

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No:UPLOK-1/DE/435/2016/ARE-10

Multi Storied Building,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date:06/09/2018

RECOMMENDATION

Sub:- Departmental inquiry against Sri Ashok, Junior Engineer, Taluk Panchayath, Yadagiri Taluk, Yadagiri District- Reg.

- Ref:-1) Government Order No.ಗ್ರಾಅಪ 93 ಇಎನ್‌ಕ್ಯೂ 2016 Bengaluru dated 28/09/2016
2) Nomination order No.UPLOK-1/DE/435/2016 Bengaluru dated 04/10/2016 of Upalokayukta-1, State of Karnataka, Bengaluru
3) Inquiry Report dated 04/09/2018 of Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 28/09/2016, initiated the disciplinary proceedings against Sri Ashok, Junior Engineer, Taluk Panchayath, Yadagiri Taluk, Yadagiri District (hereinafter referred to as Delinquent Government Official for short as 'DGO') and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/435/2016, dated 04/10/2016, nominated Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO Sri Ashok, Junior Engineer, Taluk Panchayath, Yadagiri Taluk, Yadagiri District was tried for the following charge:-

“That, you DGO – Sri Ashok, Junior Engineer, Taluk Panchayath, Yadgir Taluk and District has executed the works under MGNREG for the year 2015-16 taken up by Halligera Gram Panchayath using machineries instead of labourers and you DGO has facilitated the payment of wages to the workers who have not worked by creating false and bogus documents.

Thus you DGO, being a Government/public servant has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of a Government servant and thus committed misconduct as enumerated U/R 3(1) 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 Ashok, Junior Engineer, Taluk Panchayath, Yadagiri Taluk, Yadagiri District.



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, he is due to retire from service on 30/06/2043.

7. Having regard to the nature of charge proved against DGO Sri Ashok, it is hereby recommended to the Government for imposing penalty of withholding four annual increments payable to DGO Sri Ashok, Junior Engineer, Taluk Panchayath, Yadagiri Taluk, Yadagiri District and also deferring the promotion of DGO Sri Ashok, for a period of four years, whenever he becomes due for promotion

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 

KARNATAKA - LOKAYUKTA

BEFORE ADDITIONAL REGISTRAR (ENQUIRIES -10)

PRESENT :

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

DEPARTMENTAL ENQUIRY NO. Uplok-1/DE/435/2016/ARE-10

COMPLAINANT	SRI. MALLINATHA
DISCIPLINARY AUTHORITY	GOVERNMENT OF KARNATAKA, RURAL DEVELOPMENT & PANCHAYAT RAJ DEPARTMENT. (Through the Presenting Officer)
V/s	
DELINQUENT GOVERNMENT OFFICIAL	SRI. ASHOK, Junior Engineer, Taluk Panchayath, Yadgir Taluk, Yadgir District. (DGO Placed - exparte)

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

Reference/s : 1. Report u/S 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/GLB/4066/2015/DRE-3 dt. 20.08.2016.
2. Government Order No. RDP 93 ENQ 2016 Bengaluru dated 28.09.2016.
3. Nomination Order No. Uplok-1/DE/435/2016 Bengaluru dt. 04.10.2016 of Hon'ble Upalokayukta-1.

- i. Nature of Case : Departmental Enquiry
- ii. Provision of law under which : 3 (1) of The Karnataka Civil Article of charge framed Services (Conduct) Rules, 1966.



iii Date of Submission of report : 4th September 2018.

-: DEPARTMENTAL - ENQUIRY - REPORT :-

1. This is the departmental enquiry initiated and held against DGO as the complainant by name Sri. Mallinatha has filed a complaint in Lokayukta Office, against the Delinquent Government Official alleging his misconduct.
2. The **comments/reply** from the DGO called. Unsatisfied with the comments of DGO, 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.) dated 28.09.2016 authorizing Hon'ble Upalokayukta to hold an enquiry as per reference no. 2.
3. In pursuance of the Government Order, **nomination order** was issued by Hon'ble Upalokayukta on 04.10.2016 authorizing ARE-10 to frame Article of Charge against DGO and to hold an enquiry to find out truth and to submit a report as per reference No. 3.



