

KARNATAKA LOKAYUKTA

NO: UPLOK-1/DE-775/2016/ARE-9

M.S.Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru - 560 001.
Date:05.05.2020

:: ENQUIRY REPORT ::

:: Present ::

(Lokappa N.R)

**Additional Registrar of Enquiries-9
Karnataka Lokayukta,
Bengaluru**

Sub: Departmental Enquiry against Sri.Rehman M.A.-the then Chief Officer, Pattan Panchayath, Afzalpur, Gulburga District Presently Office Assistant (Revenue), Range Office-1, Kalburgi City Corporation, Kalburgi- regarding his misconduct as a public servant - reg.

Ref: 1. G.O.No. ನಅಇ 157/ಡಿಎಂಕೆ /2016, ಬೆಂಗಳೂರು, ದಿ: 22.12.2016

2. Nomination Order No: UPLOK-1/DE/775/2016
Dt.28.12.2016 of Hon'ble Upalokayukta-1,
Bangalore.

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This Departmental Enquiry is initiated against Sri. Rehman M.A.-the then Chief Officer, Pattan Panchayath, Afzalpur, Gulburga District Presently Office Assistant (Revenue), Range Office-1, Kalburgi City Corporation, Kalburgi- regarding his misconduct as a public servant - reg. (hereinafter referred to as the Delinquent Government Official for short "**DGO**).

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2. In view of the Government Order cited above at reference No.1, Hon'ble Upalokayukta vide order dated 28.12.2016 cited above at reference No.2 has Nominated Additional Registrar of Enquiries-9 to frame the charges and to conduct the enquiry against the aforesaid DGO.

3. Additional Registrar of Enquiries-9 has prepared Articles of Charges, Statement of Imputations of Misconduct, list of witnesses proposed to be examined in support of the charges and list of documents proposed to be relied on in support of the charges.

4. The copies of the same were issued to the DGO calling upon him to appear before the Enquiry Officer and to submit written statement of defence.

5. The Article of charges framed by the ARE-9 against the DGO is as under :

ANNEXURE-I
CHARGE

(a) You-DGO have failed to produce documents to show that:

- i) 600 bags of linden powder has been taken to stock register,
- ii) Rs.2,61,000/- withdrawn through cheque No.72363 dt:29.1.2014 has been paid to the labourers.
- iii) Amount collected for issuing licence has been spent towards supply of food to election staff and painting.

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- iv) Rs.96,000/- has been paid to electrical firm.
 - v) Rs.12,33,000/- has been paid to outside contractors.
- b) Order dt: 8.1.2014 approving layout plan has been passed even before collecting development and other charges amounting to Rs.6,96,516/-.thereby you-DGO have failed to maintain absolute integrity, devotion to duty and committed an act which is unbecoming of a Government Servant and thus you-DGO have guilty of misconduct under Rule 3(1) (i) to (iii) of KCS (Conduct) Rules 1966.

6. ANNEXURE NO.II

STATEMENT OF IMPUTATIONS OF MISCONDUCT

You-DGO,

- a) 600 bags of linden powder are said to have been purchased under bills by making payment, but only 200 bags are available.
- b) No explanation/documents regarding issue of Cheque No.072363 dt: 29.1.2014 for Rs.2,61,000/-.
- c) Cheque No.236527 has been issued for Rs.56,000/- towards purchase of electrical items, but the amount spent is only Rs.49,900/- and cheque has been issued for excess amount of Rs.6,100/-.
- d) An amount of Rs.500/- has been received for issuing licence for running office for the students during election, but there is no record for having received the amount.

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- e) An amount of Rs.500/- has been received for issuing licence for running office for the students during election, but there is no record for having received the amount.
- f) Cheque No.236512 dt: 16.12.2013 for an amount of Rs.96,200/- has been spent towards purchase of electrical items, but the electrical items are not received .
- g) An amount of Rs.4,72,500/- through cheque No.236459, Rs.2,97,900-00 through cheque No.074919, Rs.2,16,000-00, through cheque No.236504 and Rs.2,47,500/- through cheque No.236516 totally Rs.12,33,000/- has been received by Raju Jamadar towards payment to labourers, but he has not paid the amount to labourers though he has received the amount.
- h) In the attendance register it is mentioned that you-DGO were on OOD on 28.1.2014 and you had gone to Gulbarga, but you have issued cheque No.236525 dt: 28.1.2014.
- i) An amount of Rs.6,96,516 has been received towards conversion charges for Sy.No.347/7 but, the amount has not been credited to any account.

You-DGO have submitted comments stating that:

- i) 600 bags of linden powder has been taken to stock register,
- ii) Amount has been drawn and paid to the labourers.
- iii) Amount of Rs.56,000/- has been paid to the electrical firm and no excess amount has been paid.
- iv) An amount of Rs.18,000/- has been received towards licence. Amount has been spent towards supply of food for the election staff and towards white wash and painting.

