

BEFORE THE ADDITIONAL REGISTRAR, ENQUIRIES-11

KARNATAKA LOKAYUKTA, BENGALURU

ENQUIRY NUMBER: LOK/INQ-14-A/480/2011

ENQUIRY REPORT Dated: 28/01/2020

Enquiry Officer: V.G.Bopaiah

Additional Registrar Enquiries-11

Karnataka Lokayukta Bengaluru.

Delinquent Government Official: Sri H.S. Chidambaramurthy.

Discharged duties as Commercial Tax Officer attached to the office of Joint Commissioner of Commercial Taxes, Koramangala, Bengaluru from the month of June 2006 to the month of July 2008. On duty at Commercial Tax Check Post near Kengeri, Bidadi Hobli, Mysuru-Bengaluru road.

Due for retirement on superannuation on 30/06/2022.

1. Delinquent Government Official (in short, "DGO") was working as Commercial Tax Officer attached to the office of Joint Commissioner of Commercial Taxes, Koramangala, Bengaluru from the month of June 2006 to the month of July 2008. He is due for retirement on superannuation on 30/06/2022.
2. Background for initiating the present inquiry against the DGO needs to be set out in brief. One Sri. K.K. Nanjappa (hereinafter will be referred to as "complainant") is the Managing Director of "Fluoro Seals Die Casting Machinery Private Limited" situated at the land bearing survey number 121, Mysuru-

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Bengaluru main road, Kenchanakuppe Village, Bidadi Hobli, Ramanagara Taluk, Bengaluru Rural District. On 06/12/2017 DGO was on duty at Commercial Tax Check Post near Kengeri, Mysuru-Bengaluru road, Bidadi Hobli, Ramangara District. According to the complainant, his concern has sent one consignment to M/s Sargam Metals Private Limited, Chennai with tax invoice number 33 dated 04/12/2007 in the truck bearing registration number TN/23/3895 along with necessary documents. In spite of furnishing all the required documents, according to the complainant, DGO who was on duty at Commercial Tax Check Post near Kengeri on 04/12/2017 demanded illegal gratification of Rs.25,000/- and ultimately reduced the same to Rs.5,000/-. The complainant was not prepared to fulfil the said illegal demand and therefore thought of setting law into motion and therefore approached the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara at 1.00 P.M on 06/12/2007 and lodged computerised complaint on the basis of which the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara registered case against the DGO in crime number 01/2007 of Lokayukta Police Station, Ramanagara for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988 and submitted FIR to the jurisdictional Court at Ramanagara and afterwards secured shadow witness by name H.R. Ramachandraiah and panch witness by name K. Boregowda and informed them the purpose for which they are secured. The complainant placed five currency notes of denomination of Rs.1,000/- each before the in-charge Deputy Superintendent of Police, Karnataka

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Lokayukta, Ramanagara. Afterwards, in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara got entered numbers of the above notes on a sheet of paper and got applied phenolphthalein powder on those notes. One H.Ravi who was working in the concern of the complainant was present at that time. On the instructions of the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara the panch witness placed the tainted notes in the left side pocket of shirt of H.Ravi. The in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara got prepared solution with water and sodium carbonate powder and obtained sample of the same in a bottle. On the instructions of the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara the panch witness immersed fingers of hands in the residual solution. The said finger wash of the panch witness turned to pink colour. The in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara seized the said wash in a bottle. The in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramangara instructed H.Ravi who then was working in the concern of the complainant to give tainted cash to DGO in the security chamber of the concern of the complainant only in case of demand by DGO and further instructed to convey message by rolling the sleeves of shirt in case of acceptance of tainted cash by DGO. The in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara instructed the shadow witness to accompany H.Ravi and to observe as to what transpires between H.Ravi and DGO. With the above process the in-charge Deputy Superintendent of Police, Karnataka

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Lokayukta, Ramanagara conducted pre-trap mahazar as primitive step of investigation.

3. Subsequent to pre-trap mahazar the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara along with his staff, complainant, H.Ravi, shadow witness and panch witness left Lokayukta Office, Ramanagara and reached near the building of Fluoro Seals Die Casting Machinery Private Limited, Bidadi Hobli, Ramangara Taluk at 3:30 P.M. The complainant, H.Ravi and shadow witness entered the said premises. H.Ravi and shadow witness waited in the security chamber of the above concern awaiting the arrival of DGO. At 4:15 P.M. one Ravikumar.M.N entered the security chamber and after wishing H.Ravi communicated that he arrived at there on the instructions of DGO and asked to pay cash of Rs. 5,000/-. In response, H.Ravi handed over the tainted cash to Ravikumar.M.N. Ravikumar.M.N accepted the tainted cash with right hand and after counting with both hands placed the tainted cash in the left side pocket of jerkin. Afterwards, H.Ravi offered communication. Thereafter, the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara along with his staff and panch witness arrived at there and disclosed the identity and informed the purpose of arrival at the spot. The in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara got prepared solution with water and sodium carbonate in two bowls and after obtaining sample of the same in a bottle got immersed fingers of right hand of Ravikumar.M.N in the residual solution kept in a bowl and got immersed fingers of left hand of Ravikumar.M.N in the residual solution kept in another bowl. Finger wash of both hands of Ravikumar.M.N turned to light pink colour. The in-

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charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara seized those wash in separate bottles. On being questioned by the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara about tainted cash Ravikumar.M.N placed the tainted cash before the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara. The in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara seized those tainted notes. The in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara got immersed fingers of right hand of H.Ravi in the residual solution. The said wash equally turned to light pink colour. The in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara seized the said wash in a bottle. On being questioned by the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara Ravikumar.M.N offered statement in writing. H.Ravi and shadow witness refuted the contents of statement in writing of Ravikumar.M.N. The in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara conducted trap mahazar in the security chamber of the above concern of the complainant. The in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara caused arrest of Ravikumar.M.N and brought Ravikumar.M.N to Lokayukta Police Station, Ramanagara. On the information furnished by Ravikumar.M.N the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara caused arrest of DGO on that night. On the next day i.e., on 07/12/2007 DGO offered statement in writing before the in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara. On 07/12/2007 the staff of the in-charge Deputy

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Superintendent of Police, Karnataka Lokayukta, Ramanagara produced the DGO and Ravikumar.M.N before the jurisdictional Court at Ramanagara. On 08/12/2007 the Deputy Superintendent of Police (hereinafter will be referred to as "Investigating Officer") Lokayukta Office, Ramanagara took up further investigation. Further investigation unearthed prima facie case against the DGO and Ravikumar.M.N and therefore, after obtaining sanction for prosecution of DGO from the Competent Authority the Investigating Officer filed charge sheet against the DGO and Ravikumar.M.N in the jurisdictional Court at Ramanagara.

