

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

No:LOK/INQ/14-A/96/2012/ARE-10

Multi Storied Buildings,
Dr.B.R.Ambedkar Veedhi,
Bengaluru-560 001,
Date:24/11/2018

RECOMMENDATION

Sub:-Departmental inquiry against Sri N.Chikka-
venkatappa, Second Division Assistant, Office of
the Superintendent of Police, Railways, City
Railway Station, Bengaluru- Reg.

Ref:-1) Government Order No. ೨೪ 69 ಪೊಸಿ 2011
Bengaluru dated 14/02/2012.

2) Nomination order No.LOK/INQ/14-A/96/2012
Bengaluru dated 01/03/2012 of
Upalokayukta-1, State of Karnataka,
Bengaluru.

3) Inquiry Report dated 22/11/2018 of Additional
Registrar of Enquiries-10, Karnataka
Lokayukta, Bengaluru

The Government by its Order dated 14/02/2012, initiated the disciplinary proceedings against Sri N.Chikkavenkatappa, Second Division Assistant, Office of the Superintendent of Police, Railways, City Railway Station, Bengaluru (hereinafter referred to as Delinquent Government Official for short as **DGO**) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.LOK/INQ/14-A/96/2012 dated 01/03/2012 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/

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14A/2014 dated 14/3/2014, Additional Registrar of Enquiries-5 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 was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGO. Thereafter, by order dated 14/08/2017, Additional Registrar of Enquiries-10 was re-nominated as Inquiry Officer to conduct Departmental Inquiry against DGO.

3. The DGO Sri N.Chikkavenkatappa, Second Division Assistant, Office of the Superintendent of Police, Railways, City Railway Station, Bengaluru was tried for the following charge:-

“That, you Sri N. Chikkavenkatappa, the DGO, while working as Second Division Assistant in the office of the Superintendent of Police of Railways, Bangalore, the complainant namely Sri Anand Rao S/o Chandrakanth Rao Kalburgikar approached you for pensionery and earned leave benefits of his father Sri Chandrakanth Rao Kalburgikar as the father of the complainant died on 27/09/2007 at Hubli while working as a Police Constable and then you asked for bribe of Rs.10,000/- to get the Earned leave benefit urgently and you received bribe of Rs.2000/- and Rs.3000/- from the complainant insisting for the early payment of balance of bribe of Rs.5000/- and on 17/12/2007, received the balance bribe of Rs.5000/- from the complainant 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 Karnataka Civil Service (Conduct) Rules 1966”.

4. The Inquiry Officer (Additional Registrar of Enquiries-10) on proper appreciation of oral and documentary evidence has held that, the Disciplinary Authority has proved the above charge against DGO Sri N.Chikkavenkatappa, Second Division Assistant, Office of the Superintendent of Police, Railways, City Railway Station, Bengaluru.

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

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 30/06/2035.

7. Having regard to the nature of charge (demand and acceptance of bribe) proved against DGO Sri N.Chikkavenkatappa, it is hereby recommended to the Government for imposing penalty of compulsory retirement from service on DGO Sri N.Chikkavenkatappa, Second Division Assistant, Office of the Superintendent of Police, Railways, City Railway Station, Bengaluru.

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

Connected records are enclosed herewith.


(JUSTICE N. ANANDA)

Upalokayukta-1,
State of Karnataka,
Bengaluru

24/11

KARNATAKA - LOKAYUKTA

BEFORE ADDITIONAL REGISTRAR (ENQUIRIES -10)

PRESENT :

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

DEPARTMENTAL ENQUIRY NO. UPLOK-1/DE-96/2012/ARE-10

COMPLAINANT /DISCIPLINARY AUTHORITY	SRI. ANAND RAO KALBURGIKAR GOVERNMENT OF KARNATAKA, HOME DEPARTMENT (POLICE SERVICES) (Through Presenting Officer)
V/s	
DELINQUENT GOVERNMENT OFFICIAL	SRI. N. CHIKKA VENKATAPPA, Second Division Assistant, Office of the Superintendent of Police, Railways, Bangalore. (DGO - Placed - exparte)

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

- References:**
1. Report u/S 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/BCD/629/2008/ARE-11 Dated 19.08.2011.
 2. Government Order No. 69 ಸೂಚಿ 2011, Bengaluru Dt. 14.02.2012.
 3. Nomination Order No. LOK/INQ/14-A/96/2012 Bengaluru dt. 01.03.2012 of Hon'ble Uplokayukta-1.