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v) An amount of Rs.8,500/- has been received towards licence. Amount has been spent towards supply of food for the staff of election and towards white wash and painting and supply of water for polling booths.

vi) Rs.96,000/- has been paid to electrical firm.

vii) Amount has been paid to outside Contractors and no amount has been misappropriated.

viii) you-DGO returned on the same day in the afternoon at 1.30 pm.

ix) No amount has been received for conversion of land and notice has been issued to the owner to deposit the development fee.

Complainant has produced documents in support of the allegations and whereas you-DGO have not produced documents in support of your explanation.

Materials on record disclose the following:

a) You-DGO have failed to produce documents to show that:

i) 600 bags of linden powder has been taken to stock register,

ii) Rs.2,61,000/- withdrawn through cheque No.72363 dt:29.1.2014 has been paid to the labourers.

iii) Amount collected for issuing licence has been spent towards supply of food to election staff and painting.

iv) Rs.96,000/- has been paid to electrical firm.

v) Rs.12,33,000/- has been paid to outside contractors.

b) Order dt: 8.1.2014 approving layout plan has been passed even before collecting development and other charges amounting to Rs.6,96,516/-.

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In view of the above, reply of you-DGO is not acceptable to drop the proceedings against you.

The said facts and materials on record show that you-DGO being Public/Government Servant have failed to maintain absolute integrity besides devotion to duty and acted in a manner unbecoming of Public/Government Servant and thereby committed misconduct and made himself liable for disciplinary action.

Since said facts supported by the materials on record prima facie show that you-DGO being Public/Government servant, have committed misconduct as per Rule 3(1)(i) to (iii) of KCS(Conduct) Rules, 1966 and under Rule 14(A) of Karnataka Civil Services(Classification, Control and Appeal) Rules 1957. Hence, the charge.

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7. The DGO has appeared on 04-05-2017 and before this enquiry authority in pursuance to the service of the Article of charges.

8. Plea of the DGO have been recorded and he has pleaded not guilty and claimed for holding enquiry.

9. The DGO has submitted written statement, stating that the quantity of Linden powder has been mentioned in the Stock Register, there is no misappropriation as alleged in the complaint. The cheque no.072363 dt.29-01-2014 for sum of Rs.2,61,000/- has been withdrawn and paid to the payment to the daily wage labourers. An amount of Rs.96,000/- has been paid to the electrical parts. There was

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no excess payment done to the labourers. The payment has been done through cheque and same was credited to them. Further submitted that they have collected an amount of Rs.500 each totally Rs.18,000/- from the concerned party. The said amount has been paid to the expenditure towards the election stop and labours and also for arrangement of shamiyana, lighting to the election office through cheque No.23512 dt.16-12-2013 for a sum of Rs.96,000/- has been paid to the concerned electrical firm. Further submitted that an amount of Rs.4,72,500/- through cheque no.236459, Rs.2,97,900/- through cheque no.0749919, Rs.2,16,000/- through cheque no.236504 and Rs.2,47,500/- through cheque no.236516 totally Rs.12,33,000/- has been received by Rajkumar Jamadar towards payment to labourers (outsources employees) as the labourers have been taken from outside contract. The entire amount has been paid to respective labourers. There is no mis conduct or misappropriation as alleged in the Article of Charge. Further submitted that notice has been issued to Smt.Venkamma who is the owner of property bearing sy.no.347/7 for payment of development fee in respect of conversion of land, she has not paid any amount to the town panchayath. Therefore, there is no misappropriation or mis conduct as alleged in the Articles of charge. The complainant has filed this complaint only to harass the DGO. Hence, prayed for dropping of the charge against him.

The Disciplinary Authority has examined the Complainant Sri.Malendra S/o Shreeshaila Damge Agriculturist Afzalpur Kalburgi District. as Pw.1, in the case

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and has got marked **Ex.P-1 to Ex.P-5**. DGO examined Sri Bheemaraya Babaleshwara s/o Siddaramappa as DW-1; Sri Rajakumara Jamadar s/o Shivaram Jamadar, Sanitary Inspector, Afzalpur TMC as DW-2, Sri Santosh s/o Shankar, Computer Operator, TMC, Afzalpur as DW-3, Sri Husenappa, s/o Yellappa Chalavadi, Purakarmika as DW-4 and DGO Sri.Rehman M.A.-the then Chief Officer, Pattan Panchayath, Afzalpur, Gulburga District Presently Office Assistant (Revenue), Range Office-1, Kalburgi City Corporation, Kalburgi has examined himself as DW-5 and has got marked Ex.D-1 and Ex.D-2.

