

KARNATAKA - LOKAYUKTA

BEFORE ADDITIONAL REGISTRAR (ENQUIRIES -10)

PRESENT :

SRI. MASTER R.K.G.M.M. MAHA SWAMIJI, MA., LL.M.,
 ADDITIONAL REGISTRAR ENQUIRIES-10,
 M.S. BUILDING,
 KARNATAKA LOKAYUKTA,
 BANGALORE - 560 001.

DEPARTMENTAL ENQUIRY NO. LOK/ARE-10/ENQ-396/2011.

COMPLAINANT DISCIPLINARY AUTHORITY	BROTHER SRI. PARKIYANATHAN S.G. GOVERNMENT OF KARNATAKA, WOMEN & CHILD DEVELOPMENT DEPARTMENT. (Through Presenting Officer)
V/s	
DELINQUENT GOVERNMENT OFFICIAL	SRI. CHANDRAKANTHA, Second Division Assistant, Physically Disabled & Senior Citizens Welfare Department, Bengaluru. (DGO represented by Sri. M.V. Vedamurthy, Advocate)

Subject : Departmental Inquiry against DGO as
 noted in the cause title -reg.,

- References:**
1. Report u/S 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/BCD/537/2009/ARE-10 Dated 10.08.2011.
 2. Government Order No WCD 645 SJD 2008, Bengaluru dated 29.10.2011.
 3. Nomination Order No. LOK/INQ/14-A/396/2011, Bengaluru dt. 10.11.2011 of Hon'ble Upalokayukta-1.

- i. Nature of Case. : Departmental Enquiry
- ii. Provision of law under which charge/s framed. : Rule 3 (1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966.

iii. Date of Submission of report. : 21st **February** 2019.

-: DEPARTMENTAL - ENQUIRY - REPORT :-

1. This is the departmental enquiry initiated and held against DGO as the complainant by name *Brother S.G. Parkiyathan* has filed a complaint against the Delinquent Government Official alleging misconduct i.e. demanding and accepting of bribe of Rs.15,000/- after bargaining to show an official favour to the complainant.
2. The **comments/reply** from the DGO called and unsatisfied with the same, a **Report** was sent to the Government u/S 12(3) of the Karnataka Lokayukta Act, 1984 as per reference No. 1. In pursuance of the report, Government was pleased to issue the **Government Order** (G.O.) dt. 29.10.2011 authorizing Hon'ble Upalokayukta-1 to hold an enquiry as per reference No. 2.
3. In pursuance of the Government Order, a **nomination order** was issued by Hon'ble Upalokayukta-1 on 10.11.2011 authorizing ARE-04 to frame Article of Charge against DGO and hold an enquiry to find out truth and to submit a report as per reference No. 3. *Accordingly*, article of charge was framed/prepared

under Rule 11(3) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 and sent to the Delinquent Government Official on 24.02.2012.

4. *Thereafter*, as per the order of Registrar on behalf of Hon'ble Uplokayukta-1, in O.M.No:ಕಲೋ/ಸಿಬ್ಬಂದಿ-UPLOK-1/DE /2018, dated:19/01/2018, this file is *transferred* from ARE-4 to ARE-10.
5. The article of **charge** and the statement of imputation of misconduct framed/prepared by ARE-4 and leveled against the DGO are **reproduced** as *hereunder* :-

ANNEXURE NO. 1

CHARGE

5(1) That, you DGO Sri. **Chandrakantha**, Second Division Assistant, Physically Disabled & Senior Citizens Welfare Department, Bengaluru has *committed following dereliction of duty/misconduct*:-

5(2) You DGO, when complainant Sri. Brother *S.G.Parkiyathan* of Mount Fort School for Disabled at Belagola village in Srirangapatna Taluk, filed an application on behalf of the management *for permission* to start 9th standard classes during the academic year 2008-09 and after said application was forwarded to your office and inspite of several requests, *permission* was

not accorded and about a month earlier to 12.12.2008, you demanded bribe of Rs. 20,000/- from CW-1 and after bargain, it was reduced to Rs. 15,000/- and on 12.12.2008, you received the said bribe from CW-1 and at that time, trapped.

5(3) *Thus, you DGO failed to maintain absolute integrity, devotion to duty and an act which was un-becoming of a Government Servant and thereby, you have committed misconduct U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.*

ANNEXURE NO. II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

5(4) In the beginning of the year 2008-09, the management of Mount Fort School for Disabled at Belagola village in Srirangapatna Taluk of Mandya District had filed an application seeking permission to start 9th standard classes in the said school during the said academic year. The said application was forwarded for consideration to the Office of the DGO. But, permission was not accorded and the said application was kept pending inspite of several requests.