4. On the basis of the materials placed by the Additional Director General of Police, Karnataka Lokayukta, Bengaluru, Hon'ble Upalokayukta, Karnataka in exercise of the powers conferred upon under section 7(2) of The Karnataka Lokayukta Act, 1984 conducted investigation which on the basis of records prima facie unearthed that DGO has committed misconduct within the purview of Rule 3(1) of The Karnataka Civil Services (Conduct) Rules, 1966 and accordingly, in exercise of the powers conferred upon under section 12(3) of The Karnataka Lokayukta Act, 1984 recommended the Competent Authority to initiate disciplinary proceedings against the DGO and to entrust this inquiry to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

5. Subsequent to the report dated 22/08/2011 under section 12(3) of The Karnataka Lokayukta Act, 1984, Government Order bearing number ಆಇ 7 ವಾತೆತ 2008 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 13.12.2011 has been issued by the Desk Officer attached to Finance Department (Commercial Taxes-2) entrusting the inquiry

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against the DGO to the Hon'ble Upalokayukta, Karnataka under Rule 14-A of The Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957.

6. Subsequent to the Government Order bearing number ೩೩ 7 ವಾತೆತ 2008 ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 13.12.2011, Order number LOK/INQ/14-A/480/2011 Bengaluru Dated 20/12/2011 has been ordered by the Hon'ble Upalokayukta-1, Karnataka nominating the Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru as Inquiry Officer to frame charges and to conduct departmental inquiry against the DGO.
7. Articles of charge dated 19/03/2012 at Annexure-I which includes statement of imputation of misconduct at Annexure-II framed by the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru is the following:

"ANNEXURE NO.I

CHARGE:

2. That, you Sri H.S.Chidambara Murthy, the DGO, while working as Commercial Tax Officer at Kengeri Traffic Check Post in Bangalore, the complainant namely Sri K.K.Nanjappa, Managing Director of Fluoro Seals Die Casting Machinery Pvt., Ltd., at Bidadi in Ramanagara District had sent a consignment to M/s Sargam Metals Pvt., Ltd., at Chennai with all documents in truck No. TN-09-3895 and in spite of furnishing all relevant documents at Kengeri Check Post, you did not allow the said consignment vehicle to go to Chennai, demanding bribe of ₹ 25,000/- and after request reduced the bribe to ₹ 10,000/- and on further request bribe amount was reduced to ₹ 5000/- asking to pay the said amount to his assistant Sri Kumar and on 06/12/2007, you received the said amount as bribe through your agent Sri. M.M. Ravikumar by Sri Ravi, Accounts Manager of the complainant's

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company to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was un-becoming of a Government Servant and thereby committed mis-conduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE NO.II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

The complainant namely K.K.Nanjappa, Managing Director of Fluoro Seals Die Casting Machinery Pvt., Ltd., at Bidadi in Ramanagara District. The complainant's company had sent a consignment to its customer M/S Sargam Metals Pvt. Ltd., at Chennai with all relevant documents in truck No. TN-09-3895. In spite of furnishing relevant documents at Kengeri Check Post, the DGO did not allow the said consignment vehicle to go to Chennai. The complainant's company contacted the DGO over phone. The DGO demanded bribe of ₹ 25,000/-. The complainant's company did not pay bribe as the consignment was sent with necessary documents. Thereafter, the DGO reduced demand to ₹ 10,000/- and ultimately reduced the bribe to ₹ 5000/- asking to pay the said amount to his Assistant Sri Kumar at any cost on 06/12/2007. The complainant was not willing to pay bribe as demanded by the DGO. Therefore, on 06/12/2007, the complainant lodged a complaint before the Dy. S.P, Karnataka Lokayukta of Ramangar (herein after referred to as the Investigating Officer, for short, "the I.O."). The I.O. registered the complaint in Cr.No.01/2007 for the offences punishable U/S 7, 13(1)(d) R/W 13(2) of the Prevention of Corruption Act 1988. During the course of investigation into the said crime, when the tainted amount of ₹ 5000/- was given by the Accounts Manager of the complainant's company viz., Sri Ravi to the agent of the DGO Sri M.M.Ravikumar, the IO trapped the DGO on 06/12/2007 in the presence of the complainant, the Panch witnesses and his staff in the premises of M/S Fluoro Seals Die Casting Machinery Pvt., Ltd., situated at Bidadi in Bangalore-Mysore Road, Ramanagar District and seized the tainted amount

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from the Sri M.M.Ravikumar under mahazar after following post-trap formalities. The I.O took statement of the DGO in writing and recorded statements of the complainant, the panch witnesses and others. After receiving report of the chemical examiner, the I.O submitted report of investigation. The facts and materials on the record of investigation of the I.O prima facie showed that, the DGO being a Government servant, failed to maintain absolute integrity, devotion to duty and acted in a manner unbecoming of a Government servant. Therefore, a suo-moto investigation was taken up U/S 7(2) of Karnataka Lokayukta Act and an observation note was sent to the DGO calling for his explanation. The DGO submitted his reply and the reply was not convincing and not satisfactory to drop the proceedings. As the facts and materials on record prima-facie showed that the DGO has 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 was sent to the Competent Authority with recommendation to initiate disciplinary proceedings against the DGO and to entrust enquiry to the Hon'ble Upalokayukta U/R 14-A of the Karnataka Civil Services (Classification, Control and Appeal) 1957. Accordingly the Competent Authority initiated disciplinary proceedings against the DGO and entrusted the enquiry U/R 14-A of the KCS (CCA) Rules 1957 to the Hon'ble Upalokayukta. Hence, the charge."

8. In response to due service of articles of charge, DGO entered appearance before the then Additional Registrar, Enquiries-4, Karnataka Lokayukta, Bengaluru on 27/04/2012. In the course of first oral statement of DGO recorded on 27/04/2012 he pleaded not guilty. He has engaged Advocate for his defence.
9. In the course of written statement of DGO filed on 18/10/2012 he has denied the allegations levelled against him and contended that as found in the attendance register he discharged duties in Kanakapura Road Mobile Check Post of

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Department of Commercial Taxes on 06/12/2007 but not in the Check Post as alleged. It is contended that statement in writing of Ravikumar.M.N has been obtained by force. It is contended that statement in writing of DGO is not substantive piece of evidence. DGO has enclosed xerox copy of consignor copy in a single sheet of Sri Kumar Transports, H.Siddaiah road, Bengaluru, xerox copy of remand application dated 07/12/2007 in two sheets of DGO and Ravikumar.M.N, xerox copy of the letter in a single sheet of Deputy General Manager (NSS-1) MS 1st floor, CMX building, Bengaluru addressed to the Deputy Superintended of Police, Karnataka Lokayukta, Ramanagara, a single xerox sheet of cell phone call details, xerox copy of letter in a single sheet of "Spice" Telecom addressed to the Police Inspector attached to Lokayukta Police Station, Ramanagara, xerox copy of a single sheet of cell phone call details, xerox copy of statement in writing dated 06/12/2007 in two sheets of Ravikumar.M.N to the written statement.

10. As per Order number LOK/INQ/14-A/2014 dated 14/03/2014 of Hon'ble Upalokayukta-1, Karnataka this file has been transferred to Additional Registrar, Enquiries-5, Karnataka Lokayukta, Bengaluru.
11. As per Order number UPLOK-1/DE/2016 Bengaluru dated 03/08/2016 of Hon'ble Upalokayukta-1, Karnataka this file has been transferred to this section i.e., Additional Registrar, Enquiries 11, Karnataka Lokayukta, Bengaluru.
12. The disciplinary authority has examined the panch witness Sri. K. Boregowda as PW1, complainant Sri. K.K. Nanjappa as PW2, Sri. H.Ravi who was working in the Accounts Section of the Company of the complainant as PW3, shadow witness by name Sri. H.R. Ramachandraiah as PW4, Sri.