17. The second oral statement of DGO has been recorded. The DGO has submitted written arguments. Heard the submissions of the disciplinary authority and DGO side. I answer the above charge in **AFFIRMATIVE** for the following;

REASONS

18. It is the prime duty of the disciplinary authority to prove the charges that are leveled against the DGO.

19. The disciplinary authority has examined the complainant Sri Malendra s/o Srishaila dange as PW-1. He has deposed in his evidence that in the year 2014, the DGO was working as a Chief Officer in Town Municipality, Afzalpur, Kalburgi district he has shown in the bill purchased 660 bags Linden powder to spread the same in the drainage within the limits of the TMC Afzalpur. When he had verified the said bags stored in the store room, he had found only 200

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bags. In this regard, the Sanitary Inspector of TMC, Afzalpur not given proper explanation. Further deposed that DGO not properly explained regarding the expenditure of Rs.2,61,000/. Further, Rs.56,000/- shown as expenditure in respect of purchase of Electrical things. But, bill was only for Rs.49,900/-. The DGO paid the excess amount of Rs.6,100/- towards the purchase of electric fittings. Further deposed that, the DGO collected Rs.500/- from the candidate of election of TMC for issuing the license but not issued any receipt in respect of the said amount. Further, DGO shown the expenditure of Rs.12,30,000/- towards the payment of daily wagers who are engaged in the sanitary work of the TMC. Further, the cheque in respect of the said amount issued in the name of sanitary Inspector. The above said all amount not paid to the daily wagers. Further deposed that the land in Sy.no.347/7 measuring 9 acre 6 gunta of Afzalpura village converted into non agricultural purpose. The DGO not collected the development fee in respect of the said property.

DW-1 Sri Bhimaraya Babaleshwara siddaramappa has deposed in his evidence that, since 20 years he is working as Bill collector in Afzalpura TMC. Further, in respect recovery of development fee in sy.no.347/7 of Afzalpura village issued notice to the owner of the said property by name Yenamma Devendrappa Guttedar but, she has not paid the development fee and she has stated before him after mutation order passed in respect of the respective sites, she will deposit the development fee.

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DW-2 Rajkumar Jamadar s/o Shivaram Jamadar, Sanitary Inspector, TMC, Afzalpur has deposed in his evidence that since 2011-12, he is working as Sanitary Inspector in the said T.M.C. Cleaning of the road and drainage within the limits of the T.M.C. Afzalpur comes within his jurisdiction. Daily he has done the said work with the help of daily wagers, for the same, he had distributed the wage amount to the said labourers. Regarding payment of the said labourers wage amount, chief officer issued the cheque. After drawing the said amount, he had distributed the salary to the said labourers and obtained the signature of the labourers and for the same maintained Register in the office.

DW-3 Santosh s/o Shankar, computer operators TMC Afzalpura has deposed in his evidence that since 13 year, he is working as computer operator in the TMC Afzalpur, further deposed that due to the election of TMC Afzalpur in the year 2013, the single window office opened for Tahasildar who was the election officer. Further, to open the office of the concerned party in each ward, the license was issued to respective party candidates to collecting Rs.500/- as fee which was fixed by Tahasildar, Afzalpur. Totally, Rs.18,000/- was collected and same was invested for providing meals to the election staff and painting to polling booth and providing electricity facility to the election office.

DW-4 Husainappa Yellappa Chalavadi, Pourakarmika in Afzalpura TMC has deposed in his evidence that he had unloaded 660 bags of Linden powder in the TMC office store

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room. Further he deposed that he has not given any statement before PW-1 in respect of the unloading of Linden powder bags.

DW-5 is the DGO Sri.Rehman M.A.-the then Chief Officer, Pattan Panchayath, Afzalpur, Gulburga District Presently Office Assistant (Revenue), Range Office-1, Kalburgi City Corporation, Kalburgi has deposed in his evidence that, on 01-11-2013, as per Bill No.37, 660 bags of Linden powder has been supplied and cost of each bag is Rs.750/- and total amount is of Rs.4,95,000/- and it is mentioned that the said bag was in the custody of Pattana panchayath. The said Linden powder bags supplied by M/s Taj Traders. Further deposed that, amount of Rs.2,61,000/- has been withdrawn vide cheque no.072363 dt.29-01-2014 and the same has been paid as daily wages to the laborers. Further deposed that Pattana Panchayath has collected Rs.500 from each candidate who were contesting in TMC Election. Totally Rs.18,000/- collected by issuing permission to open party office inrespective ward. As per the order of the Returning Officer the said amount has been spent for food, supply of water to the election staff, labourers, shamiyana, lighting etc., Further deposed that, Rs.96,000/- has been paid to the electrical firm for purchasing electrical items through the cheque no.236512 dt.16-12-2013. The said amount has been credited to the account of electric firm. Further deposed that, total Rs.12,33,000/- released in the name of Rajkumar Jamadar, Sanitary Inspector, he has withdrawn the said amount through cheque and the same has been paid as salary of daily wages (who were appointed through outside

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contractors). Further submitted that the owner of the land bearing Sy.No.347/7 Smt.Venkamma w/o Devendrappa Guttedar made an application for approve sketch which was being ordered by the Junior Engineer Town Panchayath to Revenue Inspector for collecting Rs.6,96,516/- towards development charge and registration fee. The Revenue Inspector has put up the note with recommendation to issue number to the sites by accepting development charge and registration fee. But the sites number have been give and there was no amount deposited to the Town Panchayath. Further deposed that, issue notice to the above said Venkamma for payment of amount towards development charge and registration fee, but she has replied that the site would be development by herself, therefore, there was no amount deposited by her.

