

484/2016

1

KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/484/2016/ARE-13

M.S. Building,
Dr. B.R.Ambedkar Road,
Bangalore-56001
Date: 23/10/2019.

: Present:

Patil MohanKumar Bhimanagouda
Additional Registrar Enquiries-13,
Karnataka Lokayukta,
Bangalore.

:: ENQUIRY REPORT ::

Sub:- Departmental Enquiry against,
Sri Sharanappa Hugara, Gazetted
Manager, Office of Block Education
Officer, Aland, Kalaburgi District.

- Ref :** 1) Report u/s 12(3) of the K.L Act,
1984 in Compt/Uplok/GLB/477/2016
/DRE-3, dated: 08/09/2016.
- 2) Govt Order No.ED 26 DGP 2016.
Bengaluru, dated:07/10/2016.
- 3) Nomination Order No.UPLOK-1/DE
/484/2016, Bengaluru, dated :
18/10/2016.

1. This Departmental Enquiry is directed against Sri Sharanappa Hugara, Gazetted Manager, Office of Block Education Officer, Aland, Kalaburgi District (herein after referred to as the Delinquent Government Official in short "DGO").

2. After completion of the investigation a report U/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No-1.
3. In view of the Government Order cited above at reference-2, the Hon'ble Upa Lokayukta-1, vide order dated:18/10/2016 cited above at reference-3, nominated Additional Registrar of Enquiries-1 of the office of the Karnataka Lokayukta as the Enquiry Officer to frame charges and to conduct Enquiry against the aforesaid DGO. Additional Registrar Enquires-1 prepared Articles of Charges, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Articles of Charges. Copies of same were issued to the DGO calling upon him to appear before this Authority and to submit written statement of his defence.
4. As per order of Hon'ble UPLOK-1 & 2/DE/Transfers/2018 dated 06/08/2018 this enquiry file was transferred from ARE-1 to ARE-13.
5. The Articles of Charges framed by ARE-1 against the DGO is as below:

ANNEXURE NO-I**CHARGE**

6. You-DGO Sri Sharanappa Hugara (Delinquent Government Official for short DGO) was working as Gazetted Manager in office of the Block Education Officer, Aland, Kalaburgi District and you were attending to the work of sanctioning pay in respect of leave period of the teachers. Smt Sunitha H wife of Sri Mallinatha had availed maternity leave from 30/10/2013 to 28/04/2014 and after reporting to duty she gave application for sanction of pay in respect of the maternity leave period and then her husband Sri Mallinatha visited your office and requested you to sanction the pay in respect of the leave period of his wife and at that time you demanded him to pay Rs.10,000/- as bribe to sanction the pay in respect of the leave period and

Further on 20/08/2014 when the complainant Sri. Mallinatha was sent to you along with tainted amount of Rs.1,500/- by Lokayukta Police Officer, you again demanded and accepted tainted amount of Rs.1,500/- as bribe from Sri Mallinatha to show official favour and you were caught red-handed while accepting the bribe

amount and therefore you the DGO has failed to maintain absolute integrity and devotion to duty and committed an act which is un-becoming of a Government Servant and therefore you are guilty of committing misconduct Under Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966. Hence, this charge.

ANNEXURE NO -II

STATEMENT OF IMPUTATIONS OF MISCONDUCT

7. ಅಪರ ಪೋಲೀಸ್ ಮಹಾ ನಿರ್ದೇಶಕರು, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಬೆಂಗಳೂರು ರವರು ಕಲಬುರಗಿ ಲೋಕಾಯುಕ್ತ ಪೋಲೀಸ್ ಠಾಣೆಯ ಪೋಲೀಸ್ ನಿರೀಕ್ಷಕರು (ಇನ್ನು ಮುಂದೆ ತನಿಖಾಧಿಕಾರಿ ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ಸಂಬಂಧಿಸಿದ ದಾಖಲಾತಿಗಳೊಂದಿಗೆ ಸಲ್ಲಿಸಿದ ತನಿಖಾ ವರದಿಯಲ್ಲಿ ಶ್ರೀ. ಶರಣಪ್ಪ ಹೂಗಾರ, ಗೆಜೆಟೆಡ್ ಮ್ಯಾನೇಜರ್, ಕ್ಷೇತ್ರ ಶಿಕ್ಷಣಾಧಿಕಾರಿಗಳು, ಆಳಂದ ತಾಲ್ಲೂಕ್, ಗುಲಬರ್ಗಾ ಜಿಲ್ಲೆ (ಇನ್ನು ಮುಂದೆ ಎದುರುದಾರರು ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ರವರು ಒಬ್ಬ ಸರ್ಕಾರಿ/ಸಾರ್ವಜನಿಕ ನೌಕರರಾಗಿದ್ದು, ಮಲ್ಲನಾಥ ತಂದೆ ಶಿವಲಿಂಗಪ್ಪ ಘೋಡಕೆ, ಶಿಕ್ಷಕರು, ಸರ್ಕಾರಿ ಪ್ರೌಢ ಶಾಲೆ, ಕೂಡಲಹಂಗರಗಾ, ಆಳಂದ ತಾಲ್ಲೂಕ್, ಗುಲಬರ್ಗಾ ಜಿಲ್ಲೆ (ಇನ್ನು ಮುಂದೆ ದೂರುದಾರರು ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ರವರು ನಿಮ್ಮನ್ನು ಭೇಟಿ ಮಾಡಿದಾಗ ಕರ್ತವ್ಯದಲ್ಲ ದುರ್ವರ್ತನೆ/ದುರ್ನಡತೆ ಎಸಗಿದ್ದಾರೆಂದು ವರದಿ ಸಲ್ಲಿಸಿದ ಮೇರೆಗೆ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ, 1984 ರ ಕಲಂ 7(2) ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಿರುವ ಅಧಿಕಾರ ಚಲಾಯಿಸಿ, ಎದುರುದಾರರ ವಿರುದ್ಧ ಗೌರವಾನ್ವಿತ ಉಪ ಲೋಕಾಯುಕ್ತ ರವರು ತನಿಖೆ ಕೈಗೊಂಡಿರುತ್ತಾರೆ.