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S. Basavaraj who was in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara on 06/12/2007 as PW5, Sri. H. Manjappa who was working as Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara from the month of October 2007 to May 2011 as PW6.

13. During evidence of PW1, attested copy of pre-trap mahazar dated 06/12/2007 in four sheets is marked as per Ex P1, attested copy of trap mahazar dated 06/12/2007 in seven sheets is marked as per Ex P2, attested copy of statement in writing dated 06/12/2007 in two sheets of M.N. Ravikumar is marked as per Ex P3, attested copy of statement dated 07/12/2007 in writing in a single sheet of DGO is marked as per Ex P4. During evidence of PW2 xerox copy of his complaint dated 06/12/2007 in two sheets is marked as per Ex P5. During evidence of PW3 his signature found on Ex P1 is marked as per Ex P1(a). During evidence of PW5 attested copy of FIR dated 06/12/2007 in a single sheet in crime number 01/2012 of Lokayukta Police Station, Ramanagara is marked as per Ex P6. During evidence of PW6 attested copy of report dated 01/02/2008 in two sheets of the Chemical Examiner attached to Public Health Institute, Bengaluru is marked as per Ex P7, attested copy of sketch of the place of trap in a single sheet is marked as per Ex P8, attested copy of the letter dated 11/12/2007 in a single sheet of Sri. Kumar Transports, H.Siddaiah Road addressed to the Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara is marked as per Ex P9, xerox copy of cell phone call particulars in a single sheet is marked as per Ex P10, xerox copy of the letter of the Deputy General Manager (NSS-1) MS,CMX Building, Bengaluru addressed to the Deputy Superintendent of Police, Karnataka

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Lokayukta, Ramanagara is marked as per Ex P11, xerox copy of cell phone call details in a single sheet is marked as per Ex P12, xerox copy of the letter dated 18/06/2008 in a single sheet of "Spice" Telecom addressed to the Police Inspector, Lokayukta Police Station, Ramanagara is marked as per Ex P13, attested copy of delivery note dated 04/12/2007 in a single sheet of the Company of the complainant is marked as per Ex P14, attested copy of tax invoice dated 04/12/2007 in a single sheet of the Company of the complainant is marked as per Ex P15, six attested sheets of the consignment list are together marked as per Ex P16.

14. In the course of second oral statement of DGO recorded on 18/03/2019 he has stated that he would get examined himself as defence witness and that he would also examine defence witnesses.

15. On behalf of DGO, Sri. Gopala, Sri.S.Mirja Hasmathulla, Sri. Ravikumar M.N and Sri. Mahendra are examined respectively as DWs 1 to 4. DGO got himself examined as DW5.


16. During evidence of DW2, original letter by way of certificate dated 19/04/2019 issued by him to DGO is marked as per Ex P1, attested copy of single sheet of attendance register in a single sheet for the month of December 2007 maintained in the office of DGO is marked as per Ex D2, attested copy of a single sheet of attendance register for the month of January 2008 maintained in the office of DGO is marked as per Ex D3, three attested sheets of work allotment order touching the work allotted to DGO and others is marked as per Ex D5.

17. Since DGO has adduced defence evidence incriminating circumstances which appeared against him in the evidence of PWs 1 to 6 are not put to him by way of questionnaire.

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18. In the course of written argument of the Presenting Officer filed on 14/11/2019 reference is made to the articles of charge and evidence on record. On the strength of the evidence of PWs 1 to 6 it is sought to contend that their evidence would lend assurance to the alleged misconduct. It is sought to contend that evidence on record establishes that DW 3 accepted tainted cash from PW3 for and on behalf of DGO at the time of trap.

19. In the course of written argument filed on 20/01/2020 which is signed by the Advocate for DGO it is sought to contend that DGO never demanded and accepted illegal gratification from the complainant. It is contended that DGO never contacted the complainant either directly or over phone. It is contended that the witnesses examined on behalf of the disciplinary authority have not supported the case of disciplinary authority. It is contended that no evidence is forthcoming to establish that on 04/12/2009 DGO stopped the lorry bearing registration number TN-09-3895 and that as per Ex P16 no vehicle is passed on 04/12/2009 through the check post and therefore it cannot be understood that the alleged vehicle has passed through the check post on 05/12/2007 and that the Investigating Officer has twisted the documents. It is contended that PW2 neither met the DGO nor talked to DGO and that evidence of PWs 2 and 3 is divergent. It is contended that evidence of PW4 is not in corroboration with the evidence of PW3. It is contended that as found in Ex D1 DGO was transferred to Kanakapura Check Post on 05/12/2007. It is contended that DW1 has unfolded the real facts. It is contended that statement in writing of DW3 is the outcome of coercion. It is contended that statement in writing of DW3 has no

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evidentially value. It is contended that the disciplinary authority has not discharged its burden in establishing the alleged charge. It is contended that acquittal of DGO who faced trial in Special C.C. number 37/2009 by the Principal District and Sessions Judge, Ramanagara on the similar set of facts lends assurance to the defence. It is contended that contents of written argument of the Presenting Officer is baseless. It is contended that defence of DGO is not denied by the Presenting Officer. It is contended that DGO is the sole earning member of family and in case punishment is imposed the same will result in untold hardship and mental agony and on humanitarian grounds DGO may be exonerated. It is contended that the disciplinary authority has failed to establish prima facie case against the DGO.

20. In tune with the articles of charge, point which arises for consideration is whether it stands established that in order to accord permission for movement of the lorry loaded with the consignment of the complainant to Chennai, DGO while discharging duties as Commercial Tax Officer at commercial tax check post situated near Kengeri, Mysuru-Bengaluru road, Bidadi Hobli, Ramanagara District on 04/12/2007 demanded illegal gratification from the driver of the lorry in which consignment of the complainant was loaded and thereafter, on the earlier instructions of DGO, Sri. Ravikumar M.N demanded and accepted illegal gratification of Rs.5,000/ at 04.15 P.M in the security chamber of the company "Fluoro Seals Die Casting Machinery Private Limited" of the complainant for and on behalf of DGO from Sri. H.Ravi who then was employed in the Company of the complainant and during investigation conducted by the Deputy Superintendent of Police, Karnataka

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Lokayukta, Ramanagara DGO failed to offer satisfactory explanation for possession of tainted cash of Rs.5,000/- possessed by Sri. Ravikumar M.N at 4.15 P.M on 06/12/2007 in the security chamber of "Fluoro Seals Die Casting Machinery Private Limited" situated at No.121, Mysuru-Bengaluru main road, Kenchanakoppe Village, Bidadi Hobli, Ramanagara District and thereby DGO is guilty of misconduct within the purview of Rule 3(1) (i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966?