5(5) *Therefore, the complainant by name Brother Sri. S.G. Parkiyanathan an Assistant Teacher in the said school along with other*

Brothers of that school approached the DGO about one month earlier to 12.12.2008 and enquired about the said application. Then, instead of telling that the permission will be or cannot be granted or it requires some documents, the DGO *demand*ed Rs. 20,000/- as bribe stating that money has to be given to other officers. When, the complainant bargained pleading inability to pay so much of amount, the DGO reduced it to Rs. 15,000/-.

5(6) As the complainant was not willing to pay bribe amount to the DGO, he approached the Lokayukta Police Inspector of Bengaluru City at Bengaluru and lodged a complaint.

5(7) The Investigation Officer, registered the complaint in Cr. No. 88/2008 for the offences Punishable U/S 7, 13 (1)(d) R/W 13(2) of Prevention of Corruption Act, 1988.

5(8) During the course of *investigation* into the said crime, the I.O. *trapped* the DGO on 12.12.2008 when the tainted amount was given by the complainant to the DGo at Coffee Board parking area, in the presence of the complainant and shadow panch witness and seized the tainted amount under mahazar from the possession of the DGO and followed trap formalities.

5(9) The Investigation Officer recorded statement of complainant, panch witnesses and others. After receiving the *report* of chemical examiner about the articles sent for chemical examination, the Investigation Officer filed charge sheet.

5(10) *The facts and materials on record the, prima-facie show that the DGO being a Government Servant failed to maintain absolute integrity, devotion to duty and an act which was un-becoming of a Government Servant.*

5(11) So, a *suo-moto investigation* was taken up U/S 7(2) of Karnataka Lokayukta Act-1984 against the DGO. An *observation note* was sent to the DGO calling for his explanation.

5(12) The reply given by the DGO was not convincing and not satisfactory to drop the proceedings.

5(13) As the facts and materials on record prima facie show that the DGO Committed mis-conduct as per Rule 3(1)(i) & (iii) of KCS (Conduct) Rules, 1966, a *report* U/S 12 (3) of the Karnataka Lokayukta Act-1984 was sent to the Competent Authority with a *recommendation* to initiate disciplinary proceedings against the DGO and to entrust the departmental enquiry to the Hon'ble

Upalokayukta U/R 14-A of K.C.S. (CCA) Rules.

5(14) *In turn*, the Competent Authority /Government initiated disciplinary proceedings and entrusted the enquiry to the Hon'ble Upalokayukta-1. *Hence*, the above said **charge**.

6. The aforesaid '**article of charge**' served upon the DGO and he appeared before the Enquiry Authority and **first oral statement** of DGO under Rule 11(9) of KCS (CCA) Rules, 1957 recorded. The DGO pleaded not guilty and claimed to be enquired about the charge.
7. The DGO has filed **written statement of defense** by denying the Charge.
8. The DGO has given an opportunity by the Enquiry Authority for verification/inspection of records/documents and for discoveries, if any.
9. *In this enquiry*, to establish the *charge* against DGO, the presenting officer has examined **Sri. Parkiyathan** (complainant) as *pw-1*, **Sri. Jagadish Kumar** (*FDA & shadow panch witness*) as *PW-2*, **Sri. S. Maheswarappa**, (*Police Inspector, Lokayukta, Bengaluru & Investigation Officer*) as *PW-3* and produced and got marked, in all, **12** documents as Ex P1 to 12 on behalf of Disciplinary Authority.

10. After the closure of the evidence of the Disciplinary Authority, *second oral statement* of DGO as per Rule 11(16) of Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 recorded. The DGO has submitted that he will lead defence evidence. *Accordingly*, on behalf of the delinquent government official, *Sri. Radha Krishna (CEO)* is examined as DW-1 and got marked 5 documents as Ex D-1 to D-5 and closed his side. *As such*, the *questionnaire* of DGO u/R 11(18) of KCS (CCA) Rules, 1957 is *dispensed with* as he led defence evidence.
11. *Now*, the points that emerge for my consideration and conclusion are *as follows* :-
1. *Whether the charge against DGO as noted/reproduced at para No. 5(2) of the report is proved by the Disciplinary Authority through its presenting officer?*
 2. *What finding/conclusion ?*
12. I have heard and carefully perused the enquiry papers and analyzed and appreciated the oral and documentary evidence placed on record.
13. My *findings* on aforesaid points are *as under* :
- POINT No. 1 : In the AFFIRMATIVE.