8. ಪ್ರಕರಣದ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶವೇನೆಂದರೆ:-

ದೂರುದಾರರ ಪತ್ನಿ ಶ್ರೀಮತಿ ಸುನೀತಾ ಎಚ್. ಸರ್ಕಾರಿ ಹಿರಿಯ ಪ್ರಾಥಮಿಕ ಶಾಲೆ, ಕೂಡಲಹಂಗರಗಾದಲ್ಲಿ ಸಹ ಶಿಕ್ಷಕಿ ಆಗಿ ಕರ್ತವ್ಯ ನಿರ್ವಹಿಸುತ್ತಿದ್ದು, ಅವರು ದಿನಾಂಕ 30/10/2013 ರಿಂದ 28/04/2014 ರವರೆಗೆ ಹೆರಿಗೆ ರಜೆ ಮಂಜೂರಾತಿ ಪಡೆದು ಹೆರಿಗೆ ರಜೆ ಮೇಲೆ ಹೋಗಿರುತ್ತಾರೆ ಹಾಗೂ ದಿನಾಂಕ 29/04/2014 ರಂದು ಬಿ.ಇ.ಓ ಆಳಂದ ರವರಿಂದ ಅನುಮತಿ ಪಡೆದು ಶಾಲಾ ಕರ್ತವ್ಯಕ್ಕೆ ಹಾಜರಾಗಿರುತ್ತಾರೆ. ಹೆರಿಗೆ ರಜಾ ಅವಧಿಯ ವೇತನ ಮಂಜೂರು ಮಾಡಿಕೊಡಲು ಬಿ.ಇ.ಓ ಕಛೇರಿ, ಇನ್‌ವರ್ಡ್‌ನಲ್ಲಿ ಅರ್ಜಿ ನೀಡಿದ್ದು, ಸದರಿ ರಜಾ ಅವಧಿಯ ವೇತನ ಮಂಜೂರಾತಿಯಾಗದ ಕಾರಣ ಹಲವಾರು ಬಾರಿ ಬಿ.ಇ.ಓ ಕಛೇರಿಗೆ ಹೋಗಿ ಅಲ್ಲಿ ಶರಣಪ್ಪ ಹೂಗಾರ, ಪತ್ರಾಂಕಿತ ವ್ಯವಸ್ಥಾಪಕರು (ಎದುರುದಾರರು) ಅವರಿಗೆ ವಿಚಾರಿಸಲಾಗಿ ಸ್ವಲ್ಪ ದಿನದಲ್ಲೆಯೇ ಸಂಬಳ ಮಂಜೂರಾತಿ ಮಾಡುವುದಾಗಿ ತಿಳಿಸಿರುತ್ತಾರೆ. ತದನಂತರ ದೂರುದಾರರು ಹಲವಾರು ಸಲ ಬಿ.ಇ.ಓ ಕಛೇರಿಗೆ ಹೋಗಿ ಈ ಬಗ್ಗೆ ನಿಮ್ಮನ್ನು ವಿಚಾರಿಸಿದಾಗ ನೀವು ರೂ.10,000/- ಲಂಚದ ಹಣಕ್ಕೆ ಬೇಡಿಕೆ ಇಟ್ಟಿರುತ್ತಾರೆ.

9. ದೂರುದಾರರಿಗೆ ಲಂಚದ ಹಣ ಕೊಡಲು ಇಷ್ಟವಿಲ್ಲದೇ ಇದ್ದುದರಿಂದ ದಿನಾಂಕ: 20/08/2014 ರಂದು ಕಲಬುರಗಿ ಜಿಲ್ಲಾ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸ್ ಠಾಣೆಗೆ ಹಾಜರಾಗಿ ತಾಣಾಧಿಕಾರಿಯವರ ಮುಂದೆ ದೂರನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಅದರಂತೆ ತಾಣಾಧಿಕಾರಿಯವರು ಸದರಿ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಮೊಕದ್ದಮೆ ಸಂಖ್ಯೆ:08/2014 ಕಲಂ 7, 13(1)(ಡಿ) ಸಹವಾಚಕ 13(2) ಆಫ್ ಪಿ.ಸಿ. ಕಾಯ್ದೆ 1988 ರ ಪ್ರಕಾರ ಎದುರುದಾರರ ವಿರುದ್ಧ ಪ್ರಕರಣವನ್ನು ದಾಖಲಿಸಿಕೊಂಡು ಪ್ರಥಮ ವರ್ತಮಾನ ವರದಿಯನ್ನು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯಕ್ಕೆ ನಿವೇದಿಸಿಕೊಂಡಿರುತ್ತಾರೆ.

