತಾರೆ, ಆ ಹಣವನ್ನು ಪಡೆದು ಅರುಣ ಕುಮಾರ್ ರವರು ನಾನು ಹೊರಗಡೆ ಹೋಗುತ್ತಿದ್ದೇನೆ, ನಾಗರಾಜುರವರು ನೀಡುವ ಹಣವನ್ನು ತೆಗೆದುಕೊಂಡು ನನಗೆ ಆಮೇಲೆ ಹಣವನ್ನು ಕೊಡಿ ಎಂದು ತಿಳಿಸಿರುತ್ತಾರೆ. ಈ ಹಣಕ್ಕೆ ನಾನು

ಯಾವುದೇ ಡಿಮಾಂಡ್ ಮಾಡಿರುವುದಿಲ್ಲ ಈ ಹಣವನ್ನು ನಾನು ಜೇಬಿನಲ್ಲಿ ಇರಿಸಿಕೊಂಡ ನಂತರ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ನನ್ನನ್ನು ದಸ್ತಗಿರಿ ಮಾಡಿರುತ್ತಾರೆ.”

46. The fact of giving such a written explanation as per Ex-P3 has not been denied by DGO-2 while furnishing his reply to the observation note and even no such contention was taken up by him while filing his written statement in this enquiry. In his written statement, except denying the allegations made against him in the AOC, he has not taken up any specific defence contention. He claimed in his written statement that, he never demanded or accepted bribe of Rs. 25000/- from the complainant on 6.6.2009. Even during the cross examination of PW1/shadow witness and while giving his defence evidence, DGO-2 has not come out with any explanation as to how the tainted notes of Rs. 25000/- came to be kept in his pant pocket. Even the hand wash of both the hands of DGO-2 was obtained during the trap proceedings gave positive result. The chemical examiner's report regarding the chemical examination conducted on right hand wash and left hand wash of DGO-2 confirms the presence of phenolphthalein in the said hand wash of DGO-2. Therefore, it can be concluded that, DGO-2 has received of Rs. 25000/- from the complainant. Further, the evidence of PW1 and PW2 and the trap mahazar confirms the fact of recovery of tainted notes of Rs. 25000/- from the pant pocket of DGO-2. Further the right side pocket portion of the pant was subjected to phenolphthalein test which gave positive result. Therefore, the recovery of tainted notes from the pant pocket of DGO-2 has been established in this enquiry. Further, it is the case of complainant that, along with the tainted notes he gave application to DGO-2 seeking permission for road cutting. It is the specific allegation of the complainant that, since DGO-1 asked him to give an application seeking permission for road cutting, while paying money demanded

by him, the complainant while giving bribe amount in the hands of DGO-2 also gave the application to him. It is the evidence of PW1 and PW2 that, the application and documents given by the complainant to DGO-2 while giving money to him, has been seized from the dicky box of scooter of DGO-2 and those documents are produced during enquiry as per Ex-P9. The recovery of these documents from the dicky box of the scooter of DGO-2 during the time of trap, has not been disputed or denied on behalf of DGO-2. This is also another factor which strengthens the case of the disciplinary authority that, DGO-2 has received bribe amount of Rs. 25000/- from the complainant. In the absence of any contrary evidence produced by DGO-2 in this enquiry, there is nothing to disbelieve the evidence of PW1 and PW2 and materials produced during this enquiry, to establish these aspects. Hence, I have no hesitation to conclude that charges against DGO-2 stands established.

47. Regarding the role played by DGO-1 in this episode of demand for bribe from the complainant and receipt of bribe amount of Rs. 25000/- through DGO-2, the materials made available by the disciplinary authority have to be considered in order to decide whether, the charges against DGO-1 are also established. Admittedly, DGO-1 was not present at the time of trap when DGO-2 was caught red handed while accepting bribe from the complainant. So far as the allegation made against DGO-1 is concerned, the complainant has made allegations against both DGOs 1 and 2 by mentioning their names in the complaint that, they are demanding him to pay Rs. 25000/- by way of bribe. In addition to this, the complainant has claimed that, he has recorded the conversation with DGOs 1 and 2, earlier to filing of the complaint and produced CD containing the said conversations, along with his complaint. The