POINT no. 2 : As per my *FINDING/CONCLUSION*
for the following ;

*** REASONS ***

14. **POINT NO. 1** *It is the case of the Disciplinary Authority that DGO being Second Division Assistant in Physically Disabled & Senior Citizens Welfare Department, Bengaluru, committed misconduct as mentioned in the charge at para 5(2) of the report.*
15. *In order to prove, the charge leveled against DGO, the presenting officer has examined 3 witnesses and got marked 12 documents and closed the side.*
16. Now, I shall proceed to appreciate and analyze the oral and documentary evidence of the disciplinary authority viz.,(PW-1 to PW-3 and Ex P1 to 12) which are as follows :-
17. PW 1 SRI. PAKIYANATHAN (complainant & Assistant Teacher in Mount Ford School for Disabled). *He deposed that, he had filed an application in prescribed form along with documents for permission to start 9th Standard in Mount Ford School to Social Welfare Department, Mandya, which forwarded the said application to Social Welfare Department, Bengaluru.*
18. *PW-1 further deposed that at first, when he enquired DGO, he told that application/file is missed and after PW-1 asked to*

accord permission at early, as 9th Standard is already started, DGO demanded Rs.20,000/- bribe to get permission accorded. The bribe money was reduced to Rs.15,000/- after bargain. As per the advice of one Thimmaraju he met Lokayukta Police Inspector.

19. *PW-1 has stated that* on 12.12.2008 he lodged the *complaint* as per Ex P-1. Police Inspector secured Manjunath Tejaswi and Jagadeesh Kumar to the office and get introduced. As per instruction, PW-1 produced Rs.15,000/- and numbers and denominations of the said notes are printed in a *note sheet* as per Ex P-2. The said notes were applied with Phenapthalin Powder through D.Suresh the Lokayukta Staff and Smt.Indramma prepared solution and sample taken.
20. *PW-1 has further stated that* as per the instructions tainted money was put in the shirt pocket of PW-1 by CW-3 Manjunatha Tejaswi the panch witness and when the hands fingers of the CW-3 washed in the solution, it turned into pink colour and same was collected in a bottle and sealed. Police Inspector instructed him to give tainted money to the DGO only if he demanded for it and if DGO received it, PW-1 has to give signal by wiping his head with his hands. CW-2 Jagadeesh Kumar the shadow panch witness was instructed to follow PW-1. In this regard, *entrustment mahazar* was conducted as per Ex P-3.
21. *PW-1 says that*, around 3.45 p.m. they left Lokayukta Police Station and went and reached near Coffee Board. There

PW-1 called DGO over mobile to come near Coffee Board and immediately, DGO came there and demanded for bribe and PW-1 gave tainted notes of Rs.15,000/- to the DGO and when, PW-1 gave signal by rubbing his head with hand, Police Inspector and staff came and apprehended the DGO and at that time, the bribe money was in the hand of DGO and said bribe money was seized in a cover. Since it was public place, the DGO was taken to Lokayukta Police Station.

22. *PW-1 further says that*, when the right and left hand fingers of DGO washed in the solution which turned into pink colour and same was collected in separate bottles. The DGO gave explanation as per Ex P-4. The documents pertaining to file of PW-1 seized as per Ex P-5. In this regard, *trap mahazar* was conducted as per Ex P-6. The photos taken at the time of entrustment and *trap mahazar* are at Ex P-7.

23. *PW-2 SRI. JAGADISH KUMAR (FDA/shadow witness). He deposed that*, on 12.12.2008 as per the order of the superior officer, himself and CW-3 Manjunath Tejaswi came to Lokayukta Police Station, where CW-1 was present and they were got introduced and came to know about the facts of the case and demand of Rs.15,000/- by the DGO from CW-1 to get permission accorded.

24. *PW-2 further deposed that*, PW-1 produced Rs.15,000/- and numbers and denominations of the said notes are printed in a *note sheet* as per Ex P-2. The said notes were applied with

Phenaphthalin Powder through D.Suresh the Lokayukta Staff and solution was prepared and sample taken. As per the instructions, tainted money was put in the shirt pocket of PW-1 by CW-3 Manjunatha Tejaswi the panch witness and when the hands fingers of the CW-3 washed in the sodium carbonate solution, it turned into pink colour and same was collected in a bottle and sealed. Police Inspector instructed him to give tainted money to the DGO only if he demanded for it and if DGO received it, PW-1 has to give signal by wiping his head with his hands. CW-2 Jagadeesh Kumar the shadow panch witness was instructed to follow PW-1. In this regard, *entrustment mahazar* was conducted as per Ex P-3.