10. ಎದುರುದಾರರು ಆಳಂದ ಪಟ್ಟಣದ ಕ್ಷೇತ್ರ ಶಿಕ್ಷಣಾಧಿಕಾರಿಗಳ ಕಛೇರಿಯ ಶಿಕ್ಷಣ ಸಂಯೋಜಕರ ಕೋಣೆಯಲ್ಲಿ ದೂರುದಾರರಿಂದ ಲಂಚದ ಹಣ ರೂ.1,500/- ಗಳನ್ನು ನೆರಳು ಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮ ಸ್ವೀಕರಿಸಿರುವಾಗ ಲೋಕಾಯುಕ್ತ ಪೊಲೀಸರು ಬೀದಿ ಬಲೆಗೆ ಸಿಕ್ಕಿ ಬಿದ್ದಿರುತ್ತಾರೆ.

11. ಎದುರುದಾರರು ದೂರುದಾರರಿಂದ ಸ್ವೀಕರಿಸಿದ ಲಂಚದ ಹಣ ರೂ.1,500/- ಗಳನ್ನು ಪಂಚಸಾಕ್ಷಿದಾರರ ಸಮಕ್ಷಮ ತನಿಖಾಧಿಕಾರಿಯವರು ವಶಪಡಿಸಿಕೊಂಡಿರುತ್ತಾರೆ.
12. ತನಿಖಾಧಿಕಾರಿಯವರು ಎದುರುದಾರರ ಎರಡು ಕೈ ಬೆರಳುಗಳನ್ನು ಸೋಡಿಯಂ ಕಾರ್ಬೋನೇಟ್ ದ್ರಾವಣದಲ್ಲಿ ಅದ್ದಿಸಿ ತೊಳೆಯಿಸಿದಾಗ ಸದರಿ ದ್ರಾವಣಗಳು ತಿಳಿ ಗುಲಾಬಿ ಬಣ್ಣಕ್ಕೆ ತಿರುಗಿ ಸಕರಾತ್ಮಕವಾದ ಫಲಿತಾಂಶ ಬಂದಿರುತ್ತದೆ.
13. ತನಿಖಾಧಿಕಾರಿಯವರು ಅದೇ ದಿವಸ ಎದುರುದಾರರನ್ನು ಅದೇ ಕಾರಣಕ್ಕಾಗಿ ದಸ್ತಗಿರಿ ಮಾಡಿ ನ್ಯಾಯಾಂಗ ಬಂಧನಕ್ಕೆ ಒಳಪಡಿಸಿರುತ್ತಾರೆ.
14. ತನಿಖಾಧಿಕಾರಿಯವರು ಸದರಿ ಲಂಚದ ಹಣದ ಬಗ್ಗೆ ಎದುರುದಾರರನ್ನು ಪ್ರಶ್ನಿಸಿದಾಗ, ಸಮಾಧಾನಕಾರಕ ಅಥವಾ ಸೂಕ್ತ ಉತ್ತರವನ್ನು ನೀಡಲು ವಿಫಲರಾಗಿರುತ್ತಾರೆ.
15. ದೂರುದಾರರ, ಪಂಚರ ಹಾಗೂ ಇತರ ಸಾಕ್ಷಿದಾರರ ಹೇಳಿಕೆಗಳನ್ನು ಮತ್ತು ಸಂಬಂಧಿಸಿದ ದಾಖಲೆಗಳನ್ನು ಪ್ರಕರಣದಲ್ಲಿ ಹಾಜರುಪಡಿಸಿದ್ದು, ಅವೂ ಕೂಡ ಎದುರುದಾರರು ಸತತವಾದ ದುರ್ನಡತೆ ಎಸಗಿರುವುದನ್ನು ತೋರಿಸುತ್ತದೆ.
16. ಆರೋಪ ಪಟ್ಟಿಯಲ್ಲಿ ಕಾಣಿಸಿರುವ ಸಂಗ್ರಹವಾದ ಆಧಾರಗಳಿಂದಾಗಿ ಎದುರುದಾರರು ಅಧಿಕಾರ ಒಲವು ತೋರಲು ಲಂಚದ ಹಣಕ್ಕೆ ದೂರುದಾರರನ್ನು ಒತ್ತಾಯ ಮಾಡಿ, ಸ್ವೀಕರಿಸಿದ್ದು, ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬಂದಿದ್ದು, ಎದುರುದಾರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸುವ ಸಂಬಂಧ ಮುಂದುವರಿಯುವುದು ಅಗತ್ಯವೆಂದು ಕಂಡುಬಂದಿರುತ್ತದೆ. ಎದುರುದಾರರು ಸರ್ಕಾರಿ ನೌಕರರಾಗಿ ತಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೇ ಮತ್ತು ಸಾರ್ವಜನಿಕ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿರುವುದು ವೇದ್ಯವಾಗುತ್ತದೆ.