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



- iii. Date of Submission of report : 22nd November 2018.

-: DEPARTMENTAL - ENQUIRY - REPORT :-

1. This is the departmental enquiry initiated and held against DGO as the complainant by name Sri. *Anand Rao Kalburgikar* has filed a complaint against the Delinquent Government Official alleging his misconduct i.e. demanding and accepting of bribe of Rs. 10,000/- for doing official work.
2. The **comments/reply** from the DGO called and unsatisfied with the same, a **Report** was sent to the Government u/S 12(3) of the Karnataka Lokayukta Act, 1984 as per reference No. 1. In pursuance of the report, Government was pleased to issue the **Government Order** (G.O.) dt. 14.02.2012 authorizing Hon'ble Upalokayukta-1 to hold an enquiry as per reference no. 2.
3. In pursuance of the Government Order, a **nomination order** was issued by Hon'ble Upalokayukta-1, on 01.03.2012 authorizing ARE-4 to frame Article of Charge against DGO and hold an enquiry to find out truth and to submit a report as per reference No. 3.



4. Accordingly, Article of charge was framed/prepared under Rule 11(3) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 and was sent to the Delinquent Government Official on 04.07.2012.
5. The article of **charge** and the statement of imputation of misconduct framed/prepared and leveled against the DGO are **reproduced as hereunder :-**

ANNEXURE NO. 1
CHARGE

5(1). That, you DGO Sri. **N. Chikkavenkatappa**, while working as Second Division Assistant in the office of the Superintendent of Police, Railways, Bangalore, had committed the *following misconduct :-*

5(2) When, Sri. Anand Rao (CW-1) approached you for pension and earned leave benefits of his father Sri. Chandrakanth Rao Kalburgikar who died on 27.09.2007 at Hubli while working as Police Constable and you asked for bribe of Rs. 10,000/- to get the Earn Leave benefits urgently and received bribe of Rs. 2,000/- and 3,000/- from CW-1 and insisted to give balance bribe of Rs. 5,000/- at early, and on



17.12.2007 you received the balance bribe of Rs. 5,000/- from the complainant (CW-1) to show an official favour and trapped.

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

ANNEXURE NO. II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

5(4). Sri. Chandra Kanth Rao Kalburgikar, who was working as a Police Constable in Railway Police Station at Hubli, had died on 27.09.2007. Hence, the complainant Sri. **Anand Rao** approached the DGO to get pensionary benefits of his father Sri. Chandrakanth Rao Kalburgikar and you DGO told the complainant that it would take some time for pension benefits and he will get earned leave benefit urgently and for that, he asked for payment of bribe of Rs. 10,000/- from the complainant. The DGO received advance bribe of Rs. 2,000/- and 3,000/- and insisted for balance bribe of Rs.



5,000/- to get the earned leave benefit at the earliest.

5(5) The complainant was not willing to pay bribe as demanded by the DGO. Therefore, on 17.12.2007, the complainant lodged complaint before the Lokayukta Police Inspector of Bangalore City Division.

5(6) The Investigation Officer (CW-4) registered the complaint in Cr. No. 50/2007 for the offences punishable U/S 7, 13 (1)(d) R/w 13 (2) of the Prevention of Corruption Act, 1988.

5(7) During the course of investigation, when the tainted amount of Rs. 5,000/- was given by the complainant to the DGO, the I.O. trapped the DGO on 17.12.2007 in the presence of the complainant, the panch witnesses and his staff in the office of the Superintendent of Police, Railways at City Railway Station in Bangalore.

5(8) The I.O./CW-4 seized the tainted amount from the DGO 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 concerned.

5(9) Upon receipt of Chemical Examiner's report, and after completion of investigation, the I.O. submitted final report/charge sheet.

5(10) *The facts and materials on the record prima facie show that, the DGO being a Government servant, failed to maintain absolute integrity, beside devotion to duty and acted in a manner unbecoming of a Government servant.*

5(11) Hence, a suo-moto investigation was taken up by this authority U/S 7(2) of Karnataka Lokayukta Act, 1984 and an *observation note* was sent to the DGO calling for his explanation.

5(12) The DGO submitted his comments/reply, but same was not convincing and unsatisfactory to drop the proceedings against him.