25. *PW-2 says that, around 3.45 p.m. they left Lokayukta Police Station and went and reached near Coffee Board. There PW-1 called DGO over mobile to come near Coffee Board and immediately, DGO came there and asked for bribe and PW-1 gave tainted notes of Rs.15,000/- from his shirt pocket to the DGO and DGO received it from his right hand and counted with two hands and at that time, in pursuance of signal given by PW-1, Police Inspector and staff came and apprehended the DGO and got introduced and said bribe money was seized in a cover and DGO was taken to Lokayukta Police Station.*
26. *PW-2 further says that, when the right and left hand fingers of DGO washed in the Sodium Carbonate Solution which turned into pink colour and same was collected in separate bottles and sealed. The DGO gave explanation as per Ex P-*

4. The documents pertaining to file of PW-1 seized as per Ex P-5. In this regard, *trap mahazar* was conducted as per Ex P-6. The photos taken at the time of entrustment and trap mahazar are at Ex P-7.

27. PW-3 SRI. S. MAHESWARAPPA (*Police Inspector, Lokayukta, Bengaluru & Investigation Officer*). He has deposed consistently in corroboration with the deposition/s of PW-1 & 2.

28. *PW-3 has further deposed regarding registration of a case in Lokayukta P.S. crime No.88/2008 on the basis Ex. P-1 and sending of FIR as per Ex. P-8 and securing of CW-2 K.S. Jagadish Kumar (FDA) and CW-3 K.Manjunath Tejaswi (Physical Assistant) to the Lokayukta police station and informing about the matter.*

29. *PW-3 deposes regarding, production of Rs.15,000/- by CW-1 and applying of phenapthalin powder to notes by his staff and putting the tainted notes in the shirt pocket of CW-1 by CW-3 and collection of pink colour hand wash of CW-3 and giving instructions by him to CW-1 to give signal by wiping his head with hands if DGO received bribe amount and conducting of **entrustment mahazar** as per Ex P-3.*

30. *PW-3 further deposes in respect of leaving by them in Departmental Jeep near Coffee Board, refreshing the instructions and around 4.00 p.m., and refreshing the memories of CW-1 & 2 and PW-1 gave signal by wiping his*

head and on enquiry, CW-1 told by pointing at DGO that he asked and received bribe money of Rs.15,000/- to get permission accorded for commencement of 9th standard.

31. *PW-3 states that*, he introduced to DGO and on enquiry, CW-2 Jagadish Kumar also reiterated as that of CW-1 and he apprehended the DGO and pink colour right and left hand wash of DGO seized. The Panchas told that the tainted note numbers are tallied with contents of note sheets.
32. *PW-3 further states that*, the copies of file of CW-1 was seized as per Ex P-5. DGO gave written explanation as per Ex. P-4 which denied by CW-1 & CW-2 and he conducted **trap mahzar** as per Ex.P-6.
33. *PW-3 says that*, he recorded further statement of CW-1 and statements of CW-2, 3 and others and he sent seized articles to chemical examination and received *FSL report* as per Ex.P-10 and *sketch map* of spct is at Ex P-11 and service particulars of DGO is at Ex P-12 and regarding other investigation aspects of the case and submission of charge sheet.
34. *In the Cross-examination of PW-1 to 3* made by the learned defence assistant appearing for DGO, I find that no worth mentioning points are elicited in favour of DGO/Defense to discredit /disbelieve their depositions.
35. *The case of DGO/defense is total denial of case of disciplinary authority and he did not commit misconduct.*

36. But, *in this regard*, DGO has not examined himself. *Instead*, he has examined one Sri.RADHA KRISHNA, (CEO, Directorate of Disabled and Senior Citizens Welfare, Bangalore) as DW-1 and got marked totally 5 documents as Ex D-1 to 5.
37. *In the cross examination of DW-1 it is elicited and he admitted the suggestions as true that he has not produced documents regarding acknowledging the letters by the complainant and does not know about demand and receipt of bribe money by the DGO on 12.12.2008.*
38. In so far as **argument/s** in this enquiry is concerned, the learned *presenting officer* has submitted *that*, PW-1 to 3 are examined and Ex. P-1 to 12 have been got marked and on the basis of the same, affirmative finding can be given as charge against DGO is *proved*.
39. *Per contra*, the learned defence assistant appearing for DGO has filed *written brief*.
40. *Having heard* and on careful perusal and appreciation of oral and documentary evidence of disciplinary authority placed on record, *it is obviously clear that* the disciplinary authority has placed sufficient and satisfactory oral and documentary evidence to prove its case/enquiry against the DGO as per the standard of *preponderance of probabilities* to warrant my finding on the charge against DGO in the affirmative *as proved*.