Ex.P-1 is the complaint given by PW-1. Ex.p-2 is the complaint in Form No.1 dt.13-05-2014. Ex.p-3 is the complaint in Form No.II dt. 13-05-2014. EX.p-4 are the documents enclosed to complaint (22 sheets). Ex.p-5 is the comments dt. 27-08-2016 of DGO along with documents (total 7 sheets)

Ex.D-1 is the document at page no. 133 to 138- that is the list of payment of salary to the daily wages labourers (ourtsource employees) from 2013 to 2014. Ex.D-2 is the documents at page no. 139-142 that is the copy of the office register.

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Perused the evidence of PW-1, DW-1 to 5 along with Ex.p-1 to 5, Ex.D-1 and 2 and Articles of Charge. Annexure 1 in Article of charge, it consist the charges that is (a) and (b)

Charge-(a):- This charge level against the DGO regarding the fact that DGO has fail to produce the documents to show that

“ i) 600 bags of linden powder has been taken to stock register,

ii) Rs.2,61,000/- withdrawn through cheque No.72363

dt:29.1.2014 has been paid to the labourers.

iii) Amount collected for issuing licence has been spent towards supply of food to election staff and painting.

iv) Rs.96,000/- has been paid to electrical firm.

v) Rs.12,33,000/- has been paid to outside contractors”.

In the Article of charge and Sec. 12(3) Karnataka Lokayukta Act 1984 report by mistakenly in charge no.a(i) mention the 600 bags of linden powder instead of 660 bags of linden powder. It is necessary to read as 660 bags of linden powder.

Charge (a)-(i):- the DGO has failed to produce the documents to show 660 bags of linden powder has been taken to stock register;

Peruse the evidence of PW-1 and DW-1 to 5 along with EX.P-1 to 5, Ex.D-1 and D-2. PW-1 has deposed that the DGO has shown in the bill that, purchased the 660 bags linden powder but there is no entry in the register of stock. The EX.P-4 page no.102-103 is a office note of the TMC Afzalpur. As per the said documents concerned case worker

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put up the note that M/S Taj Traders, Afzalpur had supplied the 660 linden powder bags. The total amount of Rs.4,95,000/- and submitted for payment. The EX.p-4 page No. 104-107 is the Xerox photograph of the unloading the linden powder bags and stored in the store room of the TMC Office along with cash memo dtd. 01-11-2013 issued by the Taj Traders. Further the DGO has not produced the documents related to the copy of the stock register of the office regarding purchase of the linden powder bags and also not produce the documents related to the procedure followed at the time of purchasing the said linden powder bags. Thereby the DGO fail to produce the proper documents for the purchase of the said bags with stock books maintained by the TMC office. Thereby the Disciplinary Authority succeeded to prove the charge no. (a) (i) level against the DGO.

Charge no. (a) (ii) the DGO has failed to produce the documents to show Rs.2,61,000/- withdrawn through cheque No.72363 dt:29.1.2014 has been paid to the labourers.

Peruse the evidence of PW-1 and DW-1 to 5 along with EX.p-1 to 5, Ex.D-1 and D-2. PW-1 has deposed that the DGO has shown amount of Rs. Rs.2,61,000/- withdrawn through cheque No.72363 dt:29.1.2014 had been paid to the labourers but not produce the proper documents regarding the same. The DGO himself examined as DW-5 and he has deposed in his evidence that the amount of Rs. Rs.2,61,000/- withdrawn through cheque No. 72363 dt:29.1.2014 had been received by Sri.Rajkumar Jamadar, DW-2 towards payments to the labours. Further he has deposed that the out sources

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employees had no bank accounts therefore he had withdrawn the amount and made payment to the respective out sources employees. Therefore there is misappropriation of the funds as alleged by the complainant (PW-1).

DW-2 Sri.Rajkumar Jamadar s/o Shivaram Jamadar, Sanitary Inspector, TMC, Afzalpur deposed that since 2011-12, he is working as Sanitary Inspector in the said T.M.C. Cleaning of the road and drainage within the limits of the T.M.C. Afzalpur comes within his jurisdiction. Daily he has done the said work with the help of daily wagers, for the same, he has distributed the wage amount to the said labourers. Regarding payment of the said labourers wage amount, chief officer issued the cheque. After drawing the said amount, he had distributed the salary to the said labourers and obtained the signature of the labourers and maintained Register in the office.

The DGO produced the Ex.D-1 page no. 133 to 138 the list of payment salary to the daily wages labourers from 2013 to 2014. On perusing the said documents the date of payment not mentioned only mentioned the total month of salary was paid to the concerned labour/ out sources employees along with signature. Further thumb impression of some labourers/ out sources employees not attested by the officer who paid the said amount.