4. Accordingly, *Article of charge* was framed/prepared under Rule 11(3) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 and was sent to the Delinquent Government Official on 21.10.2016.
5. The article of **charge** and the statement of imputations framed/prepared and leveled against the DGO is **reproduced as here under :-**

ANNEXURE NO. 1

CHARGE

5(1) That, you DGO – Sri. Ashok, Junior Engineer, Taluk Panchayath, Yadgir Taluk and District has executed the works under MGNREG for the year 2015-16, taken up by Halligera Gram Panchayath using machineries instead of labourers and you DGO has facilitated the payment of wages to the workers who have not worked by creating false and bogus documents.

5(2) Thus you DGO, being a Government /public servant has failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of a Government servant and thus committed misconduct as enumerated U/R 3(1) of



Karnataka Civil Service (Conduct) Rules
1966.

ANNEXURE NO. II
STATEMENT OF IMPUTATIONS OF
MISCONDUCT

5(3) **According to the complainant :**

a. The action plan under MGNREG for the year 2015-16 of Halligera Gram Panchayath is not prepared by convening Grama Sabha.

b. The works have been included to the whims and fancies of the president and PDOs of the Gram Panchayath. The complaint was made before the Executive Officer, Taluk Panchayath, Yadgir, who has cancelled the action plan and has ordered Panchayath Development Officer to submit compliance report.

c. In spite of the order of the Executive Officer, the Panchayath Development Officer and the president of Gram Panchayath are carrying out MIS and are attempting to draw money. When enquired with the DGO, he has informed that the action plan was approved by the Executive



Officer and therefore they are drawing the bills.

d. The work of Jungle cutting at R-Hosahalli village which comes under Halligera Gram Panchayath and other works have been carried out by using JCB machineries. But the bills have been raised showing that the works have been done through labourers.

e. The DGO by creating documents has facilitated payment of wages to the labourers in spite of the works being carried out through JCB machineries. Hence has prayed to take action against the DGO.

5(4). In spite of the service of this office endorsement, DGO has not submitted his comments.

5(5). On perusal of the materials on record, the allegation against the DGO is that the works under MGNREG for the year 2015-16 taken up by Halligera Gram Panchayath have been executed using machineries instead of labourers and the



DGO has facilitated the payment of wages to the workers who have not worked.

5(6) The complainant has produced a *compact disc* wherein the photos show the usage of JCB machineries for execution of works. The letter dt. 19.9.2015 addressed to Chief Executive Officer, Zilla Panchayath, Yadgir by the complainant also *states that* during the visit of Executive Officer, the use of JCB machinery was found.

5(7) When the DGO has failed to submit his comments upon the complaint allegations, an adverse inference is to be drawn against the DGO *prima facie holding that* the DGO being the Junior Engineer of Taluk Panchayath, Yadgir in spite of carrying out the works using JCB machinery, has facilitated the raising of bills to pay wages to the labourers who have not worked by creating false and bogus documents.

5(8). The facts supported by the materials on record *show that* the DGO, being a Government servant, has failed to



maintain absolute integrity and devotion to duty and also acted in a manner unbecoming of a Government servant, and thereby, he has committed misconduct and made himself liable for disciplinary action.

5(9). Since the said facts and materials on record prima-facie show that the DGO has committed misconduct as per Rule 3(1) of the KCS (Conduct) Rules, 1966, a report u/s 12(3) of Karnataka Lokayukta Act, was sent to the Competent Authority with a recommendation to initiate disciplinary proceedings Under Rule 14-A of Karnataka Civil Services (Classification, Control and Appeals) Rules 1957. In turn, Competent Authority initiated disciplinary proceedings against DGO and entrusted the enquiry to this Institution and Hon'ble Upalokayukta has nominated this enquiry Authority, to conduct enquiry and to submit a report. Hence, the above **charge**.