41. *On perusal of depositions of PW 1 Brother Sri.Parkiyathan, PW 2 Sri Jagadish Kumar and PW-3 Sri.Maheshwara S. it is seen that, PW-1 being the complainant, PW-2 being the Shadow Panch Witness (eye witness) and PW-3 being Investigation Officer, have completely supported the case of disciplinary authority.*
42. *It is important to note that, nothing worth mentioning points are elicited from the deposition/s of PW-1 to PW-3 by the learned defence assistant appearing for DGO. As such, the deposition/s of PW-1 to PW-3 are worthy of acceptance, believable and reliable against the DGO.*
43. *It is relevant to note that the depositions of PW1 to 3 are consistent and corroborative with each other and their evidence is also strengthened by Ex.P.10 affirmative FSL report of chemical Examiner.*
44. *It is significant to note that, on plain perusal, Ex.P.10 FSL report discloses that, the results of right and left hand wash of DGO are positive for the test of phenolphthalein and sodium carbonate. Hence, it indicates that the DGO has accepted/received bribe money of Rs. 15,000/- from the complainant to show the official favour. As such, an inference/presumption as provided under Section 20 of the Prevention of Corruption Act, 1988 can also be drawn that the DGO has demanded and accepted the corruption/bribe/gratification other than legal remuneration.*

45. *At this juncture, it is necessary and fruitful to reproduce relevant para/s of Ex P-4 Written explanation of DGO which is reproduced and it reads thus:-*

“ ದಿನಾಂಕ 12.12.2008 ರಂದು ಬೆಳಗ್ಗೆ ಮತ್ತೊಮ್ಮೆ ನನಗೆ ಪೋನ್ ಮಾಡಿ, ನಾನು ಅಂಗವಿಕಲ ನಾನು ಸಂಬಂಧಿಸಿದ ಸಂಸ್ಥೆಯವರಿಗೆ ಸಂಬಂಧಿಸಿದವನು. ನಾನು ಈ ಶಾಲೆಗೆ ಹೆಚ್ಚಿನ ತರಗತಿಗೆ ಅನುಮತಿ ನೀಡಲು ಫಾದರಿಯವರಿಂದ ಯಾರೋ ನಿಮ್ಮ ಇಲಾಖೆಯಲ್ಲಿ 20/- (ಸಾವಿರ) ರೂಪಾಯಿಗಳನ್ನು ಕೇಳುತ್ತೀರಿ. ಅಷ್ಟೇನೂ ಆಗೋದಿಲ್ಲ ರೂ. 15 ಸಾವಿರಗಳನ್ನು ತರುತ್ತಿದ್ದೇನೆ. ನಿಮ್ಮ ಕಛೇರಿ ಎಲ್ಲರುತ್ತದೆ ಎಂದು ಕೇಳುತ್ತಾರೆ. ನಮ್ಮ ಕಛೇರಿಯ ವಿಳಾಸ ಹೇಳಿದ್ದೇನೆ. ನೀವು ಈ ಬಗ್ಗೆ ವಿಚಾರಿಸುವುದಾದರೆ, ನಾನೇ ನಿಮ್ಮ ಬಳಿಗೆ ಬರುತ್ತೇನೆ. ಇರುವ ವಿಷಯ ತಿಳಿಸುತ್ತೇನೆ. ಕಾರಣ, ತಾವು ಅಂಗವಿಕಲರಾಗಿರುವುದರಿಂದ ನಾನೇ ಬಂದು ಮಾಡಿಸಿ ನೀಡುತ್ತೇನೆ. ಈಗಾಗಲೇ, ಕೆಲವೊಂದು ನಿಮ್ಮ ಪ್ರಸ್ತಾಪನೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಮಾಹಿತಿಯನ್ನು ಕೇಳುತ್ತಾರೆ. ಕೇಳುವ ಮಾಹಿತಿಯು ಕೂಡ ಸಂಸ್ಥೆಯವರಿಗೆ ರವಾನಿಸಲಾಗಿದೆ. ಆ ಮಾಹಿತಿಯನ್ನು ಕಳುಹಿಸಿರಿ ಎಂದಿದ್ದೇನೆ. ಆದರೆ, ರೂ. 15 ಸಾವಿರ ರೂಗಳನ್ನು ಪಡೆದುಕೊಂಡು ಬರಬೇಕು ಎಂದಾಗಲ, ಅಥವಾ ಹಣ ತೆಗೆದುಕೊಂಡು ಬರಲೇಬೇಕೆಂದಾಗಲ ನಾನು ಹೇಳಲಿಲ್ಲ, ಈ ವಿಷಯ ನಡೆದಿದ್ದು ಹಿಂದಿನ ದಿನದಂದು.