As per ***The manual of Contingent Expenditure, 1958 of Finance department.***

Chapter-2, Rules-57:- Wages (a) In departments in which coolies are engaged regularly on manual labour and

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paid at daily or monthly rates, a nominal muster roll must be maintained and the same must be written up daily by the subordinate deputed for the purpose ; (b) Labourers may be paid periodically as the requirements of the work demand ; but separate rolls must be prepared for each period of payment ; (c) The daily attendance and absence of labourers and the fines inflicted upon them should be recorded daily on the muster roll in such a way as (i) to facilitate the correct calculation of the net wages of each person for the period of payment and (ii) to render it difficult to tamper with or to make unauthorised additions to, or alterations in entries once made ; (d) Each payment should be made or witnessed by the officer of highest standing available, who should certify to the payments individually or by groups by a distinctive mark, initials or signature, at the same time specifying both in words and figures, at the foot of the muster rolls, the total amount paid on each date. If any items remain unpaid, the details thereof should be recorded at the foot of the muster roll or other list. Unpaid items, when subsequently paid, should be so recorded as to prevent all chances of double payments and the payments of current items. The work turned out by the labourers must be recorded in the muster roll; (e) Muster rolls should not be prepared in duplicate and need not be sent to the Audit Office; (f) Contingent charges on account of wages of coolies engaged on manual labour and paid at daily or monthly rates should be supported by a certificate signed by the disbursing officer to the effect that the coolies were actually entertained and paid. The nature of work on which the coolies were employed should be noted in the contingent bills. When a bill contains a charge for labour engaged departmentally the drawing officer shall certify that the amount charged was paid on muster rolls maintained in accordance with the rules to labourers who actually worked on the work. The muster rolls shall be submitted to the Accountant General if he calls for them.

As per the above said rules (b) Labourers may be paid periodically as the requirements of the work demand ; but separate rolls must be prepared for each period of payment ;

As per the Ex.D-1 page no. 133-134 the payment made to the 24 labourers / out sources employees for the period of April 2013 to June 2013 the total amount of payment is Rs.3,24,000/- Page no. 135 the payment made to the 11 labourers/ out sources employees for the period of April 2013 to June 2013 the total amount of payment is Rs.1,48,500/- Page no. 136-137 the payment made to the 24 labourers/ out sources employees for the period of July 2013 to August 2013 the total amount of payment is Rs.2,16,000/- Page no. 138 the payment made to the 11 labourers/ out sources employees for the period of July 2013 to November 2013 the total amount of payment is Rs.2,47,500/-. As per the said documents at the time of payment to the daily wages labourers/ out sources employees the DGO obtained the hand receipt regarding the receiving of the wage amount (Salary). The DGO produced the copy of the cash book of CMC Afzalpur for the year 2013-2014, i.e., in page no. 39 to 42. In the said documents also he has stated that he has paid the salary amount to the labourers/ out sources employees Rs. 2,61,00/- through the cheque no. 072363 after obtaining the hand receipt from the daily wages labourers/ out sources employees. But the DGO not produced the alleged hand receipt.

As per the above said rules (c) The daily attendance and absence of labourers and the fines inflicted upon them should be recorded daily on the muster roll in such a way as (i) to facilitate the correct calculation of the net wages of each person for the period of payment and (ii) to render it difficult to tamper with or to make unauthorised additions to, or

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alterations in entries once made ; But DGO failed to produce the daily attendance register and muster roll in respect of the above said labourers. Further considering the evidence of the disciplinary authority and DGOs it appears that the DGO failed to follow the above said rules in respect of payment of salary to the daily wages labourers/ out sources employees who were working in the CMC Afzalpur and further the DGO failed to produce the proper documents regarding the payment of wages to labourers/ out sources employees as per the above said rules. Thereby the Disciplinary Authority succeeded to prove the charge no. (a) (ii) leveled against the DGO.

Charge no. (a) (iii) the DGO has failed to produce the documents to show the amount collected for issuing licence has been spent towards supply of food to election staff and painting.

Peruse the evidence of PW-1 and DW-1 to 5 along with EX.p-1 to 5, Ex.D-1 and 2. Ex.P-4 page no. 111 - 119 document related to the license issued to the concerned political parties candidate to open the office and fix the banner and etc., related to municipality election. As per the said documents the DGO issued the license on 28.2.2013 in favour of the concerned candidate and collected Rs. 500/- each to open the office. As per the evidence of the DGO total amount of Rs.18,000/- collected by issuing permission to open the party office. Further as per the evidence of the DGO the said amount spent for food and supply of water to the election staff, labourers and shamiyana and lights, etc., as



per the order of the Returning officer of the said election. But the DGO only produce the documents in respect of collection of amount but not produced the documents in respect of the expenditure of the said amount and also not produced documents obtained from the Returning officer of the election regarding said expenditure. The DGO failed to produced the documents in respect of the said expenditure. Thereby the disciplinary authority has succeeded to prove the charge No. (a) (iii) level against the DGO.