5(13) *As the facts and materials on record prima-facie show that, the DGO has committed misconduct as per rule 3(1)(i) to (iii) of KCS (Conduct) Rules, 1966, a report U/S 12(3) of the Karnataka Lokayukta Act, 1984 was sent to the Competent Authority/ Government with a 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) Rules, 1957.*

5(14) *Accordingly, the competent authority/Government 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 and Hon'ble Upalokayukta nominated ARE-4 to frame the charge and to enquire and submit a report. Hence, the above said charge.*

6. The aforesaid '**article of charge**' was served upon the DGO and he appeared before Additional Registrar of Enquiries-4 and **first oral statement** of DGO under Rule 11(9) of KCS (CCA) Rules, 1957 was recorded. The DGO



pleaded not guilty and claimed to be enquired about the charge.

7. Then, the departmental enquiry file was transferred from ARE-4 to ARE-5 as per O.M. No. ಕಲೋ/ಸಿಬ್ಬಂದಿ-1/54/2013-14 dated 01.03.2014 of the Hon'ble Registrar and order No. LOK/INQ/14-A/2014 dated 14.03.2014 of Hon'ble Upalokayukta-1.
8. The DGO has **not** filed **written statement of defense** and same is noted in the order sheet dated 28.06.2014. Then, as per order No. Uplok-1/DE/2016 Bengaluru dated 3.8.2016 of Hon'ble Upalokayukta-1 this file is transferred from ARE-5 to ARE-11. *Thereafter*, this file was transferred from ARE-11 to ARE-10 by the order of Hon'ble Upalokayukta-1 dated 14.08.2017.
9. The DGO has been given an opportunity by the Enquiry Authority for verification/inspection of records/documents and for discoveries if any.
10. But, on 13.11.2018, DGO and his defence assistant were called out but, they were absent. Again, on 14.11.2018 also DGO and his defence assistant were called out but, they were absent. Hence, DGO is placed *exparte*.



11. *In this enquiry*, to establish the *charge* against DGO, the presenting officer has examined Sri B.R. Girish (eye/shadow Witness) as PW1, Sri Prasanna V Raju, (Police Inspector, KLA, Bangalore City & Investigation Officer) as PW 2 and produced and got marked, in all, 13 documents as Ex P1 to 13 on behalf of Disciplinary Authority.
12. Since DGO is placed *exparte*, recording of *2nd oral statement* of DGO and leading of defence evidence don't arise.
13. As DGO is *exparte*, I have heard the learned presenting officer.
14. *Now*, the points that emerge for my consideration and conclusion are *as follows* :-
1. *Whether the charge against DGO as noted/reproduced at para No. 5(2) is proved by the Disciplinary Authority through its presenting officer?*
 2. *What finding/conclusion ?*
15. I have heard and carefully perused the enquiry papers and analyzed and appreciated the oral and documentary evidence placed on record.



16. My *findings* on aforesaid points are *as under* :

POINT No. 1 : In the AFFIRMATIVE.

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

*** REASONS ***

17. **POINT NO. 1** : *It is the case of the Disciplinary Authority that DGO being SDA, when Sri. Anand Rao (CW-1) approached him for pension and earned leave benefits of his father Sri. Chandrakanth Rao Kalburgikar who died on 27.09.2007 at Hubli while working as Police Constable and DGO asked for bribe of Rs. 10,000/- to get the Earn Leave benefits urgently and received bribe of Rs. 2,000/- and 3,000/- from CW-1 and insisted to give balance bribe of Rs. 5,000/- at early, and on 17.12.2007 DGO received the balance bribe of Rs. 5,000/- from the complainant (CW-1) to show an official favour and trapped.*

18. *In order to prove, the charge leveled against DGO, the presenting officer has examined 2 witnesses and got marked 13 documents and closed the side. CW-1 Sri. Anand Rao is dropped as he is not available, as per the*



report of concerned Lokayukta police, in spite of issue of process repeatedly.