6. The aforesaid '**article of charge** was served upon the DGO and he appeared on 22.12.2017 before this enquiry authority and his **first oral statement** under Rule 11(9) of



KCS (CCA) Rules, 1957 recorded. The DGO has pleaded not guilty and claimed to be enquired about the charge.

7. The DGO has been given an opportunity by this Enquiry Authority for verification/inspection of records /documents and for discoveries; but, DGO has not filed his **written defence statement**.
8. From 07.06.2018, DGO did not appear. On 27.08.2018 DGO and defence assistant for DGO called out, but they were absent. Hence, DGO was placed *exparte* and on further hearing dates also, DGO did not appear.
9. *In this enquiry*, to establish the *charge* against DGO, the presenting officer has examined Sri. Mallinath (complainant) as **pw-1** & Sri. Oonkarmurthy, (Deputy Registrar of Enquiries-3, Lokayukta, Bangalore) as **PW-2** and got marked, in all, 9 documents as Ex P-1 to 9 on behalf of Disciplinary Authority.
10. Since, DGO was placed *exparte*, recording of 2nd oral statement of DGO and leading of defence evidence by him don't arise.
11. As DGO was placed *exparte*, I have heard the learned presenting officer only.
12. *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 is proved by the Disciplinary Authority through its presenting officer?*
- 2 : *What finding/conclusion ?*

13. I have heard and carefully perused the enquiry papers and analyzed and appreciated the oral and documentary evidence placed on record.

14. 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 ***

15. **POINT NO. 1** : *It is the case of the Disciplinary Authority that DGO being Junior Engineer in Taluk Panchayath, Yadagir has executed the works under MGNREG for the year 2015-16, taken up by Halligera Gram Panchayath by using machineries like JCB instead of labourers and you DGO has facilitated the payment of wages to the workers who have not at all worked, by creating false and bogus documents.*



16. *In order to prove, the charge leveled against DGO, the presenting officer has examined 2 witness and got marked 9 documents and closed the side.*
17. Now, I shall proceed to appreciate and analyze the oral and documentary evidence of the disciplinary authority viz.,(PW1, PW-2 and Ex P1 to 9) which are as follows :
18. PW-1 SRI MALLINATHA (complainant). *He deposed that, Under MGNREG Scheme, for the year 2015-16 to Halligera Gram Panchayath, the fund was released to carry out the works of excavation, cleaning of tank, removal of waste plants of Kamanayakana kere. The DGO has to carry out the said works under said scheme by employing laborers.*
19. *PW-1 further deposed that, to execute the said works, action plan was to be prepared by calling General meeting and Gramasabha, but it is not done.*
20. *PW-1 states that, he gave written complaints to Executive Officer, Yadagiri Taluk Panchayath, Chief Executive Officer, Zilla Panchayath. The Executive Officer has passed an order to stop the further work. In spite of it, DGO has prepared measurement book in the name of labourers although the work was done by using machineries.*



21. *PW-1 further states that, he gave complaint, Form No. I & Form No. II to Lokayukta office as per Ex. P -1 to 3. Along with complaint, he has produced (1) Copies of complaints given to Executive Officer & Chief Executive Officer; (2) Copy of muster rolls; (3) Copy of statement of Maremma (ex-president of Halligera Gram Panchayath) as per Ex. P-4 to 6 respectively.*
22. *Pw-1 says that, the DGO has committed dereliction of duty and misconduct by not employing the labourers for work/s under MGNREG scheme.*
23. *Pw-2 OOMKARMURTHY, (DRE-3 & Scrutiny Officer) he has deposed that, in this case he has perused complaint, Form No.I and Form No.II and relevant documents of this file and put up final scrutiny note and same was approved by Hon'ble Upalokayukta and 12(3) report was sent to Government as per Ex. P -7.*
24. *In the cross-examination of Pw-1 & 2, made by the learned defense assistant, I find that no worth mentioning points are elicited to discredit/disbelieve the depositions of PW-1 & 2. Moreover, DGO is placed exparte before recording of Second Oral Statement.*
25. In so far as argument in this enquiry is concerned, the learned *Presenting Officer* has submitted that PW1, being the complainant and PW-2 being Scrutiny Officer, have fully supported the disciplinary authority and Ex P1