Charge no. (a) (iv) the DGO has failed to produce the documents to show the amount of Rs.96,000/- has been paid to electrical firm.

Peruse the evidence of PW-1 and DW-1 to 5 along with EX.p-1 to 5 and Ex.D-1 and 2. As per Ex.D-2 page no. 139-142 office register Sl. No. 114 the DGO shown 96,200/- rupees for purchasing of electrical things to the CMC Afzalpura, said amount paid through the cheque no. 236512 dtd: 16.12.2013 regarding purchasing of the said electrical things. But the DGO failed to produce the documents like receipt and voucher issued by the concerned electrical firms. Thereby the disciplinary authority has succeeded to prove the charge No. (a) (iv) levelled against the DGO.

Charge no. (a) (v) the DGO has failed to produce the documents to show the amount Rs.12,33,000/- has been paid to outside contractors.

Peruse the evidence of PW-1 and DW-1 to 5 along with EX.p-1 to 5, Ex.D-1 and 2. PW-1 deposed that the amount of

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Rs. 4,75,500/- through cheque no. 236459, Rs. 2,97,900/- through chequ no. 074919 Rs. 2,16,000/- through cheque no. 236504 and Rs. 2,47,500/- through cheque no. 236516 total Rs. 12,33,000/- has been received by Rajkumar Jamadhar towards the payment to the labourers but he has not paid the entire amount to the labourers though he had received the amount.

DW-2 Sri.Rajkumar Jamadar s/o Shivaram Jamadar, Sanitary Inspector, TMC, Afzalpur deposed that since 2011-12, he is working as Sanitary Inspector in the said T.M.C. Cleaning of the road and drainage within the limits of the T.M.C. Afzalpur comes within his jurisdiction. Daily he had done the said work with the help of daily wagers, for the same, he had distributed the wage amount to the said labourers. Regarding payment of the said labourers salary amount, chief officer issued the cheque. After withdraw the said amount, he had distributed the salary to the said labourers and obtained the signature of the labourers for the same and maintained Register in the office.

As per ***The manual of Contingent Expenditure, 1958 of Finance department.***

Chapter-2, Rules-57:- Wages (a) In departments in which coolies are engaged regularly on manual labour and paid at daily or monthly rates, a nominal muster roll must be maintained and the same must be written up daily by the subordinate deputed for the purpose ; (b) Labourers may be paid periodically as the requirements of the work demand ; but separate rolls must be prepared for each period of payment ; (c) The daily attendance and absence of labourers and the fines inflicted upon them should be recorded daily on the muster roll in such a way as (i) to

facilitate the correct calculation of the net wages of each person for the period of payment and (ii) to render it difficult to tamper with or to make unauthorised additions to, or alterations in entries once made ; (d) Each payment should be made or witnessed by the officer of highest standing available, who should certify to the payments individually or by groups by a distinctive mark, initials or signature, at the same time specifying both in words and figures, at the foot of the muster rolls, the total amount paid on each date. If any items remain unpaid, the details thereof should be recorded at the foot of the muster roll or other list. Unpaid items, when subsequently paid, should be so recorded as to prevent all chances of double payments and the payments of current items. The work turned out by the labourers must be recorded in the muster roll; (e) Muster rolls should not be prepared in duplicate and need not be sent to the Audit Office; (f) Contingent charges on account of wages of coolies engaged on manual labour and paid at daily or monthly rates should be supported by a certificate signed by the disbursing officer to the effect that the coolies were actually entertained and paid. The nature of work on which the coolies were employed should be noted in the contingent bills. When a bill contains a charge for labour engaged departmentally the drawing officer shall certify that the amount charged was paid on muster rolls maintained in accordance with the rules to labourers who actually worked on the work. The muster rolls shall be submitted to the Accountant General if he calls for them.

As per the document produced by the DGO i.e., copy of the cash book page no.40 sl. No. 60, in the same document page no. 41 sl.no. 105. DW-2 received the cheque no. 236459 dtd: 6.9.2013 for the payment of salary of outsources employees total no. 24+11 for the month April to June 2013 the total amount of Rs. 4,72,500/- and Rs. 2,16,000/- through the cheque no. 236504 dtd; 2.12.2013 for the payment of the salary to the 24 outsources employees for the

or

month of July and August 2013. In the same document in page no. 42 shown that received the amount of Rs. 2,47,500/- through cheque no. 236516 dtd: 26.12.2013 for the salary of outsources employees for the month of July 2013 to November 2013 with obtaining hand receipt. The Ex.D-1 is the list of payment of salary to the out sources employees for the above said period. As per Ex.D-2 in page no. 139 sl. No. 60 the DW-2 received Rs. 4,72,500/- for the payment to the outsources employees. DGO deposed in his evidence that the said amount paid to the outsources employees / labourers through the DW-2 because the labourers (who were appointed from outside contractor) had no bank accounts. The DGO not produced proper register and documents regarding the payment of salary to the out sources labourers with hand receipt regarding the payment of their salary. The DGO failed to produce the proper documents regarding the payment of the amount to the said sources labourers. Thereby the disciplinary authority succeeded to prove the charge No. (a) (v) level against the DGO.