21. Lodging of complaint as spoken to by PW2 who is the complainant is not under serious challenge. It is in the evidence of PW2 that his consignment was to pass through Commercial Tax Check Post situated at Kengeri in between Bidadi and Bengaluru. This portion of his evidence is not under challenge. His evidence that his consignment left his concern at about 6.00 P.M on 04/12/2007 destined at Chennai is not under specific challenge and therefore that portion of his evidence needs acceptance. His evidence that the lorry in which consignment was loaded reached near Commercial Tax Check Post at Kengeri at about 06.15 P.M is not under serious challenge. His evidence that PW3 H.Ravi was then working as Supervisor of Accounts in his concern is not under challenge. His evidence that he was informed by PW3 that the lorry was stopped in the check post is not under challenge. He has spoken to that he spoke to a person by name Murthy over phone and that the said Murthy responded that documents are not in order for which he replied that documents are in order is not under specific challenge. It is in his evidence that Murthy demanded illegal gratification of Rs.25,000/- and told that in case the said demand is not fulfilled, then, case will be

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registered. It can be gathered that reference made by the complainant to Murthy is the reference to DGO whose name is H.S. Chidambara Murthy.

22. It is in the evidence of the complainant that he lodged complaint on 06/12/2007. This portion of his evidence has not been assailed during his cross examination. PW5 S.Basavaraj who was in-charge Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara on 06/12/2007 has spoken to that after receipt of complaint at 1.00 P.M on 06/12/2007 he registered case in crime number 01/2017 for the offence punishable under section 7, for the offence defined under section 13(1)(d) which is punishable under section 13(2) of The Prevention of Corruption Act, 1988 and submitted FIR to the jurisdictional Court. Ex P6 is the attested copy of the said FIR. This portion of his evidence is not under challenge and as such registration of case against the DGO stands established.

23. Regarding pre-trap proceedings, PW5 has spoken to that subsequent to submission of FIR to the jurisdictional Court he secured the shadow witness (PW4) and panch witness (PW1) to Lokayukta Police Station, Ramangara. It is in his evidence that the complainant placed five currency notes of denomination of Rs.1,000/- each before him and thereafter he got entered the numbers of those notes on a sheet of paper and got applied phenolphthalein powder on those notes. It is in his evidence that on his instructions PW1 placed the tainted cash in the left side pocket of PW3. It is in his evidence that he got prepared solution with water and sodium carbonate powder and thereafter got immersed fingers of hands in the residual solution. It is in his evidence that finger wash of hands of PW3 turned to pink colour and that he seized the said wash. He has spoken to that

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he instructed PW3 to handover the tainted cash to DGO only in case of demand by DGO and further instructed PW3 to convey message in case of acceptance of tainted cash by DGO. It is in his evidence that he instructed PW4 to accompany the complainant and to observe as to what transpires and with the said process he conducted pre-trap mahazar. Entire evidence of PW5 touching pre-trap proceedings has remained unchallenged and therefore his evidence touching pre-trap mahazar needs acceptance and therefore his evidence establishes that he conducted the proceedings of pre-trap mahazar. Though PW1 has not fully supported the proceedings of pre-trap mahazar has spoken to some extent touching the proceedings of pre-trap mahazar. PWs 2 and 4 have spoken to the proceedings of pre-trap mahazar whose evidence is almost in tune with the evidence of PW5 touching the proceedings of pre-trap mahazar. Evidence of PWs 1 to 4 touching the proceedings of pre-trap mahazar is not under challenge. On the strength of the evidence of PWs 1 to 5 it needs to be expressed that PW5 conducted pre-trap mahazar as primitive step of investigation.

24. Evidence of the complainant (PW2) that the lorry loaded with the consignment had proceeded towards Chennai at about 6.00 P.M on 04/12/2007 and perhaps the said lorry reached near commercial tax check post at Kengeri at about 6.15 P.M is not under challenge and therefore it stands established that the said lorry was to pass through the above check post for clearance. His evidence that PW3 was then working in the accounts section of his company is also not under challenge. His evidence that he was told by PW3 that the lorry was stopped on the ground that papers are not in order and thereafter he spoke to one Murthy is also not under challenge.

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It can be gathered that PW2 must have referred to DGO whose name is H.S. Chidambara Murthy. His evidence that DGO told him that documents are not in order for which he responded that documents are in order is not under challenge. Though it is brought out during his cross examination that he cannot say that Murthy with whom he spoke over phone on 04/12/2007 is the DGO that portion of his evidence will not lend assurance to the defence for the reason that in the course of examination-in-chief PW2 has referred to the name of DGO as Murthy. Evidence of PW2 that after he responded that documents are in order DGO demanded illegal gratification of Rs.25,000/- failing which case will be initiated is not under challenge. His evidence that he instructed PW3 to manage the situation is also not under challenge. His evidence that he was told by PW3 that DGO ultimately expressed that in case of payment of a sum of Rs.5,000/- permission will be accorded for movement of lorry is not under challenge. It is in the evidence of PW2 that he was informed by PW3 that lorry was permitted to move subject to the condition of payment of a sum of Rs.5,000/- is not under challenge.

25. Evidence of PW2 that at about 4.30 P.M on 06/12/2007 he was in his chamber and that he commenced witnessing through circuit camera is not under challenge. His evidence that PW3 was inside the security chamber of his company building and that he noticed through the circuit camera a person entering the security chamber and thereafter he came to know that the said person is the representative of DGO is not under challenge. It needs to be expressed that the said representative of DGO is none other than DW3 by name Ravikumar M.N. It is thus stands

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established that DW3 entered the security chamber of the concern of the complainant. At this juncture evidence of DW3 needs to be appreciated. During evidence DW3 has spoken to that he was running a tea stall near check post at Kengeri and that public, drivers of lorries and staff of check post used to visit his tea stall. During cross examination he has stated that he has not obtained licence for running tea stall. Suggestion made to him during his cross examination by the Presenting Officer suggesting that he was not running tea stall though is denied no documents are placed either by him or by DGO to establish that he was running tea stall and in the absence of the same it cannot be believed that at that time he was running tea stall. PW3 has spoken to that a lorry driver by name Raju attached to Tamilnadu based lorry is known to him for the past fifteen years and that the said Raju had come to tea stall along with a cleaner by name Mahendra at about 8.00 P.M on 04/12/2007 and asked Rs.5,000/- to meet the expenses of repair of lorry and that he gave the said amount to Raju. He has spoken to that since Raju has not repaid the said amount till 10.00 A.M on the next day he contacted the authorities of the transport company over phone and asked to pay the said amount to Raju. He has spoken to that since the authorities of transport company instructed to pay the amount to PW3 he furnished the phone number of PW3 and afterwards PW3 told that since PW2 is not in station amount may be collected on the next day. DW 3 has spoken to that PW 3 contacted him over phone on 06/12/2017 and informed to arrive at near the company of PW 2 at about 3:30 P.M and accordingly he reached near the main gate of the company building of PW 2 at 4:00 P.M where PW 3 gave cash of

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Rs.5,000/- DW3 has spoken to that afterwards he was apprehended by Lokayukta Police staff and seized the said cash of Rs.5,000/-. He has spoken to that his statement in writing has been obtained by force by Lokayukta Police staff and that he has not accepted cash for and on behalf of DGO.