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26. to 9 are also consistent with the case/enquiry and on the basis of depositions of supported witnesses and Ex P1 to 9 affirmative finding can be given as charge *proved*.
26. *Per contra*, the delinquent Government official is placed *exparte*.
27. 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*.
28. *On perusal of depositions of PW 1 Sri Mallinatha and PW-2 Sri. Oonkarmurthy*, it can be seen **that** PW1 being the complainant and PW-2 being Scrutiny Officer, have completely supported the case of disciplinary authority.
29. *It is important to note that*, in the cross-examination of PW-1 & PW-2, made by the learned defense assistant, I find that no worth mentioning points are elicited in the depositions of PW-1 and PW-2. Hence, the evidence of PW1 & 2 are inspiring confidence to believe and to rely upon.



30. It is relevant to note *that*, the depositions of PW1 and 2 are consistent and corroborative with Ex.P.1 to 9.
31. It is worthy to note that, moreover, the DGO did not appear before this Enquiry Authority by taking his own defence to say and to show *that* the case of the disciplinary authority is false. Moreso, he has not filed First Written Defense Statement. Hence, an adverse inference can also be drawn against the DGO as per Section 114 of the Indian Evidence Act, 1872.
32. *On careful analysis* and appreciation of oral and documentary evidence placed on record, it is *manifestly clear that* the evidence of PW1 & PW-2 is fully corroborated and consistent with Ex P1 to 9 and the same are inspiring confidence of this enquiry authority to rely and to act upon and there is nothing brought on record to disbelieve the same.
33. For the reasons stated above and observations made in the light of depositions of PW1 & PW2, relevant documents (i.e. Ex. P1 to 9) and provisions of law and under the given set of facts and circumstances of this enquiry, I have arrived at inevitable conclusion and constrained to hold that the Disciplinary Authority through its presenting officer is successful in proving the charge framed and leveled against the DGO up to



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the standard of *preponderance of probabilities*, to record my finding, in the affirmative as ***proved***.

34. **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 Sri. **Ashok**, Junior Engineer, Taluk Panchayath, Yadgir Taluk and District, has *failed* to maintain absolute integrity and devotion to duty and committed an act of which is unbecoming of a Government servant and *found* guilty of *misconduct/charge* under Rule 3(1) of Karnataka Civil Services (Conduct) Rules, 1966.
- ii. Accordingly, I hold and record/assign my finding on the charge leveled by the disciplinary authority against Delinquent Government official as **PROVED**.



iii Hence, this Enquiry Report is submitted/
placed before Hon'ble Upalokayukta-1 for kind
consideration.

Dated 4th September 2018

M. R. K. G. M. M. Mahaswamiji
04/09/2018

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

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

PW-1 SRI. Mallinatha (complainant)
PW-2 SRI. Oonkar murthy (Scrutiny Officer)

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

Ex.P-1 : complaint dated 17.10.2015
Ex.P-2 : Form No. I (complaint) dated
16.10.2015
Ex.P-3 : Form No. II (Affidavit) dated
16.10.2015
Ex.P-4 : Copies of complaints given to
Executive Officer, Taluk
Panchayath & Chief Executive
Officer, Zilla panchayath.

Ex P-5 : Copy of muster rolls
Ex P-6 : Copy of statement of Maremma (Ex
President of Halligere Gram
Panchayath).

Ex P-7 : 12(3) report of DRE-3 dated
20.08.2016
Ex P-8 : C.D
Ex P-9 : Report of service of notice dated
11.03.2016 along with
endorsement.

III LIST OF WITNESS/S EXAMINED ON BEHALF OF DGO/DEFENCE

Nil – placed exparte



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

Nil – placed exparte

M. R. . 04/09/2018

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

Date : 4th -09-2018.
Place : Bangalore.