19. *Now*, I shall proceed to appreciate and analyze the oral and documentary evidence of the disciplinary authority viz.,(PW1, PW2 and Ex P1 to 13) which are *as follows* :
20. PW 1 Sri B.R. GIRISH (eye/shadow witness). He deposed that, he being SDA in Planning Directorate office, Bangalore on 17.12.2007 around 11 AM himself and CW-3 Sri. J. Sathish Chandra (Typist) went to Lokayukta City Police Station, where CW-1 Sri. Anand Rao was present.
21. *PW-1 further deposed that*, he came to know that, the father of the complainant died and for taking steps to pay pensionary and other benefits, DGO Sri. Chikkavenkatappa demanded bribe.
22. *PW-1 states that*, complainant produced 10 notes having denomination 500 rupees (5000) before CW-4 Police Inspector. He noted down the note numbers on a white sheet on the dictation of CW-2 as per Ex. P -1.
23. *PW-1 further states that*, CW-4 got applied phenolphthalein powder and then, said tainted notes



were verified by CW-3 and put the same in the pant pocket (back left side) of CW-1. The solution was prepared by Lokayukta staff and hands fingers of CW-3 washed in the solution which turned into pink/rose colour and same was collected in a bottle and seized. In this regard, *Practical/Entrustment Mahazar* was conducted as per Ex.P-2.

24. *PW-1 says that*, then they all, went near Bangalore City Railway Station in the vehicle around 2-15 PM. Then, PW-1 and CW-1 (Complainant) went inside the Railway Supdt. of Police office and found that, DGO was present in the hall. CW-1 got introduced PW-1 as his friend to DGO. CW-1 enquired the DGO about amount payable after death of his father and DGO told that, he has prepared bill pertaining to Encashment of Earned Leave and sent the same to Treasury and CW-1 has to bring his mother.
25. *PW-1 further says that*, then, himself, complainant and DGO went to canteen situated behind the office to have coffee as per instruction of DGO. After having coffee, they went to I st platform. DGO told to CW-1 that, after receiving the cheque, demand draft will be sent to the house of CW-1 and mother of CW-1 is not necessary and he will arrange to pay insurance money from KGID through his acquainted person/s and then, DGO



asked/demanded as to whether complainant has brought the money. For that, CW-1 gave tainted notes by taking the same from his pant pocket and DGO received the same from his right hand and kept it in his pant pocket (right side). Then, they went near the office of the DGO and told DGO that, PW-1 and CW-1 are leaving.

26. *PW-1 has deposed that,* Then CW-1 gave signal by rubbing his face with hand kerchief and immediately, CW-4 Police Inspector and his staff and CW-3 came there and CW-1 showed the DGO and CW-4 introduced himself to the DGO. Lokayukta Police brought two bowls and prepared Sodium Carbonate Solution and collected the sample.
27. *PW-1 further deposed that, then,* right hand fingers of DGO washed in solution and it turned into pink colour and same was collected. The left hand wash of DGO did not change the colour and the same was collected. On asking, DGO produced tainted notes from his pant pocket and same was seized in a envelope cover.
28. *PW-1 states that,* DGO gave his written explanation as per Ex. P-3. The pant pocket of DGO washed in solution, by arranging alternative pant and it turned into pink colour and same was collected in a bottle. The



attested copies of file of the complainant and that of attendance register extract seized as per Ex.P-4 and 5 respectively. In this regard, a *trap mahazar* was conducted as per Ex. P -6.

29. *PW-1 further states that, lokayukta Inspector/CW-4 prepared rough sketch of the spot as per Ex. P -7. Then, DGO was apprehended and brought to lokayukta Police Station.*
30. *PW2 SRI PRASANNA V RAJU (Police Inspector, KLA, Bangalore City Division & Investigation Officer) he has stated that, on 17.12.2007 complainant Sri.Anandarao K.H. came to Lokayukta Police Station and gave a written complaint as per Ex. P -8 and on the basis of it, he registered a case in crime No. 50/2007 and sent FIR to special court as per Ex.P-9.*
31. *PW-2 has further stated that, he secured 2 panchas by name B.R.Girish, SDA (CW-2) and Sathish Chandra.J. Typist (CW3) to Lokayukta Police Station and informed them about the case and gave copy of complaint and FIR for perusal and he got introduced CW-2 & 3 with CW-1.*
32. *PW-2 deposed that, on asking, CW-1 produced Rs.5,000/-(10 notes of Rs.500 denomination) and Note numbers and denominations were written on dictation as per Ex P-1. He applied Phenapthalin Powder to said notes and same was verified by CW-3. As per instruction of PW-2, CW-3 put*



tainted notes in the pant pocket of CW-1 and PW-2 got prepared Sodium Carbonate Solution through his staff.