17. ನಂತರ, ಎದುರುದಾರರಿಗೆ ವಿವೇಚನಾ ಅಪರಾಧವನ್ನು ಕಳುಹಿಸಿ, ಅವರ ದುರ್ನಡತೆಯ ಬಗ್ಗೆ ಇಲಾಖಾ ವಿಚಾರಣೆ ಕೈಗೊಳ್ಳುವ ಸಂಬಂಧ, ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಏಕೆ ಶಿಫಾರಸ್ಸು ವರದಿ ಕಳುಹಿಸಬಾರದು ಎಂಬ ಬಗ್ಗೆ ವಿವರಣೆಯನ್ನು/ಕಾರಣವನ್ನು ಕೇಳಲಾಯಿತು. ಎದುರುದಾರರು ತನಿಖಾ ವರದಿಯಲ್ಲಿ ಕಾಣಿಸಿದ ಸಂಗತಿಗಳನ್ನು ನಿರಾಕರಿಸಿ, ಅಕ್ಷೇಪಣೆಯಲ್ಲಿ ನೀಡಿರುವ ಕಾರಣಗಳಿಗಾಗಿ ತಮ್ಮ ವಿರುದ್ಧದ ತನಿಖೆಯನ್ನು ಮುಕ್ತಾಯಗೊಳಿಸಬೇಕೆಂದು ಕೋರಿರುತ್ತಾರೆ. ಆದರೆ, ಎದುರುದಾರರು ಅಕ್ಷೇಪಣೆಯಲ್ಲಿ ನೀಡಿರುವ ವಿವರಣೆ/ಕಾರಣಗಳು ಸೂಕ್ತ ಅಥವಾ ಸಮಾಧಾನಕರವಾಗಿರುವುದಿಲ್ಲ.

18. ಆದ್ದರಿಂದ, ಎದುರುದಾರರು ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಾಗಿದ್ದು, ತಮ್ಮ ಕರ್ತವ್ಯ ಪರಿಪಾಲನೆಯಲ್ಲಿ ನಿಷ್ಠೆಯನ್ನು ತೋರದೇ, ಕರ್ತವ್ಯಲೋಪವೆಸಗಿ, ದುರ್ವರ್ತನೆ ತೋರಿಸಿ, ಸಾರ್ವಜನಿಕ/ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿರುವುದು ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬಂದಿರುವುದರಿಂದ, ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವೆ (ನಡತೆ) ನಿಯಮ, 1966 ರ ನಿಯಮಗಳು 3(1) ರನ್ವಯ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಬಾಧ್ಯರಾಗಿರುತ್ತಾರೆಂದು ಕಂಡುಬಂದಿರುತ್ತದೆ.

19. Since said facts and material on record prima-facie show that you-DGO Sri. Sharanappa Hugara has committed misconduct, now, acting under section 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against the DGO for misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) rules, 1966 the Government after consideration of materials, has entrusted enquiry to Hon'ble Upa Lokayukta. Hence, the charge.

20. The DGO appeared before this Enquiry Authority on 15/12/2016 and on the same day his First Oral Statement was recorded U/Rule 11(9) of KCS (CC &A) Rules 1957. The DGO

pleaded not guilty and claimed to hold an enquiry. Subsequently the DGO filed his written statement of defence by denying the articles of charge and statement of imputations contending that, there is no such evidence to prove that they have committed misconduct U/Rule 3(1) of KCS (Conduct) Rules, 1966. Accordingly, prayed to exonerate them from the charges framed in this case.

21. In order to substantiate the charge, the Disciplinary Authority examined three witnesses as PW-1 to PW-3 and got marked the documents at Ex.P-1 to P-7 and closed the evidence.

22. After closing the case of the Disciplinary Authority, the Second Oral Statement of DGO was recorded as required U/Rule 11 (16) of KCS (CC & A) Rules, 1957 and wherein he has submitted that, the witness have deposed falsely against him. The DGO in support of his contention got himself examined as DW-1 produced the documents at Ex.D-1, D-1(A) and D-2. Through oversight two documents were marked as Ex.D-1. Hence, the second document was corrected and numbered as Ex.D-1(A). Since the DGO got himself examined, the questioning of the DGO as required U/Rule 11(18) of KCS (CC & A) Rules, 1957 was dispensed.

23. The Advocate for DGO submitted written submissions. Heard oral arguments of Learned Presenting Officer.

24. Upon consideration of the charge leveled against the DGO, the evidence led by the Disciplinary Authority and the DGO by way of oral and documentary evidence, the only point that arises for my consideration is as under:

Point No-1) Whether the Disciplinary Authority has satisfactorily proved that, the DGO, who was working as Gazetted Manager in the office of the Block Education Officer, Aland, Kalaburgi District and was attending to the work of sanctioning pay in respect of maternity leave period of the teachers, Smt Sunitha H W/o Mallinatha, who had availed maternity leave from 30/10/2013 to 28/04/2014 and after reporting to duty she gave application for sanction of pay in respect of the maternity leave period and then her husband Sri Mallinatha visited the office of DGO and requested the DGO to sanction the pay in respect of the leave period of his wife and at that time the DGO demanded Rs.10,000/- as bribe to sanction the pay in respect of the leave period and after negotiation the bribe amount was reduced to Rs.1,500/- and further on 20/08/2014 when

the complainant Sri Mallinatha went to the office of DGO along with bribe amount of Rs.1,500/-, the DGO demanded and accepted the bribe amount of Rs.1,500/- from the complainant to do the official work and the DGO was caught red-handed while accepting the bribe amount and thereby failed to maintain absolute integrity and devotion to duty, which act is unbecoming of a Government Servant and thus committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

25. My finding on the above point is held in "**Affirmative**" for the following:

:: REASONS ::

26. **Point No-1:-** The case of the Disciplinary Authority in brief is that,

The Complainant by name Sri Mallinatha Ghodke S/o Shivalingappa has approached the Karnataka Lokayukta, Kalaburgi and lodged the complaint on 20/08/2014. He has alleged that, the DGO who was working as Gazetted Manager in

office of the Block Education Officer, Aland, Kalaburgi District had demanded a bribe of Rs.10,000/- to attend to the work of sanctioning pay in respect of maternity leave period of his wife Smt Sunitha H, who had availed maternity leave from 30/10/2013 to 28/04/2014.