26. During cross examination PW3 has stated that there is no enmity between him and Raju and equally between him and PW3 and also between him and PW6. It needs to be remembered that charge sheet is filed in the Special Court at Ramanagara against DGO and also against DW3. Since PW6 had no enmity it cannot be held that PW3 implicated DW3 with any oblique motive. Suggestions made to DW3 during cross examination suggesting that he was mediator and that for and on behalf of DGO he demanded cash from the driver of lorry on 04/12/2007 are denied by him. Suggestion made to him during cross examination suggesting that he was asked by DGO to collect money on 06/12/2007 from PW3 has been denied by him. Suggestion made to him during cross examination suggesting that he had been to the company building of PW2 at 3.00 P.M on 06/12/2007 though is denied it is found in his examination- in- chief that he had been to the company of PW2 at 4.00 P.M on 06/12/2007. Suggestion made to PW3 suggesting that his personal search was conducted by Lokayukta Police staff at 3.30 P.M on 06/12/2007 though is denied it is in his examination in chief that he was apprehended by Lokayukta Police staff on 06/12/2007.

27. It is significant to mention that during cross examination DW3 has admitted the process of wash of fingers of his hands after 4.00 P.M on 06/12/2007 and consequential change of

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colour of the said finger wash. It is worthy to express at this juncture that it is not his say that PW3 had any evil intention for false implication and therefore PW3 handed over tainted currency notes. When the evidence of DW3 is appreciated in that background his evidence that cash of Rs.5,000/- was the cash which was paid by him earlier to Raju cannot be believed and accepted. It needs to be remembered that since DW3 was one of the accused persons in the charge sheet filed against him in the Special Court at Ramanagara he must have come forward to state with the intention of safeguarding his interest. Regarding his statement in writing the attested copy of which is at Ex P3 it is his evidence that his statement has been obtained by force. Whether this portion of his evidence is worthy of credence or not needs to be appreciated on the strength of his answers elicited during his cross examination. Though he has stated during cross examination that on the very first day of his production before the Special Court at Ramanagara he has stated that his statement has been obtained by force the certified copy of the very first day order sheet maintained by the Special Court at Ramanagara is not made available either by him or by DGO for the reasons well within his knowledge and knowledge of DGO. During cross examination he has stated that he has not lodged any complaint with the higher officers of Lokayukta Police Wing alleging that his statement has been obtained by force. Therefore, his say that his statement has been obtained by force is nothing but self serving testimony and therefore his evidence that his statement has been obtained by force cannot be believed. Added to the same evidence of PW1 as found in paragraph number 4 of his evidence that DW3 has given

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statement in writing for which he is one of the signatories has remained unchallenged and therefore the said portion of evidence of PW1 needs acceptance which lends assurance that DW3 voluntarily gave statement in writing the attested copy of which is at Ex P3. In addition to the same, evidence of PW2 as found in paragraph number 6 of his evidence that DW3 gave statement in writing the attested copy of which is at Ex P3 has not been assailed during cross examination of PW2 which also lends assurance to hold that DW3 volunteered to give statement. In the course of evidence PW4 has stated that DW3 gave statement the copy of which is at Ex P3. Suggestion made to him during his cross examination suggesting that PW5 obtained the said statement in writing by force has been denied. In the presence of unchallenged portion of evidence of PWs 1 and 2 touching Ex P3 denial of suggestion by PW4 touching Ex P3 will not lend support to the say of DW3 that original of Ex P3 is the outcome of force. Suggestion made to PW5 during cross examination suggesting that the statement of DW3 has been obtained by force has been denied by him. In the presence of evidence of PWs 1 and 2 touching Ex P3 neither DW3 nor DGO can stretch their hands to make believe that original or Ex P3 is the outcome of force.

28. Apart from the evidence of PW3, evidence of DWs 1 and 4 needs to be appreciated for proper and better appreciation of the evidence of PW2. During evidence DW1 who according to him was employed in Kumar Transport at H.Siddaiah road, Bengaluru is that on 04/12/2007 lorry was sent to the company of PW2 and that at about 6.30 P.M on 04/12/2007 driver of the lorry contacted over phone and informed that lorry needed repair. He has stated that he informed the same to

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PW3 and after attending the repair work the lorry proceeded towards Tamil Nadu on 05/12/2007. During cross examination he has stated that PW2 had availed the services of lorry. Nothing is suggested to PW2 during cross examination that services of lorry belonging to Kumar Transport has been availed. Suggestion made to him during cross examination suggesting the alleged complicity of DW3 and DGO though are denied his evidence will not lend assurance to the credibility of the testimony of DW3.

29. According to DW4, he used to attend the cleaning work of lorries and that his services were availed on 04/12/2007 by Kumar Transport Company. It is his evidence that after the lorry driven by Raju left the company of PW2 there was break down of the lorry and thereafter a mechanic agreed to attend the repair work. He has spoken to that Raju who was the driver of the lorry contacted the manager of Kumar Transport and thereafter DW3 was requested by Raju to make good the required funds of Rs.5,000/- to meet the expenses of repair of lorry. He has spoken to that one Gopal furnished the mobile number of PW3 and asked to contact PW3 and accordingly PW3 contacted DW3 and informed to make good cash. This portion of his evidence is not found suggested to PW3 and therefore the said portion of his evidence cannot be believed. DW4 has further spoken to that Raju furnished the mobile number of PW3 to DW3 and asked to receive cash from the company of PW2. During cross examination he has stated that normally repair work has to be attended by the owner of the lorry. In the presence of such an answer evidence of DW4 as spoken to by him cannot be accepted. Upon appreciation of his entire

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evidence it needs to be expressed that he has come forward to safeguard the interest of DW3 and also the interest of DGO.

30. In the course of evidence PW2 has stated that instructions were already given to PW3 to communicate after payment of bribe amount. This portion of his evidence is not under challenge. His evidence that within a period of two minutes after the entry of PW3 to the security chamber PW3 came out of security chamber and offered communication and thereafter Lokayukta Police staff apprehended DW3 is not under challenge and therefore that portion of his evidence needs acceptance. Seizure of tainted cash by Lokayukta Police staff from the possession of DW3, process of finger wash of hands of DW3 and consequential change of colour of finger wash of PW3 as spoken to by PW2 during his evidence has remained unchallenged and therefore that portion of his evidence needs acceptance which establishes possession of tainted cash by DW3. Though it is brought out during cross examination of PW2 that DGO has not demanded cash directly from him evidence on record establishes that DW3 demanded and accepted tainted cash of Rs.5,000/- on the day of trap on the earlier instructions given to him by DGO. It is brought out during cross examination of PW2 that he came to know through PW3 that DW3 is the representative of DGO. Upon appreciation of the entire cross examination of PW2 I find nothing worthy to disbelieve his evidence. Answers elicited during his cross examination are of no avail to the defence put forward by DGO.