ದಿನಾಂಕ 12.12.2008 ರಂದು ಪುನಃ ಈ ಶಾಲೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ನಾನು ಬರುತ್ತಿದ್ದೇನೆ. ನಾನು ಅಂಗವಿಕಲ, ನಾನು ಕಾಫಿ ಬೋರ್ಡ್ ಅಂಗಳದಲ್ಲ ನಿಂತಿರುತ್ತೇನೆ. ನಾನು ಸ್ಟ್ರಿಪ್ಸ್ ಹಿಡಿದುಕೊಂಡಿರುತ್ತೇನೆ, ಬನ್ನಿ ಎಂದು ಫೋನ್ ಮಾಡಿದ್ದರು, ಆಗ ನಾನು ಅಂಗವಿಕಲರಾಗಿರುವುದರಿಂದ ಕಛೇರಿಗೆ ಬರಲಕ್ಕೆ ಕಷ್ಟವಾಗುತ್ತಿರಬೇಕು ಎಂದು ನಾನೇ ಕಾಫಿ ಬೋರ್ಡಿಗೆ ಹೋದಾಗ, ಸದರಿ ಅಭ್ಯರ್ಥಿಯು ಕಾಣಿಸಿಕೊಂಡರು. ಕಂಡ ತಕ್ಷಣ ಇವರ ಪಕ್ಕದಲ್ಲರುವ ಇನ್ನೊಬ್ಬ ವ್ಯಕ್ತಿಗೆ ಕೊಡಿ ಇವರಿಗೆ ರೂ. 15,000/- ಗಳನ್ನು ಎಂದಿದ್ದರು. ನನಗೆ ಹಣ ಬೇಡ ಆ ವಿಷಯಕ್ಕೆ ನಾನ್ಯಾರು, ನಾನೊಬ್ಬ ದ್ವಿತೀಯ ದರ್ಜೆ ಸಹಾಯಕ, ನಾನು ಮಾಡಿಕೊಡಲು

ನಿರ್ದೇಶಕನಲ್ಲ. ಕೇಳುವ ಮಾಹಿತಿಯನ್ನು ಕಳುಹಿಸಿಕೊಡಲಿರಿ ಎಂದೆ.
 ಇರಲಿ ಸಾರ್ ಈ ಹಣ ಹಿಡಿಯಿರಿ, ಆಮೇಲೆ ಮಾಹಿತಿ
 ತರಿಸುತ್ತೇನೆ ಎಂದರು. ಆದರೂ, ನನಗೇಕೆ ಈ ಹಣ
 ಎಂದು ಆ ಹಿಡಿಯುತ್ತಿದ್ದಂತೆ, ಲೋಕಾಯುಕ್ತರೆಂದು
 ಹಿಡಿದು ಲೋಕಾಯುಕ್ತ ಕಛೇರಿಗೆ ತಂದಿರುತ್ತಾರೆ”.

46. It is pertinent to note that on plain perusal of Ex.P.4, the *written* explanation of DGO, it is seen that, DGO has categorically admitted some important aspects of case of disciplinary authority that, on 12.12.2008 he attended duty; CW-1 gave money and DGO was in possession of said money of Rs.15,000/-etc and Ex P-7(4) & (5) photos also depict the same. *But*, DGO wrote that, CW-1 gave/ thrust money into his hand, although he refused.
47. *It is apposite to note that*, the case of DGO is nothing but denial of case of disciplinary authority. *But*, to rebut the case of disciplinary authority, DGO did not enter in to witness box to depose his case. *Further*, according to him, something is elicited from the depositions of witness in favor of him. *But*, on perusal of entire depositions of PW-1 to 3, I find that no such admissions, contradictions or infirmities are elicited in favor of DGO affecting the result of this Departmental Enquiry. *So*, I am of the opinion that there is nothing brought on record to disbelieve or discredit the depositions of PW-1 to 3.

48. I don't find any substance and considerable force in the line of argument/contention/s taken in *Written Brief* viz, the file was not with DGO and there was no work pending before him; he has no power to accord permission; Arkesh was fictitious person, who is not examined before the enquiry authority; and *in my considered opinion*, those are devoid of merits, irrelevant and un acceptable. *Moreover*, on bare reading of Ex. D-1 to D-5 relied by DGO, I found that, nothing worth mentioning aspects are there in favour of DGO to hold that DGO has not committed misconduct.
49. *Moreso*, in the Judgment dated 13.04.2017 in Special CC No.194/2009, DGO is *acquitted* for the charged offences punishable Under Sections 7, 13 (1)(d) R/w 13(2) of Prevention of Corruption Act, 1988.
50. *In this connection*, it is to be noted that, standard of proof in a criminal case is beyond all reasonable doubts, but, in case of departmental enquiry, it is the standard of preponderance of probabilities only. *Further*, in criminal case, prosecution has to prove all the ingredients of offences charged. But, herein departmental enquiry, proof of misconduct is sufficient to hold guilty. *Therefore*, the said judgment does not help the DGO who has been acquitted in the said criminal case.