transcription of the said conversation have been produced as per Ex-P11 to P13. The details of the conversation taken place between the complainant and DGO-2 have been mentioned in detail in Ex-P11 and Ex-P12 whereas, DGO-2 on taking the complainant to DGO-1 made him to speak with DGO-1 and the conversation between DGO-1 and DGO-2 and the complainant were found recorded in the said conversation as transcribed in Ex-P13. There is nothing to disbelieve these conversations wherein, DGO-1 has specifically asked the complainant to pay him bribe in order to grant permission for road cutting. These conversations as per Ex-P11 to P13 when considered in context with the written explanation given by DGO-2 as per Ex-P3, it can be concluded that, DGO-1 has made demand for bribe in order to grant permission to the complainant for road cutting and further gave instruction to DGO-2 to receive the bribe amount from the complainant and to give that money to him afterwards, after he returns to the office. Therefore, it can be concluded that, DGO-1 has demanded bribe while talking with the complainant in the presence of DGO-2, wherein DGO-2 has also demanded bribe from the complainant during the said conversation in order to attend the said work of granting permission for road cutting.

48. Though DGO-1 has taken up a contention in his written statement making allegations against DGO-2 that, he/DGO-2 is an unscrupulous man and tried to make his own gain by receiving money from the complainant and in order to save himself, he/DGO-2 took his name (name of DGO-1) while giving his explanation in writing thereby falsely implicated him in this trap case, but no such contention was taken by DGO-1 during the enquiry. DGO-2 examined himself as DW-2 put forth his defence. But there was no impediment for DGO-1 to cross examine DGO-2/DW-2 taking up

such contention that he has been falsely implicated by him/DGO-2 in this trap. This is also another factor which persuaded me to believe the case of the disciplinary authority, in order to come to the conclusion that, DGO-2 received money from the complainant at the behest and as per the direction of DGO-1 and hence the allegation of demand for bribe made against DGO-1, can be believed.

49. Since DGO-2 has received money from the complainant which was later recovered from his pant pocket and further it is established that, DGO-2 gave his explanation admitting receipt fo Rs. 25,000/- from the complainant and further categorically claimed in Ex-P3 that, DGO-1 while going out of the office gave him specific instructions asking him/DGO-2 to receive Rs. 25000/- from the complainant and give that money to him after his return and DGO-2 has since stated these details in his written explanation, I have no hesitation to conclude that, both DGOs 1 and 2 have demanded payment of Rs. 25000/- by way of bribe in order to grant permission to the complainant for road cutting and DGO-2 has received the bribe amount of Rs. 25000/- on behalf of DGO-1 and as per the instructions given to him by DGO-1. Therefore, both DGO-1 and DGO-2 have committed misconduct in demanding bribe and DGO-2 accepting bribe from the complainant on behalf of DGO-1. Hence, I hold that, the charge even against DGO-1 are established by the disciplinary authority.
50. The learned counsel for the DGOs 1 and 2 have vehemently argued that, since DGOs 1 and 2 have been acquitted by the LXXVIII Additional City Civil and Sessions Judge and Spl. Judge (PCA) Bengaluru in Special C.C.No. 46/2010 vide judgment dated 23.4.2018, the charges against the DGOs have to be held not proved and the DGOs have to be absolved from the charges leveled against them. The Hon'ble Supreme Court in the decision reported in

2015(2) SCC 365 (S.Bhaskar Reddy Vs. Superintendent of Police) while setting aside the order of dismissal passed against the appellant, made an observation that, if the official has been honorably acquitted in the criminal trial, the disciplinary authority shall take note of that aspect and if the criminal case and departmental proceedings are based on similar facts and evidence and if the trial court acquitted the Government official honorably, then the disciplinary authority considering the grounds on which the trial court acquitted the Government official and on that basis, take a decision as to whether the report of the enquiry officer in a departmental proceedings can be accepted or not and on that basis, can decide whether the charges against the Government official stands proved or not.

51. In pursuance of the Government order issued entrusting the proceedings to Hon'ble Upalokayukta under Section 14-A of KCS(CCA) Rules, a nomination order was issued by the Hon'ble Upalokayukta directing ARE-3 to frame charges and to hold enquiry and to submit a report as to whether the charges framed against the DGO is proved or not. Hence, the enquiry officer has to frame charge and to hold an enquiry and to prepare a report as to whether the evidence adduced on behalf of the disciplinary authority are sufficient to hold that, the charges against the DGO has been established or not. The enquiry officer has to independently consider the evidence made available on behalf of the disciplinary authority during the enquiry, without considering the judgment of the criminal court since the Hon'ble Supreme Court in a decision reported in 2012(1) SC 442 (Divisional Controller, KSRTC Vs. M.G. Vittal Rao) observed as follows:

“ Thus there can be no doubt regarding the settled legal proposition that the standard of proof in both the proceedings is quite different and the termination is not based on mere conviction of an employee in a criminal case, the acquittal of the employee in a criminal case cannot be the basis of taking away the effect of departmental proceedings nor can such an action of the department be termed as double jeopardy. The judgment of this court in Captain M. Paul Antony does not lay down the law of Universal application. Facts, charge and nature of evidence etc., involved in an individual case would determine as to whether decision of acquittal would have any bearing on the findings recorded in the domestic enquiry.”