31. It is in the evidence of PW3 that on a night of December 2007 a lorry left the concern of PW2 destined at Hosuru. This portion of his evidence is not under challenge. His evidence

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that at the point of time he was employed in the company of PW2 is not under challenge. His evidence that on that night driver of the lorry contacted him over phone and informed that a person by name Murthy demanded cash of Rs.5,000/-. This portion of his evidence is not under challenge. It needs to be inferred that Murthy to whom he has referred is the DGO by name Sri. H.S. Chidambara Murthy. Evidence of PW3 that PW2 told him that driver of the lorry had asked to pay cash to DW3 is not under challenge. This portion of his evidence incriminates the DGO. Evidence of PW3 that DW3 was in the security chamber and that he gave cash of Rs.5,000/- to DW3 in the security chamber and returned to his office has not been assailed during his cross examination. It is significant to mention that during cross examination of PW3 it is elicited that on the instructions of PW2 he gave cash of Rs.5,000/- to DW3 who was at the gate of the building of the company of PW2. This portion of his answer unerringly establishes that on the instructions of the complainant he gave tainted cash to DW3 and therefore it needs to be inferred that on the instructions of PW2 he gave tainted cash to DW3 as instructed earlier by DGO. The said answer takes away the credibility of the testimony of DW3 as discussed earlier.

32. PW1 has spoken to that on 06/12/2007 Lokayukta Police staff asked him to remain in the security chamber of the company building of PW2 with uniform of security guard with instructions to inform PW2 that a person will arrive at to meet PW2 anticipating bribe amount. He has spoken to that at about 4.00 P.M or 4.30 P.M a person arrived at there and desired to meet PW2 and therefore he communicated the same to PW2 through the watchmen. He has stated that PW2

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arrived at the security chamber from whom a person accepted cash and placed in the pocket of jerkin. He has not fully supported and turned hostile. After treating him hostile the Presenting Officer subjected him for cross examination. During cross examination by the Presenting Officer PW1 has admitted that the person who was wearing jerkin is DW3. He admits the process of finger wash of hands of DW3, consequential change of colour of finger wash of hands of DW3 and also seizure of tainted cash. Nothing worthy is brought out during his cross examination and therefore his evidence establishes acceptance of tainted cash by DW3 and possession of the same during trap.

33. Evidence of PW 4 that at about 4:00 P.M or 4:30 P.M DW 3 entered the security chamber of the company of PW 2 and expressed that he is sent by DGO is not under challenge which portion of his evidence establishes that on the instructions of DGO DW 3 arrived at the security chamber. Evidence of PW 4 that PW 3 handed over tainted cash to PW 3 is not under challenge which portion of his evidence establishes acceptance of tainted cash by DW 3 on behalf of DGO. Evidence of PW 4 that DW 3 accepted the tainted cash with right hand and after counting with both hands placed the same in the outer pocket of jerkin is also not under challenge which incriminates the DGO. Evidence of PW 1 that after communication by PW 3 Lokayukta Police staff arrived at there and that PW 3 expressed that DW 3 accepted cash is not under challenge. Evidence of PW 4 touching finger wash of hands of DW 3, consequential change of colour of the said wash, wash of outer pocket of jerkin of DW 3 and consequential change of colour of the said

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wash equally is not under challenge which lends assurance that DW 3 was found in possession of tainted cash.

34. Evidence of PW5 that at about 4.15 P.M on 06/12/2007 a person entered the security chamber of the company building of PW2 and thereafter PWs 1 to 3 entered the said chamber and afterwards PW3 offered communication is not under challenge. His evidence that afterwards, he along with his staff and panch witness entered the security chamber where PW3 pointed out DW3 and expressed that cash is given to DW3 has not been assailed during his cross examination in true letter and spirit and therefore that portion of his answer needs acceptance. His evidence touching the process of finger wash of both hands of DW3, consequential change of colour of finger wash of hands of DW3, seizure of tainted cash from the possession of DW3, process of wash of the pocket of jerkin of DW3 and consequential change of the colour of the said wash has not been assailed during his cross examination and therefore that portion of his evidence needs acceptance which establishes acceptance of cash by DW3 and seizure of cash from the possession of DW3. PW5 has spoken to that he conducted trap mahazar in the security chamber of the company building of PW2. Ex P2 is the attested copy of trap mahazar. PW5 has spoken to that after causing arrest of DW3 he brought DW3 to Lokayukta Police Station, Ramangara. He has spoken to that on the information of DW3 he secured DGO on that night and afterwards caused arrest of DGO. He has spoken to that DGO gave statement before him the attested copy of which at Ex P4.

35. Though it is brought out during cross examination of PW5 that lorry was not seized in the check post and that he has

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not enquired the driver of the lorry on 06/12/2007 these answers will not lend assurance to the defence. It is brought out during his cross examination that DW3 is private individual. Though it is brought out during his cross examination that he has not ascertained whether DW3 was the guide of DGO that portion of his evidence will not lend support to the defence for the reason that evidence as discussed earlier establishes that DW3 was working under the instructions of DGO. Though it is brought out during cross examination of PW5 that after causing arrest of DW3 he has not called upon DW3 to contact the DGO the said answer will not lend support to the defence. Though it is brought out during his cross examination that he could not find DGO in Sarakki gate check post the said answer also will not lend assurance to the defence. Though it is brought out during his cross examination that he has not obtained document to show the period at which DGO was working at Sarakki gate the said answer equally will not lend assurance to the defence for the reason that charge specifically pertains to demand by DGO on 04/12/2007 and acceptance of tainted cash from PW3 by DW3 on 06/12/2007. Upon appreciation of entire cross examination of PW5 I find nothing worthy to lend support to the defence.

36. During evidence PW 6 has spoken to further investigation and submission of charge sheet in the Court of District and Sessions Judge, Ramanagara. His evidence would show that he transmitted the seized articles to the Chemical Examiner attached to Public Health Institute, Bengaluru and that he received report from the Chemical Examiner attached to Public Health Institute, Bengaluru. Ex P7 is the attested copy of the said report which is not under challenge. He has spoken

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to sketch drawn in the place of trap. Ex P8 is the attested copy of the sketch. The said sketch is not under challenge. It is found in his evidence that he secured the letter the attested copy of which is at Ex P9. It is seen in Ex P9 that materials are consigned in the lorry (truck) bearing registration number TN 09/3895 and that instead of mentioning the said number it was mentioned that the consignment was through the lorry bearing registration number TN 23/3895. Ex P9 is not under challenge. He has spoken to Ex P16 which is the attested copy of consignment list consisting of six sheets. It is seen in sheet number 4 of Ex P16 that number of lorry is shown as TN 09/F 3895. It is thus clear that consignment was sent in the lorry bearing registration TN 09/3895. He has also spoken to Exs P10 to P15 which are not under challenge.


37. Though it is brought out during cross examination of PW6 that upon going through Ex P16 he came to know that number of the lorry has been wrongly mentioned it stands established that consignment was sent in the lorry bearing registration number TN 09/3895 . Though PW6 has spoken to during cross examination that the complainant has not produced documents to show that goods are consigned in the said lorry the said portion of his answer will not lend assurance to the defence. Though he has stated during cross examination that Ex P16 does not show consignment of the goods of the company of PW2 and that he has not collected document to show that goods are consigned in the lorry bearing registration number TN 09/3895 oral evidence of PW2 would suffice to hold that goods are consigned in the lorry. Upon appreciation of the entire cross examination of PW6 it needs to be expressed that nothing

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worthy is found brought out during his cross examination to establish the defence.