51. *It is worthwhile to note that, the defense/DGO has not elicited any material aspects as to why the supported prime witnesses namely, Shadow Panch Witness, complainant, and Investigation Officer have deposed falsely against him. Further, the deposition of DW-1 does not come for assistance of DGO, because he has stated nothing except regarding the course of the file, approval of note and dispatch of the letter. In addition, DW-1 has given clear admissions and he is also interested and his evidence is unworthy of credence.*

52. *At this juncture, it is necessary and gainful to note that, it is settled position of law that if the opposite party did not choose to lead rebuttal evidence, then, an adverse inference can be drawn against him.*

52(1) *In this context, It is useful to refer a decision in case of ESHWAR BAI C. PATEL V/S. NARIHAR BEHERA reported in AIR 1999 SC 1341, wherein, the Hon'ble Apex Court has held that;*

“When a person fails to enter into witness Box to state his case on oath, an adverse Inference can be drawn as per Sec.114 of Indian Evidence Act, against such person”.

52(2) *In this regard, it is also profitable to refer another decision in case of VIDHYADHAR V/S. MANIKRAO AND ANOTHER (1999) 3 SUPEREME COURT CASES 573, wherein, the Hon'ble Apex Court has held thus:-*

“Evidence Act, 1872 – S.114 III (g) –
Presumption – If a party abstains
from entering the witness box, an
adverse inference would arise
against him.

“ Where a party to the suit does not
appear in the witness box and states
his own case on oath and does not
offer himself to be cross-examined
by the other side, a presumption
would arise that the case set-up by
him is not correct”.

52(3) *In the present case*, DGO did not enter in to witness box for the best reason known to him, to prove his contention/s/defense, and to offer himself to be cross examined or to withstand the ordeal of cross examination, although, DGO has filed Written Statement of defense. So, *an adverse inference* can also be drawn against him, as per Section 114 of the Indian Evidence Act, 1872.

53. *On careful analysis* and appreciation of oral and documentary evidence placed on record, it is *manifestly clear that* the depositions of PW1 to 3 are fully corroborated to each other, consistent and fortified by Ex P -1 to 12 and same are inspiring confidence of this enquiry authority to rely and to act upon against DGO and there is nothing brought on record to disbelieve the same.

54. For the aforesaid reasons and observations made in the light of depositions of PW1 to 3, DW-1 and Ex P-1 to 12, Ex D-1 to 5 documents and provisions of law, under the given set of facts and circumstances of this enquiry, I have arrived at *inevitable conclusion to hold that* the Disciplinary Authority through its presenting officer is **successful** in proving the charge framed and leveled against the DGO up to the standard of *preponderance of probabilities*, to record my finding in the affirmative as *proved*.
55. **POINT No. 2** : In view of my finding on point No. 1, for foregoing reasons and discussions, I proceed to submit enquiry report *as under*:-

: ENQUIRY REPORT :

i. From the oral and documentary evidence and materials placed on record, I hold and record my finding that the Delinquent Government Official-1 SRI CHANDRAKANTHA, Second Division Assistant, Physically Disabled & Senior Citizens Welfare Department, Bengaluru, has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government servant and he is found guilty of misconduct under

Rule 3(1)(i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966.

ii. *Accordingly*, I hold and record/assign my finding on the charge i.e. 5(2) of the report, leveled by the disciplinary authority against Delinquent Government official as **PROVED**.

iii. *Hence*, this Enquiry Report is submitted/placed before Hon'ble Lokayukta for kind *consideration*.

Dated 21st **February** 2019.

(Master RKGMM Mahaswamiji)
Additional Registrar Enquiries-10
Karnataka Lokayukta
Bangalore.