33. *PW-2 further deposed that,* hands fingers of CW-3 were washed in the solution which turned in to pink colour and same was collected in a bottle, and seized. He instructed CW-1 to give tainted money to DGO only if, he demanded for it and if DGO received bribe money, CW-1 should give signal by wiping his face with kerchief. PW-2 instructed CW-2 Girish to follow CW-1 and watch the proceedings and conversation between CW-1 and DGO and during the said proceedings, he got taken 6 photos (Xerox) as per *Ex P-10*. In this regard, PW-2 conducted **Practical/entrustment mahazar** as per *Ex P-2*.

34. *PW-2 says that,* thereafter, they all went and reached near the office of DGO at City Railway Station, Bangalore in the vehicles, around 2.30 p.m. PW-2 refreshed instructions to CW-1 & 2. As per his instruction, CW-1 & 2 went to the office of DGO and they took their positions, waiting for signal by CW-1. Around 2.45 p.m. CW-1 gave signal by wiping his face with hand kerchief. Immediately, they rushed near CW-1, Who took them near DGO who demanded and received bribe money of Rs.5000/- from CW-1.

35. *PW-2 further says that,* then, PW-2 introduced himself to DGO by showing his ID card and came to know that DGO is N.Chikkavenkatappa, SDA. Then, PW-2 got prepared Sodium carbonate solution through his staff and collected sample of it. The right hand fingers of DGO washed in



solution, which turned into light pink colour and same was collected in a bottle and seized. The left hand fingers wash of DGO did not change the colour and same was collected in a bottle and seized.

36. *PW-2 has deposed that, then, on asking, DGO produced Rs.5,000/- bribe money from his pant pocket and same was verified and tallied and seized. The pant pocket of DGO was washed in separate solution which turned into light pink colour and same was collected in a bottle and seized. The Pant of DGO was also seized by providing alternative pant. Then, PW-2 got washed the hands fingers of CW-1 in separate solution which was turned into light pink colour and same was seized.*

37. *PW-2 has further deposed that, on enquiry, CW-1 told him that when CW-1 & 2 went, DGO took CW-1 outside to have tea and DGO asked CW-1 to give demanded money and for that, CW-1 gave tainted money of Rs.5,000/- to DGO who received it from his right hand and kept the same in his pant pocket. On enquiry, CW-2 also reiterated the same facts.*

38. *PW-2 states that, on asking, DGO gave his written explanation as per Ex P-3 and CW-1 & 2 told that it is false. On asking, DGO produced copies of documents pertaining to complainant file and Attendance Register extract as per Ex P-4 & 5 and PW-2 seized the same. During trap proceedings, he got taken 7 photos (Xerox) as per Ex. P-11.*



39. PW-2 further states that, he prepared rough sketch of the spot as per Ex P-7. He served arrest memo to Sayed Kashim, AAO. In the spot, (the office of DGO) **trap mahazar** was conducted from 3.30 p.m. to 5.30 p.m. as per Ex P-6. He recorded the statements of CW-2 & 3 and concerned. He can identify the material objects seized by him.
40. PW-2 says that, he sent seized articles for FSL/chemical examination, and collected FSL/chemical examination report as per Ex P-12 and he also collected service particulars of DGO as per Ex. P-13.
41. PW-2 further says that, he learnt from complainant and Ex P-8 that DGO demanded for Rs.10,000/- to get encashment of earned leave urgently and DGO received Rs.2000 & 3000/- from CW-1 and put demand to give further bribe of Rs.5,000/-. After completion of investigation and receipt of sanction order, he filed charge sheet against DGO.
42. pw-1 & pw-2 are not cross-examined either by DGO or by the defense assistant/Advocate appeared for DGO who is placed *exparte* on 14.11.2018.
43. In so far as argument in this enquiry is concerned, the learned *presenting officer* has submitted that although CW1 is not examined, as he is not available, PW-1 being the Shadow panch Witness & PW2 being the Police Inspector, Lokayukta, Bangalore City & Investigation Officer, have fully supported the disciplinary authority and Ex P1 to 13 are also consistent with the case/enquiry and on the basis of



depositions of supported witnesses and Ex P 1 to 13, affirmative finding can be given as charge against DGO is *proved*.