27. The complainant further states that, he approached the DGO and requested him to attend to the work of sanctioning pay in respect of maternity leave period of his wife Smt Sunitha H, who had availed maternity leave from 30/10/2013 to 28/04/2014. However the DGO demanded the bribe of Rs.10,000/- and told that, the work of the complainant would be attended only if bribe of Rs.10,000/- is paid. Initially the DGO had demanded a bribe of Rs.10,000/-. However after negotiation the amount was settled to Rs.1,500/-. The complainant was not interested to pay the bribe, hence he approached the Lokayukta Police and lodged the complaint on 20/08/2014.

28. The Complainant Sri Mallinatha Shivalingappa Ghodke has been examined as PW-1. He has reiterated the facts stated in the complaint. PW-1 states that, he approached the DGO to attend to the work of sanctioning pay in respect of leave period of his wife Smt Sunitha H, who had availed maternity leave from 30/10/2013 to 28/04/2014. However the DGO demanded the bribe of Rs.10,000/- and after negotiation the bribe amount was reduced to

Rs.1500/-. The DGO told that, the work of the complainant would be attended only if bribe is paid. The complainant was not interested to pay the bribe, hence he approached the Lokayukta Police and lodged the complaint as per Ex.P-1 on 20/08/2014.

29. The witness further states that, Lokayukta Police summoned two witnesses/Government servants i.e Sri Chandbasha S/o Mahiboob Ansari, Inspector, Office of the Assistant Registrar of Co-operative Societies, Gulbarga and Smt Girija D/o Krishnamurthy, First Division Assistant, Office of the Assistant Registrar of Co-operative Societies, Gulbarga. The complainant/PW-1 has handed over the bribe amount of Rs.1,500/- i.e 3 notes of Rs.500/- denomination. The bait money was smeared with Phenolphthalein Powder. The Sodium Carbonate Solution was taken in a glass bowl. One of the staff of Lokayukta Police by name Sri Gangadhar, Head Constable, smeared the bait money with Phenolphthalein Powder and second pancha Smt Girija kept them in the right pocket of the pant of the complainant. The hands of the second pancha Smt Girija were washed in Sodium Carbonate Solution. The colourless solution turned into pink colour, due to the presence of Phenolphthalein Powder. The police poured the pink solution in an empty bottle and sealed it. He further states that the Entrustment Mahazar was conducted as per Ex.P-2.

30. PW-1 further states that, he along the panchas, I.O and his staff left the Lokayukta office at 2.05 p.m and reached Aland bus stand at 3.00 p.m. PW-1 further states that, he along with shadow witness went to the office of the DGO at Aland. The I.O told the complainant to go into the office of the DGO and pay the bribe amount, only if demand is made by DGO. The shadow witness Chandbasha/PW-2 was asked to accompany the complainant. PW-1 further states that, he along with PW-2 shadow witness went to the office of DGO at about 3.00 p.m. The complainant went and enquired the DGO about his wife's file. The DGO demanded the bribe of Rs. 1,500/-. The complainant took out the bait money from his pant right pocket and handed over the money to the DGO.

31. PW-1 further states that, he went outside and gave the signal to the I.O. The Investigation Officer came inside the B.E.O Office Aland where the DGO was present and introduced himself and asked the DGO to co-operate for investigation. By seeing the police the DGO threw the bribe amount on the floor. The complainant/PW-1 showed the DGO and told that, the DGO had demanded and accepted the bribe amount of Rs.1,500/-. PW-1 further states that, the I.O caught hold the hands of DGO. The Sodium Carbonate Solution was prepared and the hands of DGO were washed in Sodium Carbonate Solution. Due to the presence of Phenolphthalein Powder, the solution turned into the pink colour. It was poured in a bottle, sealed and seized.

32. PW-1 further states that, the I.O enquired the DGO about the bait money of the Rs.1,500/-. The DGO had thrown the said amount on the floor. PW-2 picked up the said amount and handed over it to the I.O. The I.O has seized the said amount. PW-1 further states that, the I.O conducted the Trap Mahazar as per Ex.P-3.