38. It is seen in the evidence of DW2 that efforts are bestowed to establish that subsequent to 04/12/2007 DGO was not discharging duties in the check post near Kengeri. In the course of evidence PW2 has spoken to touching Exs D1 to D4. Ex D1 shows that the DGO discharged duties as Commercial Tax Officer in the check post at Kanakapura from 05/12/2007 to 31/01/2008. It is significant to mention at this juncture that evidence as discussed above establishes that demand was made by DGO on 04/12/2007 and in the background of the said demand, as per the instructions of DGO DW3 accepted tainted cash from PW3 on that day of trap and therefore though DGO has not discharged duties as Commercial Tax Officer in the check post near Kengeri Ex D1 will not lend assurance to the defence. In this background though it is found in Ex D4 at sheet number 2 that DGO was not on duty on 06/12/2007 at Kengeri check post the same will not support the defence. It is brought out during cross examination of DW2 that DGO was not on duty at Kanakapura mobile check post on 04/12/2007 which portion of his answer unerringly establishes that on 04/12/2007 DGO was on duty at the check post near Kengeri. Evidence of DW2 does not lend assurance to the defence put forward on behalf of DGO.

39. In the course of evidence DGO who got examined himself as DW5 has spoken to that from 01/11/2007 to 04/12/2007 he discharged duties at Commercial Tax Check Post at Kengeri and that on 05/12/2007 he got transferred to Commercial Tax Check Post at Kanakapura. This portion of his evidence would

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not lend assurance to the defence for the reason that on 04/12/2007 he was very much on duty at the check post near Kengeri on which day evidence on record establishes that demand was made by him for illegal gratification. It is in his evidence that he conducted inspection of the lorry bearing registration number TN/09/3895 on 04/12/2007. Though he has spoken to that PW3 is not known to him and that there was conversation between PW3 and DW3 that portion of his evidence cannot be accepted in the presence of the overwhelming evidence as already referred to above. Though he has spoken to that he neither demanded nor accepted illegal gratification evidence as discussed above unerringly establishes that demand was made by him on 04/12/2007 and on his instructions DW3 demanded and accepted illegal gratification of Rs.5,000/- on 06/12/2007 in the security chamber of the company of PW2. It stands established that DW3 has given statement the attested copy of which is at Ex P3 without any kind of force or coercion and therefore the said statement in which DW3 has stated that DGO gave the cell phone number of PW3 and that he contacted PW3 over phone near the security gate of the concern of PW2 and thereafter DW3 asked for payment and in response PW3 gave cash of Rs.5,000/-. Contents of Ex P3 would show that on the instructions of DGO DW3 accepted cash of Rs.5,000/- from PW3. Contents of Ex P3 incriminates the DGO. Ex P4 which is the attested copy of statement of DGO when perused though would show that he has refuted the incriminating circumstances, the said statement when appreciated along with Ex P3 contents of Ex P3 would nullify the contents of Ex P4. Thus, it is clear that during investigation conducted by PW6

28.12.20

and also subsequent to apprehension of DGO by PW5 DGO failed to offer satisfactory explanation touching possession of tainted cash by DW3. Upon appreciation entire evidence of DGO I am not inclined to hold that he is not guilty of the charge levelled against him. In the background of the evidence as discussed above it needs to be expressed that DGO is guilty of the alleged misconduct.

40. It needs to be expressed that though the word misconduct is not specifically defined under Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966, it needs to be expressed that any act which is unbecoming of a Government servant is the act of misconduct within the scope and ambit of Rule 3(1)(i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966. Demand by DGO on 04/12/2007 and acceptance of tainted cash of Rs.5,000/- by DW3 on behalf of DGO on the date of trap attracts the alleged misconduct of DGO.

41. In the presence of overwhelming evidence as discussed above, I am not persuaded to accept the defence put forward in the course of written argument of DGO. I am equally not inclined to accept the contentions raised in the course of written argument of DGO.

42. For the foregoing reasons I proceed with the following :

R E P O R T

Charge against the DGO by name Sri. H.S. Chidambara Murthy that in order to accord permission for movement of the lorry loaded with the consignment of the complainant to Chennai, DGO while discharging duties as Commercial Tax Officer at commercial tax check post situated near Kengeri, Mysuru-Bengaluru road, Bidadi Hobli, Ramanagara District on

20.11.2010

04/12/2007 demanded illegal gratification from the driver of the lorry in which consignment of the complainant was loaded and thereafter, on the earlier instructions of DGO, Sri. Ravikumar M.N demanded and accepted illegal gratification of Rs.5,000/- at 04.15 P.M in the security chamber of the company "Fluoro Seals Die Casting Machinery Private Limited" of the complainant for and on behalf of DGO from Sri. H.Ravi who then was employed in the Company of the complainant and during investigation conducted by the Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara DGO failed to offer satisfactory explanation for possession of tainted cash of Rs.5,000/- possessed by Sri. Ravikumar M.N at 4.15 P.M on 06/12/2007 in the security chamber of "Fluoro Seals Die Casting Machinery Private Limited" situated at No.121. Mysuru-Bengaluru main road, Kenchanakoppe Village, Bidadi Hobli, Ramanagara District and thereby DGO is guilty of misconduct within the purview of Rule 3(1) (i) to (iii) of The Karnataka Civil Services (Conduct) Rules, 1966 is proved.

DGO is due for retirement on superannuation is on 30/06/2022.

Submit this report to the Hon'ble Upalokayukta-1, Karnataka in sealed cover forthwith along with the connected records.


(V.G. BOPAI AH)

Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru.

ANNEXURES

List of witnesses examined on behalf of the Disciplinary Authority:-

PW1:- Sri. K.Boregowda
PW2:- Sri. K.K.Nanjappa
PW3:- Sri. H.Ravi
PW4:- Sri. H.R.Ramachandraiah
PW5:- Sri. N. Basavaraj
PW6:- Sri. H. Manjappa
List of witnesses examined on behalf DGO:-

DW1:- Sri. Gopal
DW2:- Sri. S.Mirja Hasmathulla
DW3:- Sri. Ravikumar M.N.
DW4:- Sri. N.Mahendra
DW5:- Sri. H.S.Chidambara Murthy

List of documents marked on behalf of Disciplinary Authority:-

Ex P1 Attested copy of pre-trap mahazar dated 06/12/2007 in four sheets.
Ex P1(a) Signature of PW3 found on Ex P1 .
Ex P2 Attested copy of trap mahazar dated 06/12/2007 in seven sheets.
Ex P3 Attested copy of statement in writing dated 06/12/2007 in two sheets of M.N. Ravikumar.
Ex P4 Attested copy of statement dated 07/12/2007 in writing in a single sheet of DGO.
Ex P5 Xerox copy of his complaint dated 06/12/2007 in two sheets.
Ex P6 Attested copy of FIR dated 06/12/2007 in a single sheet in crime number 01/2012 of Lokayukta Police Station, Ramanagara.