44. *Per contra*, the delinquent Government official is placed *exparte*.
45. *Having heard* and on careful perusal and appreciation of oral and documentary evidence of disciplinary authority placed on record, *it is obviously clear that* the disciplinary authority has placed sufficient and satisfactory oral and documentary evidence to prove its case/enquiry against the DGO as per the standard of *preponderance of probabilities* to warrant my finding on the charge against DGO in the affirmative *as proved*.
46. *On perusal of depositions of PW 1 Sri B.R. Girish, and PW 2 Sri Prasanna V Raju, it is seen that*, PW-1 being the Shadow Panch Witness (eye witness) and PW-2 being Investigation Officer, have completely supported the case of disciplinary authority.
47. It is important to note *that*, the depositions of PW1 and PW2 are unimpeached and uncontroverted and it remained firm as the DGO did not choose to cross examine them although he appeared till 07.09.2018 before this enquiry authority. *Hence*, the evidence of PW1 and 2 are inspiring confidence to believe and to rely upon against DGO.



48. It is relevant to note *that* the depositions of PW1 and 2 are consistent and corroborative with each other and their evidence is also strengthened by Ex.P.12 affirmative FSL report of chemical Examiner.
49. It is significant to note *that* Ex.P.12 *FSL report* discloses that the results of right hand wash of DGO, pant pocket wash of DGO are *positive* for the test of phenolphthalein and sodium carbonate. Hence, it indicates that the DGO has accepted/received further bribe money of Rs. 5,000/- from the complainant to show the official favour. *As such*, an inference/presumption as provided under Section 20 of the Prevention of Corruption Act, 1988 can also be drawn that the DGO has demanded and accepted the corruption/bribe/gratification other than legal remuneration.
50. At this juncture, it is necessary and fruitful to reproduce relevant para/s of *Ex P-3 Written explanation of DGO* which reproduced and reads thus:-

“ ಎನ್. ಚಿಕ್ಕವೆಂಕಟಪ್ಪ, ಎಸ್.ಡಿ.ಎ. ಆದ ನಾನು, ಈ ದಿನ ದಿನಾಂಕ 17.12.2007 ರಂದು ಬೆಳಿಗ್ಗೆ 10-00 ಗಂಟೆಗೆ ಕೆಲಸಕ್ಕೆ ಕಛೇರಿಗೆ ಬಂದು, ಕೆಲಸ ನಿರ್ವಹಿಸುತ್ತಿರುತ್ತೇನೆ. ಮಧ್ಯಾಹ್ನ 12-00 ಗಂಟೆಯಲ್ಲಿ ಆನಂದರಾವ್ ಎಂಬವರು ಪೋನು ಮಾಡಿ, ನಾನು ಮಧ್ಯಾಹ್ನ ಕಛೇರಿಗೆ ಬರುತ್ತೇನೆಂದು ಹೇಳಿದರು. ನಂತರ, ನಾನು ಮಧ್ಯಾಹ್ನ ಊಟ ಮುಗಿಸಿಕೊಂಡು ಬಂದು, 2-00 ಗಂಟೆಗೆ ಕಛೇರಿಗೆ ಬಂದು, ಕೆಲಸ ನಿರ್ವಹಿಸಲು ಕುಳಿತುಕೊಂಡೆ. ಆನಂದರಾವ್ ಎಂಬವರು ಬಂದು ಕಾಫಿ ಕುಡಿಯಲು ಕರೆದರು. ನಾನು ಕಾಫಿ ಕುಡಿಯಲು ಹೋಗಿ ಕಾಫಿ ಕುಡಿದಿರುತ್ತೇನೆ. ನಂತರ, ಫನ್ನ್ಡ್ ಪ್ಲಾಟ್‌ಫಾರಂಗೆ ಕರೆದುಕೊಂಡು



ಹೋಗಿ, ನನಗೆ ಅವರಾಗಿ ಅವರು 5,000/- ರೂಗಳನ್ನು ಕೊಡಲು ಬಂದರೂ, ನಾನು ಬೇಡವೆಂದರೂ ಕೇಳದೆ ನನಗೆ ಕೊಟ್ಟರು. ಮತ್ತೆ, ನಾನು ಕಛೇರಿಗೆ ಬಂದು ಕೆಲಸ ನಿರ್ವಹಿಸಲು ಕುಳಿತುಕೊಂಡಾಗ, ಲೋಕಾಯುಕ್ತ ಸಿಬ್ಬಂದಿಯವರು ಬಂದು, ನನ್ನನ್ನು ಕೇಳುತ್ತಾರೆ, ಅವರಿಗೆ ಇದ್ದ ವಿಚಾರ ತಿಳಿಸುತ್ತೇನೆ. ”.