33. PW-2 Sri. Chandbasha S/o Mahiboob Ansari is a shadow witness and he has accompanied the complainant to the Office of DGO. He states that, he is working as Inspector, in the Office of the Assistant Registrar of Co-operative Societies, Gulbarga. The Lokayukta Police summoned him and Smt Girija D/o Krishnamurthy, First Division Assistant, in the Office of the Assistant Registrar of Co-operative Societies, Gulbarga on 20/08/2014 and requested them to act as panchas. The Complainant was introduced to them and contents of Ex.P-1 complaint were explained to them. PW-2 further states that, the complainant handed over the bait money of Rs.1,500/- i.e 3 notes of Rs.500/- denomination. The police applied Phenolphthalein Powder to the notes and second pancha Smt Girija counted the notes and kept them in the right side pant pocket of the complainant. PW-2 further states that, the hands of Smt Girija were washed in the Sodium Carbonate Solution and it turned into the pink colour. The police seized the said solution and sealed it in the bottle and drew the Entrustment Mahazar as per Ex.P-2. He further states that, they left the Lokayukta office and reached the office of

DGO. He states that, he along with the complainant met the DGO. He further states that, the complainant asked the DGO about his work i.e in attending to the work of sanctioning pay in respect of maternity leave period of his wife Smt Sunitha H, for which the DGO demanded the bribe of Rs.1,500/-. He further states that, the complainant handed over the bait money/bribe of Rs.1,500/- to the DGO.

34. PW-2 has elaborately stated as to how the bait amount was seized and the Trap Mahazar was conducted as per Ex.P-3. He further states that, the hands of the DGO were washed in Sodium Carbonate Solution and the solution turned into the pink colour. The said solution was poured into a bottle, sealed and seized.

35. The I.O Sri Thammaraya Patil, Police Inspector has been examined as PW-3. He states that, the complainant approached him with the complaint on 20/08/2014 alleging that, the DGO had demanded bribe of Rs.1,500/-. He indentifies the complaint at Ex.P-1. PW-3 further states that, he registered the case in Cr.No. 08/2014 and submitted FIR to the court. On the same day he summoned two witnesses by name Sri Chandbasha S/o Mahiboob Ansari, Inspector, in the office of the Assistant Registrar of Co-operative Societies, Gulbarga and Smt Girija D/o Krishnamurthy, First Division Assistant, in the office of the Assistant Registrar of Co-operative Societies, Gulbarga. He has introduced the

complainant to the panchas and appraised the witnesses about the complaint. PW-3 has demonstrated the procedure for Entrustment Mahazar. He has received the bribe money Rs.1,500/- i.e 3 notes of Rs.500/- denomination. The I.O has asked the panchas to note down the serial numbers of notes on a paper and they were noted down on a paper. The Lokayukta staff i.e Head Constable Sri Gangadhar has applied Phenolphthalein Powder to the notes and demonstrated how the colourless Sodium Carbonate Solution turns into pink colour due to the presence of Phenolphthalein Powder. PW-3 states elaborately stated about the Entrustment Mahazar conducted by him as per Ex.P-2.

36. PW-3 further states that, he along with the complainant and panchas and his staff went to the office of DGO. He has instructed the complainant and shadow witness/PW-2 to go into the office of DGO. He has specifically instructed the complainant that, the bait money shall be paid only on demand by the DGO. PW-3 further states that, after sometime he received signal from the complainant. He went inside and introduced himself to the DGO. He further states that, by seeing the police, the DGO threw the amount/bribe money on the floor by the side of his chair. PW-3 has narrated elaborately how he washed the hands of the DGO in Sodium Carbonate Solution and seized the bait money of Rs.1,500/- from the DGO. He has narrated the details of Trap Mahazar conducted

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by him as per Ex.P-3. He has identified his signature on the mahazar. The FIR is marked as Ex.P-5.

37. The I.O/PW-3 has produced the copies of photographs which have been commonly marked as Exhibit P-6. There are totally 24 photographs, the original photographs have been produced to the court for the criminal case and here the xerox copies of the photographs have been produced. On careful perusal of these photographs, it is observed that, right from the point of lodging the complaint by the complainant, the conducting of Entrustment Mahazar and Trap Mahazar have been photographed. The complainant, the Mahazar witnesses, the DGO while he was trapped are all seen in the photographs. These photographs further corroborate the Entrustment and Trap Mahazars at Ex.P-2 and P-3 respectively.

38. The I.O has produced the report of the Chemical Examiner, Government of Karnataka which is at Ex.P-7. On careful perusal of this document, it is observed that, the test for the presence of Phenolphthalein Powder and Sodium Carbonate Powder was positive in respect of the items sent for chemical examination. The document at Ex.P-7 further proves that, the DGO had received the currency notes i.e 3 notes of Rs.500 denomination smeared with Phenolphthalein Powder and washed in Sodium Carbonate

Solution. The Sodium Carbonate Solution had turned into pink colour due to the presence of Phenolphthalein Powder.

39. The DGO in support of his contention has got himself examined as DW-1. He states that, he has not demanded any bribe amount and the complainant has lodged a false complaint against him. He submits that, he has not committed any mis-conduct. The allegations made by the complainant are false. He further states that, some unknown persons had forcibly tried to keep the money in his pocket but the DGO has thrown out the said amount. In support of his contention, he has produced the copies of depositions of Chandpasha and K. Rayappa Reddy in S.C.No.13/2015 on the file of Principal District and Sessions Judge, Kalaburgi. The said documents have been marked as Ex.D-1 and Ex.D-1(A).

40. The advocate for DGO has canvassed his arguments that, the DGO has not demanded any bribe and some unknown persons had forcibly kept the bribe money in the pocket of DGO. The DGO had promptly thrown away the amount. He further submits that, the DGO has not committed any misconduct and he has not demanded and accepted any bribe from the complainant. Hence, the Advocate for DGO prays for exonerating the DGO.