Charge no. (b) Order dt: 8.1.2014 approving layout plan has been passed even before collecting development and other charges amounting to Rs.6,96,516/-.

Peruse the evidence of PW-1 and DW-1 to 5 along with EX.p-1 to 5 and Ex.D-1 and 2. DGO examined as DW-5 he has deposed that in sy. No. 347/7 measuring 9 acres 6 guntas land in Afzalpura has been converted for non agriculture purpose. The owner of the said land Smt. Venkamma W/o Devendrappa Guttedhar made an application

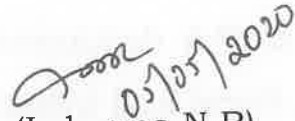
for approved sketch it had been ordered by the junior engineer town panchayath to the Revenue Inspector for collecting Rs. 6,96,516/- towards the development charge and registration fee. The Revenue Inspector had put up the note with recommendation to issue the number to the sites by accepting the development charge and registration fee. But the site numbers has been given and no amount has been deposited to the Town Panchayath. DW-5 further deposed that town panchayath had issued a notice to the owner of the site Smt. Venkamma Devendrappa Guttedhar for payment of amount towards development charge and registration fee. But she has replied that the site will be developed by herself only. Therefore there was no amount deposed by Smt. Venkamma Devendrappa Guttedhar. The evidence of the DW-5 DGO itself shows that he has not collected the development charge and registration fee as per the Municipality Act without collecting the development charge and registration charge by town panchayath Afzalpur has allotted the number to the concerned site, even though the concerned employee put up the note as per Ex.P5 document in page No. 131 and 132. As per the Ex.P-5 document in page no. 130 order of the joint director, Rural and Urban Development Department, Kalburgi issued the Technical approval to the site plan on 8.1.2014 with condition to deposit development charge to the Town Panchayath, Afzalpura. The above said all documents and oral evidence clearly shows that the DGO has failed to recovered the development charge from the concerned land owner. Thereby the disciplinary authority has succeeded to prove the charge No. (b) leveled against the DGO.

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Considering the oral and documentary evidence of disciplinary authority and DGO, the DGO failed to produce the document to show that (i) 660 bags of linden powder has been taken to stock register, (ii) Rs.2,61,000/- withdrawn through cheque No.72363 dt:29.1.2014 has been paid to the labourers, (iii) Amount collected for issuing licence has been spent towards supply of food to election staff and painting, (iv) Rs.96,000/- has been paid to electrical firm and (v) Rs.12,33,000/- has been paid to outside contractors.

Further DGO failed to collect the development and other charges from the concerned land owners as per the order dtd: 8.1.2014 in respect of land in sy. No. 347/7 measuring 9 acres 6 guntas land in Afzalpura regarding formation of sites. **Thereby the disciplinary authority succeeded to prove the charge No. a (i) to a(v) and (b) leveled against the DGO.**

In the above said facts and circumstances, charge No. a (i) to a(v) and (b) leveled against the DGO are proved. Hence, report is submitted to Hon'ble Upalokayukta-1 for further action.


05/05/2020
(Lokappa N.R)

Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

i) List of witnesses examined on behalf of Disciplinary Authority.

Pw.1	Complainant Sri.Malendra S/o Shreeshaila Dange Agriculturist Afzalpur Kalburgi
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ii) List of Documents marked on behalf of Disciplinary Authority.

Ex.P1	Ex.P-1 is the complaint given by PW-1.
Ex.P 2 and 3	Ex.p-2 is the complaint in Form No.1 dt.13-05-2014. & Ex.p-3 is the complaint in Form No.II dt. 13-05-2014.
Ex.P-4	EX.p-4 are the documents enclosed to complaint (22 sheets).
Ex.P5	Ex.p-5 is the comments dt. 27-08-2016 of DGO along with documents (total 7 sheets)

iii) List of witnesses examined on behalf of DGO.

DW-1	Sri Bheemaraya Babaleshwara s/o Siddaramappa as DW-1,;
DW-2	Sri Rajakumara Jamadar s/o Shivaram Jamadar, Sanitary Inspctor, Afzalpur TMC as DW-2
DW-3	Sri Santosh s/o Shankar, Computer Operator, TMC, Afzalpur as DW-3,
DW-4	Sri Husenappa, s/o Yellappa Chalavadi, Purakarmika as DW-4
DW-5	DGO Sri.Rehman M.A.-the then Chief Officer, Pattan Panchayath, Afzalpur, Gulburga District Presently Office Assistant (Revenue), Range Office-1, Kalburgi City Corporation, Kalburgi has examined himself as DW-5

iv) List of documents marked on behalf of DGO

Ex.D-1	Ex.D-1 are the document at page no. 133 to 138- the list of payment made to the daily wages labours from 2013 to 2014.
Ex.D-2	Ex.D-2 are the documents at page no. 139-142 - the office register.