: ANNEXURE :**I. LIST OF WITNESS/S EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

- PW-1 :- Brother Sri. Parkiyanathan (Complainant)
PW-2 :- Sri. Jagadish Kumar (FDA/shadow witness)
PW-3:-Sri. S. Maheshwarappa S. (Police Inspector,
Karnataka Lokayukta, City Division,
Bengaluru & Investigation Officer)

II. LIST OF DOCUMENTS EXHIBITED/MARKED ON BEHALF OF DISCIPLINARY AUTHORITY :

- Ex.P-1 : Certified copy of complaint dated 12.12.2008.
Ex.P-2 : Certified copy of note sheet containing denomination
and note numbers.
Ex.P-3 : certified copy of Practical/Entrustment Mahazar
dated 12.12.2008.
Ex.P-4 : Certified copy of explanation of DGO dated 12.12.2008.
Ex P-5 : Certified copy of Attendance Register extract
and other documents pertaing to complainant's work.
Ex P-6 : Certified copy of *Trap Mahazar* dated 12.12.2008.
Ex.P-7 : Certified copy of photos taken during the time of pre and
post trap proceedings (in 7 pages).
Ex P 8 : Certified copy of First Information Report.
Ex P-9 : Certified copy of spot rough sketch (by Investigation Officer)
Ex P-10 : Certified copy of FSL report dated 31.01.2009
Ex.P-11 : Certified copy of spot sketch by PWD Engineer
dated 22.01.2009.
Ex P -12 : Certified copy of Service particulars of DGO and
other connected documents.

III. LIST OF WITNESS/S EXAMINED ON BEHALF OF THE DGO/DEFENCE:

- DW-1 : Sri. Radhakrishna, (Retired CEO, Physically
Disabled & Senior Citizens Welfare Department,
Bengaluru)

IV. LIST OF DOCUMENTS EXHIBITED/MARKED ON BEHALF OF DGO/DEFENCE:

Ex. D-1 :- A letter dated 04.12.2008 by DGO to Complainant institution.

Ex. D-2 :- Another letter dated 15.09.2008 to furnish information.

Ex. D-3 :- Copy of a letter dated 02.12.2008 issued by DW-1.

Ex. D-4 :- Copy of a letter dated 20.12.2008

Ex. D-5 :- Copy of another letter dated 04.12.2008.

(Master RKGMM Mahaswamiji)
Additional Registrar Enquiries-10
Karnataka Lokayukta
Bangalore.

Date : 21.02.2019

Place : Bangalore.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No: LOK/INQ/14-A/396/2011/ARE-10

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: 23/02/2019

RECOMMENDATION

Sub:- Departmental inquiry against Sri Chandrakanth, Second Division Assistant, Physically Disabled and Senior Citizens Welfare Department, Bengaluru - Reg.

- Ref:-1) Government Order No.ಮಮಇ 645 ಎಸ್‌ಜೆಡಿ 2008 Bengaluru dated 29/10/2011.
- 2) Nomination order No.LOK/INQ/14-A/396/2011 Bengaluru dated 10/11/2011 of Upalokayukta-1, State of Karnataka, Bengaluru.
- 3) Inquiry Report dated 21/02/2019 of Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 29/10/2011 initiated the disciplinary proceedings against Sri Chandrakanth, Second Division Assistant, Physically Disabled and Senior Citizens Welfare Department, Bengaluru (hereinafter referred to as Delinquent Government Official for short as **DGO**); and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No. LOK/INQ/14-A/396/2011 dated 10/11/2011 nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently by Order No. UPLOK-1/DE/2018 dated 19/1/2018, Additional Registrar of Enquiries-10

was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGO.


3. The DGO Sri Chandrakanth, Second Division Assistant, Physically Disabled and Senior Citizens Welfare Department, Bengaluru was tried for the following charge:-

That, you Sri. Chandrakantha, Second Division Assistant, Physically Disabled & Senior Citizens Welfare Department, Bengaluru has committed the following dereliction of duty/misconduct:-

You DGO, when complainant namely Brother Sri S.G. Parkiyanathan of Mount Fort School for Disabled at Belagola village in Srirangapatna Taluk of Mandya District, filed application on behalf of the management for permission to start 9th standard classes during the academic year 2008-09 in the said institution and that application had been forwarded to your office and inspite of several requests, permission was not accorded and when the complainant approached you about a month earlier to 12.12.2008, you demanded bribe of Rs.20,000/- to get the work done and after bargain you reduced the demand to Rs.15,000/- and on 12.12.2008 received the said amount from the complainant to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

4. The Inquiry Officer (Additional Registrar of Enquiries-10) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has proved the above charge against DGO Sri Chandrakanth, Second Division Assistant, Physically Disabled and Senior Citizens Welfare Department, 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 DGO Sri Chandrakanth, he has retired from service on 31/05/2018 (during the pendency of inquiry).
7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Chandrakanth, it is hereby recommended to the Government for imposing penalty of permanently withholding 50% of pension payable to DGO Sri Chandrakanth, Second Division Assistant, Physically Disabled and Senior Citizens Welfare Department, Bengaluru.
8. Action taken in the matter shall be intimated to this Authority.

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)

Upalokayukta-1,
State of Karnataka,
Bengaluru

23/2