41. I have carefully gone through the oral evidence of the DGO and also the documentary evidence. However, the contention taken up by the DGO that, the amount was forcibly kept in his pocket, cannot be accepted. On careful perusal of the oral and documentary evidence of PW-1 to 3 and the Exhibits at Ex.P-1 to P-7, the Disciplinary Authority has proved that, the DGO in order to do the official work had demanded a bribe of Rs.1,500/- and accepted the same on 20/08/2014. Hence, the story put forth by the DGO does not appear to be true.

42. On careful appreciation of the oral and documentary evidence adduced by the Disciplinary Authority, I am opinion that, the Disciplinary Authority has proved its case. First of all, the oral evidence of complainant/PW-1 proves that, he had official work with the DGO in attending to the work of sanctioning pay in respect of maternity leave period of his wife Smt Sunitha H. PW-1 has further proved that, the DGO demanded and accepted bribe of Rs.1,500/-.

43. PW-1 has stated about lodging the complaint as per Ex.P-1 and he has deposed about the Entrustment Mahazar as per Ex.P-2. He has further deposed of having approached the DGO along with shadow witness PW-2 and paid the bribe amount on demand by the DGO. PW-1 has deposed about the Trap Mahazar conducted by the I.O as per Ex.P-3.

44. The evidence of PW-1/Complainant is corroborated by the evidence of shadow witness/PW-2 Sri Chandbasha. This witness has also stated consistently about the procedure and Entrustment Mahazar conducted by the I.O. He has accompanied the complainant to the office of DGO and specifically states that, the DGO demanded bribe and the complainant paid the bribe amount i.e bait money to the DGO. PW-2 has elaborately deposed about the Trap Mahazar conducted by the I.O. He has stated that, the hands of the DGO were washed in Sodium Carbonate Solution and the solution turned into pink colour. He has stated about the Trap Mahazar conducted as per Ex.P-3 and the seizure of solution in a bottle.

45. The evidence of PW-1 and 2 is further corroborated by the evidence of I.O PW-3. He has narrated the entire procedure, right from the time of lodging the complaint, till execution of successful Trap. He has deposed about the Entrustment Mahazar and Trap Mahazar at Ex.P-2 and P-3 respectively. The I.O has specifically stated that, the bait money was recovered from the DGO and his hands were washed in Sodium Carbonate Solution and the solution turning to pink colour, due to the presence of Phenolphthalein Powder.

46. The shadow witness PW-2 has specifically stated about the bait money of Rs.1,500/- i.e 3 notes of Rs. 500/- denomination

produced by the complainant. The panchas have noted down the numbers and they have been mentioned in both the Entrustment and Trap Mahazars at Ex.P-2 and P-3. PW-1 to PW-3 have specifically stated that, the bait money recovered from the said DGO was verified, and they were the same notes to which Phenolphthalein Powder was applied and the serial numbers were noted down. The same notes were received by the DGO. All the three witnesses have stated about washing the hands of DGO in Sodium Carbonate Solution, which turned to pink colour, due to the presence of Phenolphthalein Powder. The evidence of PW-1 and 2 is further corroborated by the evidence of I.O. PW-3 who has conducted the Entrustment Mahazar as per Ex.P-2 and Trap Mahazar as per Ex.P-3.

47. It is well settled proposition of law that, the standard of proof required in departmental enquiries is preponderance of probability. The Disciplinary Authority has to make out a case in which the preponderance of probability is towards the guilt of delinquent government employee. The standard of proof required in criminal cases is proof beyond reasonable doubt. However in departmental enquiries it will be sufficient if the preponderance of probability is towards the guilt of the DGO. On careful perusal of the oral and documentary evidence adduced by the Disciplinary Authority, I am of the opinion that, the Disciplinary Authority has proved that, the complainant had official work pertaining to, attending to the work

of sanctioning pay in respect of maternity leave period of his wife Smt Sunitha H.

48. The Disciplinary Authority has examined the complainant, the shadow witness and the investigation officer. Initially the DGO had demanded a bribe of Rs.10,000/-. However after negotiation the amount was settled to Rs.1,500/-. On careful perusal of the oral and documentary evidence adduced by the Disciplinary Authority, I am of the opinion that, the Disciplinary Authority has proved that, the DGO in order to attend the file of complainant, i.e in order to do the official work, demanded a bribe of Rs.1,500/- from the complainant and he has accepted the same. The Disciplinary Authority has by cogent oral and documentary evidence proved that, the DGO has demanded and accepted the bribe of Rs.1,500/- to do the official work and it was successfully recovered by laying a Trap.

49. Hence for all these reasons, I am of the Opinion that, the Disciplinary Authority by cogent evidence has proved that the DGO in order to do the official work has demanded and accepted the bribe of Rs.1,500/- from the complainant.

50. For the reasons stated above the DGO, being the Government/Public Servant has failed to maintain absolute

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integrity, besides devotion to duty and acted in a manner unbecoming of Government servant. On appreciation of entire oral and documentary evidence I hold that, the charge leveled against the DGO is established. Hence, I answer point No.1 in the "Affirmative".