Joe
25/05/2020
(Lokappa N.R)

Additional Registrar Enquiries-9
Karnataka Lokayukta,
Bengaluru.

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No.UPLOK-1/DE/775/2016/ARE-9

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date: **07/05/2020**

RECOMMENDATION

Sub:- Departmental inquiry against Sri M.A. Rehman, the then Chief Officer, Pattan Panchayath, Afzalpur, Kalaburagi District – Reg.

Ref:-1) Government Order No.ನೞಇ 157 ಡಿಎಂಕೆ 2016 Bengaluru dated 22/12/2016.

2) Nomination order No.UPLOK-1/DE/775/2016 Bengaluru dated 28/12/2016 of Upalokayukta-1, State of Karnataka, Bengaluru.

3) Inquiry Report dated 05/05/2020 of Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 22/12/2016 initiated the disciplinary proceedings against Sri M.A. Rehman, the then Chief Officer, Pattan Panchayath, Afzalpur, presently working as Office Assistant (Revenue), Range Office-1, Kalaburagi Mahanagara Palike (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/775/2016 dated 28/12/2016 nominated Additional Registrar of Enquiries-9, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO Sri M.A. Rehman, the then Chief Officer, Pattan Panchayath, Atzalpur, presently working as Office Assistant (Revenue), Range Office-1, Kalaburagi Mahanagara Palike was tried for the following charges:-

(a) You-DGO have failed to produce documents to show that:

- i. 600 bags of linden powder has been taken to stock register
- ii. Rs.2,61,000/- withdrawn through cheque No.72363 dt.29.1.2014 has been paid to the labourers.
- iii. Amount collected for issuing licence has been spent towards supply of food to election staff and painting.
- iv. Rs.96,000/- has been paid to electrical firm.
- v. Rs.12,33,000/- has been paid to outside contractors.

(b) Order dt:8.1.2014 approving layout plan has been passed even before collecting development and other charges amounting to Rs.6,96,516/- thereby you-DGO have failed to maintain absolute integrity, devotion to duty and committed an act which is unbecoming of a Government Servant and thus you-DGO have guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

4. The Inquiry Officer (Additional Registrar of Enquiries-9) on proper appreciation of oral and documentary evidence has held that considering the oral and documentary evidence of disciplinary authority and DGO, the DGO failed to produce the document to show that (i) 660 bags of linden powder has been taken to stock register, (ii) Rs.2,61,000/- withdrawn through ChequeNo.72363 dt:29.1.2014 has been paid to the labourers, (iii) Amount collected for issuing licence has been spent towards supply of food to

election staff and painting, (iv) Rs.96,000/- has been paid to electrical firm and (v) Rs.12,33,000/- has been paid to outside contractors.

Further, DGO failed to collect the development and other charges from the concerned land owners as per the order dtd: 8.1.2014 in respect of land in Sy.No.347/7 measuring 9 acres 6 guntas land in Afzalpura regarding formation of sites. Thereby, the disciplinary authority succeeded to prove the charge No.a (i) to a (v) and (b) leveled against the DGO.

In the above said facts and circumstances, charge No.a (i) to a (v) and (b) leveled against the DGO are proved.

5. As per the inquiry report, 660 bags of Linden powder supplied to Pattan Panchayath, Afzalpur by M/s. Taj Traders amounting to Rs.4,95,000/- was not taken to stock register and the DGO did not produce the documents relating to procedure followed at the time of purchasing the Linden Powder bags. The DGO has not produced the documents relating to payment of wages of Rs.2,16,000/- to the labourers. The DGO has collected an amount of Rs.18,000/- from the political parties to open office and fix banner etc. but has not produced documents towards the expenditure of the above amount of Rs.18,000/-for supply of food to election staff and painting. The DGO has failed to produce documents, such as receipts and vouchers for payment of amount of Rs.96,200/- for purchase of electrical items. The DGO has not produced documents relating to payment of amount of Rs.12,33,000/- to the outsource contractor. The inquiry report discloses that the DGO had approved the layout plans without

collecting development and other charges, amounting to Rs.,6,96,516/-. Therefore, the total misappropriation/loss caused to the State exchequer by DGO is Rs.27,54,716/-.


6. 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.

7. As per the First Oral Statement submitted by DGO Sri M.A. Rehman, he has retired from service on 30/04/2020 (during the pendency of inquiry).

8. Having regard to the nature of charge proved against DGO Sri M.A. Rehman, it is hereby recommended to the Government for imposing penalty of recovering a sum of Rs.27,54,716/- (misappropriation/loss caused to the State exchequer by DGO) from the pensionary benefits payable to DGO Sri M.A. Rehman, the then Chief Officer, Pattan Panchayath, Afzalpur. If the pensionary benefits were already paid to him or pensionary benefits are not sufficient to recover a sum of Rs.27,54,716/- the remaining amount shall be recovered from the pension payable to DGO Sri M.A. Rehman.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)
Upalokayukta-1, 7/8
State of Karnataka,
Bengaluru