 28.1.2012

- Ex P7 Attested copy of report dated 01/02/2008 in two sheets of the Chemical Examiner attached to Public Health Institute, Bengaluru.
- Ex P8 Attested copy of sketch of the place of trap in a single sheet.
- Ex P 9 Attested copy of the letter dated 11/12/2007 in a single sheet of Sri. Kumar Transports, H.Siddaiah Road addressed to the Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara.
- Ex P 10 Xerox copy of cell phone call particulars in a single sheet.
- Ex P11 Xerox copy of the letter of the Deputy General Manager (NSS-1) MS,CMX Building, Bengaluru addressed to the Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara.
- Ex P12 Xerox copy of cell phone call details in a single sheet.
- Ex P13 Xerox copy of the letter dated 18/06/2008 in a single sheet of "Spice" Telecom addressed to the Police Inspector, Lokayukta Police Station, Ramanagara.
- Ex P14 Attested copy of delivery note dated 04/12/2007 in a single sheet of the Company of the complainant.
- Ex P15 Attested copy of tax invoice dated 04/12/2007 in a single sheet of the Company of the complainant.
- Ex P16 Six attested sheets of the consignment list.

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List of documents marked on behalf of DGO: -

- Ex D1 Original letter by way of certificate dated 19/04/2019 issued to DGO by DW2.
- Ex D2 Attested copy of single sheet of attendance register in a single sheet for the month of December 2007 maintained in the office of DGO.
- Ex D3 Attested copy of a single sheet of attendance register for the month of January 2008 maintained in the office of DGO.
- Ex D4 Three attested sheets of work allotment order touching the work allotted to DGO and others.


(V.G. BOPAIAH)

Additional Registrar, Enquiries-11,
Karnataka Lokayukta, Bengaluru

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No. LOK/INQ/14-A/480/2011/ARE-11

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001

Date: **30/01/2020**

RECOMMENDATION

Sub:- Departmental inquiry against;
Sri H.S. Chidambaramurthy, Commercial Tax Officer,
Office of the Commissioner of Commercial Taxes,
Koramangala, Bengaluru – On duty was working at
Commercial Tax Check post, Near Kengeri, Bidadi
Hobli, Mysuru-Bengaluru Road – Reg.

Ref:- 1) Government Order No.ಆಇ 7 ವಾತೇತ 2008 Bengaluru
dated 13/12/2011.

2) Nomination order No.LOK/INQ/14-A/480/2011,
Bengaluru dated 20/12/2011 of Upalokayukta-1,
State of Karnataka, Bengaluru

3) Inquiry Report dated 28/01/2020 of Additional
Registrar of Enquiries-11, Karnataka Lokayukta,
Bengaluru

The Government by its Order dated 13/12/2011, initiated the disciplinary proceedings against Sri H.S. Chidambaramurthy, Commercial Tax Officer, Office of the Commissioner of Commercial Taxes, Koramangala, Bengaluru – on duty was working at Commercial Tax Check post, Near Kengeri, Bidadi Hobli, Mysuru Bengaluru Road (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/480/2011, Bengaluru dated 20/12/2011 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. LOK/INQ/14-A/2014, dated 14/3/2014, the Additional Registrar of Enquiries-5, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO. Again, by Order No. UPLOK-1/DE/2016 dated 3/8/2016, the Additional Registrar of Enquiries-11, Karnataka Lokayukta, Bengaluru was re-nominated as inquiry officer to conduct departmental inquiry against DGO.

3. The DGO Sri H.S. Chidambaramurthy, Commercial Tax Officer, Office of the Commissioner of Commercial Taxes, Koramangala, Bengaluru – on duty was working at Commercial Tax Check post, Near Kengeri, Bidadi Hobli, Mysuru Bengaluru Road was tried for the following charge:-

“That, you Sri H.S. Chidambaramurthy, the DGO, while working as Commercial Tax Officer at Kengeri Traffic Check post in Bangalore, the Complainant namely Sri K.K. Nanjappa, Managing Director of Fluoro Seals Die Casting Machinery Private Limited at Bidadi in Ramanagara District had sent a consignment to M/s. Sargam Metals Private Limited at Chennai with all documents in truck No. TN 09 3895 and in spite of furnishing all relevant documents at Kengeri Check Post, you did not allow the said consignment vehicle to go to Chennai demanding bribe of ₹25,000/- and after request reduced the bribe to ₹10,000/- and on further request, bribe amount was reduced to ₹ 5,000/- asking to pay the said amount to his assistant Sri Kumar and on 06/12/2007, you received the said amount as bribe through your agent Sri M.M.

Ravikumar by Sri Ravi, Accounts Manager of the Complainant's Company to show official favour, failing to maintain absolute integrity and devotion to duty, the act of which was unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966."

4. The Inquiry Officer (Additional Registrar of Enquiries-11) on proper appreciation of oral and documentary evidence has held that the Charge against the DGO by name Sri H.S. Chidambara Murthy, that in order to accord permission for movement of the Lorry loaded with consignment of the Complainant to Chennai, DGO while discharging duties as Commercial Tax Officer at Commercial Tax Check Post situated near Kengeri, Mysuru-Bengaluru Road, Bidadi Hobli, Ramanagar District on 04/12/2007 demanded illegal gratification from the driver of the Lorry in which consignment of the Complainant was loaded and thereafter, on the earlier instructions of DGO, Sri Ravikumar M.N demanded and accepted illegal gratification of ₹5,000/- at 04.15 PM in the Security Chamber of the Company "Fluoro Seals Die Casting Machinery Private Limited" of the Complainant for and on behalf of DGO from Sri H. Ravi who then was employed in the Company of the Complainant and during investigation conducted by the Deputy Superintendent of Police, Karnataka Lokayukta, Ramanagara, DGO failed to offer satisfactory explanation for possession of tainted cash of ₹5,000/- possessed by Sri Ravikumar M.N at 4.15 P.M. on 6/12/2007 in the security chamber of "Fluoro Seals Die Casting Machinery Private Limited" situated at No. 121, Mysuru-Bengaluru main road, Kenchanakoppe Village, Bidadi

Hobli, Ramanagara District and thereby DGO is guilty of misconduct within the purview of Rule 3(1)(i) to (iii) of the Karnataka Civil Services (Conduct) Rules, 1966 is proved.

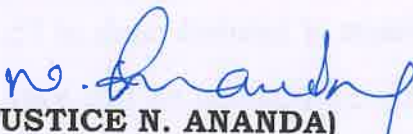
5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 30/06/2022.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri H.S. Chidambara Murthy, it is hereby recommended to the Government for imposing penalty of compulsory retirement from service on DGO Sri H.S. Chidambaramurthy, Commercial Tax Officer, Office of the Commissioner of Commercial Taxes, Koramangala, Bengaluru - on duty was working at Commercial Tax Check post, Near Kengeri, Bidadi Hobli, Mysuru Bengaluru Road and also for imposing penalty of permanently withholding 40% of pension payable to DGO Sri H.S. Chidambara Murthy.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 30/1
State of Karnataka,
Bengaluru