:: ORDER ::

The Disciplinary Authority has proved the charge against the DGO Sri Sharanappa Hugara, Gazetted Manager, Office of Block Education Officer, Aland, Kalaburgi District.

51. This report is submitted to Hon'ble Upa Lokayukta-1 in a sealed cover for kind perusal and for further action in the matter.

Dated this the 23rd day of October 2019

(Patil Mohan Kumar Bhimanagouda)

Additional Registrar Enquiries-13
Karnataka Lokayukta
Bangalore


ANNEXURE

Witness examined on behalf of the Disciplinary Authority
PW-1: Sri Mallinatha Ghodke (Original)
PW-2: Sri Chandbasha (Original)
PW-3: Sri Thammaraya Patil (Original)
Witness examined on behalf of the Defence
DW-1: Sri Mallinatha (Original)
Documents marked on behalf of the Disciplinary Authority
Ex.P-1: Complaint copy (Certified copy) Ex.P-1(a): Signature of the I.O.
Ex.P-2: Entrustment Mahazar (Certified copy) Ex.P-2(a): Signature of the I.O.
Ex.P-3: Trap Mahazar (Certified copy) Ex.P-3(a): Signature of the I.O.
Ex.P-4: Rough hand sketch Map. (Certified copy) Ex.P-4(a): Signature of the I.O.
Ex.P-5: FIR Copy (Certified copy) Ex.P-5(a): Signature of the I.O.
Ex.P-6: Photographs taken at the time of Entrustment Mahazar (13 pages) (Certified copy)
Ex.P-7: FSL report dated 11/9/2014 (Xerox copy)
Documents marked on behalf of the DGO
Ex.D-1: Deposition of PW-2 in Special case No.13/2015 (Xerox copy)

Ex.D-1(A): Deposition of PW-4 in Special
Case No.13/2015 (Xerox copy)

Ex.D-2: Deposition of PW-5 in Special case
No.13/2015 (Xerox copy)

Dated this the 23rd day of October 2019


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



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/484/2016/ARE-13

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: **25/10/2019**

RECOMMENDATION

Sub:- Departmental inquiry against Sri Sharanappa Hugara, Gazetted Manager, Office of the Block Education Officer, Aland, Kalaburagi District – Reg.

Ref:-1) Government Order No. ಇಡಿ 26 ಡಿಜಿಪಿ 2016 Bengaluru dated 07/10/2016

- 2) Nomination order No.UPLOK-1/DE/484/2016 Bengaluru dated 18/10/2016 of Upalokayukta-1, State of Karnataka, Bengaluru.
- 3) Inquiry Report dated 23/10/2019 of Additional Registrar of Enquiries-13, Karnataka Lokayukta, Bengaluru.

The Government by its Order dated 07/10/2016 initiated the disciplinary proceedings against Sri Sharanappa Hugara, Gazetted Manager, Office of the Block Education Officer, Aland, Kalaburagi 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/484/2016 dated 18/10/2016 nominated Additional Registrar of Enquiries-1, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him. Subsequently by Order No. UPLOK-1/DE/2017 Bangalore dated 6/7/2017 the Additional Registrar of Enquiries-7 was re-nominated as Inquiry Officer to conduct

Departmental inquiry against DGO. Again by order No. UPLOK-1 & 2/ DE/Transfers/2018 dated 6/8/2018, the Additional Registrar of Enquiries-13 was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGO.

3. The DGO Sri Sharanappa Hugara, Gazetted Manager, Office of the Block Education Officer, Aland, Kalaburagi District was tried for the following charge:-

“You DGO Sri. Sharanappa Hugara (Delinquent Government Official for short DGO) was working as Gazetted Manager in office of the Block Education Officer, Aland, Kalburgi District and you were attending to the work of sanctioning pay in respect of leave period of the teachers. Smt. Sunitha H, wife of Sri. Mallinatha had availed maternity leave from 30/10/2013 to 28/04/2014 and after reporting to duty she gave application for sanction of pay in respect of the maternity leave period and then her husband Sri. Mallinatha visited your office and requested you to sanction the pay in respect of the leave period of his wife and at that time you demanded him to pay Rs.10,000/- as bribe to sanction the pay in respect of the leave period; and

Further on 20/08/2014 when the complainant Sri. Mallinatha was sent to you along with tainted amount of Rs.1,500/- by Lokayukta Police Officer, you again demanded and accepted tainted amount of Rs.1,500/- as bribe from Sri. Mallinatha to show official favour and you were caught red-handed while accepting the bribe amount and therefore you the DGO has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servant and therefore you are guilty of committing misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-13) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has proved the above charge against DGO Sri Sharanappa Hugara, Gazetted Manager, Office of the Block Education Officer, Aland, Kalaburagi District.

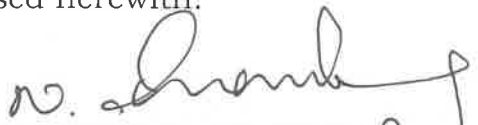
5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO Sri Sharanappa Hugara, he is due to retire from service on 30/04/2021.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri Sharanappa Hugara, it is hereby recommended to the Government for imposing penalty of Compulsory retirement from service on DGO Sri Sharanappa Hugara, Gazetted Manager, Office of the Block Education Officer, Aland, Kalaburagi District and also for permanently withholding 40% of pension payable to DGO Sri Sharanappa Hugara.

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