51. It is pertinent to note that, on plain perusal of Ex.P.3, the *written* explanation of DGO, *it is seen that*, DGO has categorically admitted some important aspects of case of disciplinary authority that, on 17.12.2007 he attended duty; around 12 noon CW-1 phoned him; CW-1 and DGO went and had coffee and CW-1 gave Rs. 5,000/- in Ist plat form of railway station etc. But, DGO wrote that, CW-1 gave Rs. 5,000/- although he told 'no' but, same is not proved by the DGO either by cross examining PW-1 & 2 or by leading rebuttal/defense evidence on his behalf.
52. It is apposite to note that, Moreover, the DGO did not appear before this Enquiry Authority from and at the stage of recording of 2nd Oral Statement of DGO, by taking of his own defence to say that the case of the disciplinary authority is false, although he had filed a memo enclosing certified copy of judgment dated 07.11.2014 passed by 23rd Additional Civil & Sessions Judge, Bangalore. In this connection, it is to be noted that, the standard of proof in criminal case is beyond reasonable doubt, but in case of departmental enquiry, it is preponderance of probabilities only. So, said judgment does not help the DGO.



53. *Moreso*, DGO did **not** file Written Statement of Defense in spite of given sufficient time and opportunity. *Thus*, DGO neither taken any defense or cross-examined PW-1 & 2 nor lead the rebuttal evidence on his behalf. *As such*, DGO has no defense at all. *Further*, an adverse inference can also be drawn against the DGO as per Section 114 of The Indian Evidence Act, 1872.
54. *On careful analysis* and appreciation of oral and documentary evidence placed on record, it is *manifestly clear* that the evidence of PW1 is fully corroborated with the evidence of PW2 and consistent with Ex P1 to 13 and same are inspiring confidence of this enquiry authority to rely and to act upon against DGO and there is nothing brought on record to disbelieve the same.
55. *For* the aforesaid reasons and observations made in the light of depositions of PW1 and 2 and relevant documents and provisions of law, under the given set of facts and circumstances of this enquiry, I have arrived at *inevitable conclusion to hold that* the Disciplinary Authority through its presenting officer is **successful** in proving the charge framed and leveled against the DGO up to the standard of *preponderance of probabilities*, to record my finding in the affirmative as *proved*.



56. **POINT No. 2** : In view of my finding on point No. 1, for foregoing reasons and discussions, I proceed to submit enquiry report *as under*:-

: ENQUIRY REPORT :

i. *From* the oral and documentary evidence and materials placed on record, I hold and record my finding that the Delinquent Government Official SRI N. **CHIKKAVENKATAPPA**, Second Division Assistant, Office of the Superintendent of Police, Railways, City Railway Station, Bangalore has *failed* to maintain absolute integrity and devotion to duty and committed an act of which is unbecoming of a Government servant and he is *found* guilty of *misconduct* under Rule 3(1)(i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966.

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



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

Dated this the **22** nd November, 2018.

M. R. K. G. M. M. Mahaswamiji
22/11/2018

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

: ANNEXURE :

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

- PW-1 :- Sri. B.R. Girish (Shadow panch Witness/eye witness)
PW-2 :- Sri. Prasanna V Raju (Police Inspector,
Lokayukta, Bangalore City & Investigation
Officer)

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

- Ex.P-1 : Certified copy of white sheet containing note numbers and denominations.
Ex.P-2 : Certified copy of Practical/Entrustment Mahazar dated 17.12.2007.
Ex.P-3 : certified copy of explanation of the DGO at the time of trap
Ex.P-4 : Certified copies of papers seized during the time of trap pertains to complainant file
Ex P-5 : Certified copy of Attendance Register extract (2pages)
- Ex P-6 : Certified copy of *Trap Mahazar* dated 17.12.2007.
Ex.P-7 : Certified copy of rough sketch of spot of trap.
Ex P 8 : Certified copy of Complaint
Ex P-9 : Certified copy of FIR
Ex P-10 : Certified Xerox 6 photos taken during proceedings of Ex.p-2.
Ex.P-11 : Certified Xerox 7 photos taken during trap proceedings
- Ex P -12 : Certified copy of FSL/Chemical Examiner's report.
Ex P -13 : Service particulars of DGO along with covering letter of Superintendent of Police, Railways, Bangalore dated 18.02.2008.

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

Nil (Placed - *exparte*)



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

Nil (Placed - *exparte*)

M. 22/11/2018

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

Date : 22.11.2018
Place : Bangalore.