52. Even in the decision rendered by the Hon'ble Supreme Court in S. Bhaskar Reddy case, the Principle laid down in Paul Anthony case has been relied upon. But, in the decision in M.G. Vittal Rao's case, the Hon'ble Supreme Court made it clear that, Paul Anthony's case does not lay down the law of universal application.

53. Hence, it is for the Disciplinary Authority to consider such a contention if raised by the DGOs while submitting their explanation to the second show cause notice that may be issued to them, by the disciplinary authority. Hence, I hold that, charges against both DGO-1 and DGO-2 are proved. Accordingly, I answer point no.1 and 2 in the affirmative.

54. Having regard to the discussion made above, and in view of my findings on point no.1 and 2 as above, my conclusion is as follows:

Point No.3:

55. Having regard to the discussion made above, and in view of my findings on point no.1 and 2 as above, my conclusion is as follows:

Conclusion

i) The Disciplinary Authority has proved the charge as framed against the Sri Arun Kumar, Assistant Executive Engineer, (Independent charge), BBMP, Rajajinagar, Bengaluru and (2) Sri Somanna, Work Inspector, Ward No. 16, Kamalanagar, BBMP, Bengaluru.

ii) As per the service particulars of DGO-1 Ex-P16(1) the date of birth of DGO-1 is 01.8.1957 and he has already retired from service on 31.7.2017 and date of birth of DGO-2 as per Ex-P16(2) is 21-7-1958 and he is due for retirement on 31.7.2018.


(S. Renuka Prasad)

Additional Registrar of Enquiries-3
Karnataka Lokayukta, Bengaluru.

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

PW-1	Sri P.B. Manjunath (shadow witness) (original)
PW-2	Sri T. Nagaraj (complainant) (original)
PW-3	Sri Irshad Ahammed Khan (investigation officer) (original)

II. Witnesses examined on behalf of the DGO:

DW-1	Sri Arunkumar (Original)
DW-2	Sri Somanna (DGO-2)(Original)

III Documents marked on behalf of D.A.

Ex.P-1	Certified copy of the panchanama
Ex-P2	Certified copy of sheet containing serial numbers of currency notes
Ex.P-3	Certified copy of the statement of Somanna in writing
Ex.P-4	Certified copy of the trap mahazar
Ex.P-5	Certified copy of the mahazar for having seized cassette
Ex.P-6	Certified copy of the extract of attendance register
Ex.P-7	Certified copy of the written complaint
Ex.P-8 &10	Certified copy of the photographs
Ex.P-9	Certified copy of documents seized
Ex-P11	Certified copy of the transcription of the conversation recorded by the complainant prior to filing complaint
Ex-P12 & 13	Certified copy of the transcription of conversation recorded during the trap proceedings
Ex-P14	Certified copy of the chemical examination report
Ex-P15	Certified copy of sketch of scene of occurrence prepared by PWD Engineer
Ex-P16	Certified copy of service particulars of DGOs 1 and 2
Ex-P17	Certified copy of extract of registration particulars of two wheeler No. KA 02 EG 874 belonged to DGO-2
Ex-P18	Certified copy of call details extract pertaining to complainant

IV. Documents marked on behalf of DGO:

Ex-D1	Copy of the information furnished by Executive Engineer vide letter dated 7.8.2009 (Certified copy)
Ex-D2	Notice dt.26/08/2008 (Certified copy)
Ex-D3	Notice dt.04/09/2008 (ADTP) (Certified copy)
Ex-D4	Notice dt.06/10/2008 (Certified copy)
Ex-D5	Notice dt.13/11/2008 (Certified copy)
Ex-D6	Requisition dated 15/12/2008(Certified copy)
Ex-D7	Order of the office dt.12/02/2009 (Certified copy)
Ex-D8	Provisional Order 04/04/2009 (Original)
Ex-D9	Notice of reminder dt.04/06/2009 (certified copy)
Ex-D10	Copy of the attendance register

V. Material Objects marked on behalf of the D.A: Nil


(S. Renuka Prasad)

Additional Registrar of Enquiries-3,
Karnataka Lokayukta, Bengaluru.

