



**KARNATAKA LOKAYUKTA**

No.LOK/ARE-4/14-A/Enq.104/2013

M.S.Buildings,  
Bangalore,  
Dated 16/1/2017

**RECOMMENDATION**

Sub: Departmental Enquiry against Sri E.S.Murthy, Junior Engineer(E) MESCOM, Sakharayapattana, Kaduru Taluk, Chikmagalur District (presently working at 110/111 KV MUSS, KPTCL, Nagenahalli, Sakharayapattana, Chikmagalur District)-reg.

- Ref: 1. Order No. KPTCL/B21/32335/2012-13  
Bengaluru, dated 15/1/2013 and its  
corrigendum dated 1/2/2013  
2.Nomination order by Hon'ble  
Upalokayukta- dtd.25/2/2013

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**Karnataka Power Transmission Corporation Limited**, by its order dtd.15/1/2013 and its corrigendum dtd 1/2/2013 initiated the disciplinary proceedings against one Sri E.S.Murthy, Junior Engineer(E) MESCOM, Sakharayapattana, Kaduru Taluk, Chikmagalur District (presently working at 110/111 KV MUSS, KPTCL, Nagenahalli, Sakharayapattana, Chikmagalur District (hereinafter referred to as 'DGO' in short) and entrusted the disciplinary enquiry to this institution.

*Spill*

This institution, by nomination order dtd.25/2/2013 nominated the Additional Registrar Enquiries-4 as enquiry officer to conduct the departmental enquiry against the DGO for the alleged misconduct alleged to have been committed by him.

The enquiry officer, after completion of the enquiry, has submitted report dtd.13/1/2017, inter-alia, holding that, the charge of misconduct framed against the DGO is held proved.

The charge alleged against the DGO was that, while he was working as Junior Engineer(E) MESCOM, Sakharayapattana, Kaduru Taluk, Chikmagalur District, one Sri Eashwar, Electrical Contractor of Chikmagalur District (hereinafter referred to as 'complainant') approached the DGO for supply of material connection with additional 25 KV-TC the same had been sanctioned by the MESCOM for Pillanalli village on 28/3/2009 on the basis of contract labour basis. In this regard, the complainant approached the DGO for supply of material to execute the said work. However, on 1/7/2009 the DGO informed the complainant to pay Rs.2,000/- to lift the material. Even on 29/6/2009 again the DGO insisted for payment and informed the complainant without payment to him he will not distribute the material. On 1/7/2009 the DGO demanded and accepted Rs.2,000/- by way of bribe to supply the material to him and thereby, the DGO has failed to maintain absolute integrity and devotion to the duty, the act of which is unbecoming of



Government servant and thereby has committed misconduct under Rule 3(1) (i) to (iii) of KCS (Conduct) Rules, 1966”.

The Disciplinary authority, to prove the charge of misconduct alleged against the DGO, has examined 3 witnesses, namely, PW1-complainant, PW2 the shadow witness and PW3 the IO. On behalf of the DGO, DGO got one witness examined as DW1.

Complainant, in his evidence, categorically stated that he was awarded the work on the contract labour basis, for which, the DGO was to supply the material, however, for supply of material, DGO demanded the bribe amount from the complainant and as such, he approached the Lokayukta police by filing a complaint. The Lokayukta police, after complying with the pre-trap formalities, conducted the trap, in which, DGO found in possession with tainted amount. The evidence of PW1 is fully supported by the evidence of independent shadow witness PW2 and further supported by the evidence of IO PW3.

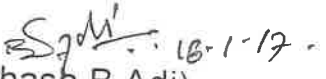
The enquiry officer, after thoroughly considering the entire evidence on record, has found that, the disciplinary authority has proved the charge of misconduct and the evidence laid by the DGO does not disprove the charge of misconduct nor is helpful to the DGO.

*Spm*

Having regard to the findings of the enquiry officer and also considering the nature and gravity of misconduct committed by the DGO, as required under Rule 13(1) of Karnataka Electricity Board Employees Service (Conduct) Regulations, 1988, it is hereby recommended to the KPTCL that, the DGO Sri E.S.Murthy, Junior Engineer(E) MESCOM, Sakharayapattana, Kaduru Taluk, Chikmagalur District (presently working at 110/111 KV MUSS, KPTCL, Nagenahalli, Sakharayapattana, Chikmagalur District **may be punished with order of dismissal from service** in exercise of provision of Regulation 9 of KEB Employees (CDCA) Regulations, 1987.

Connected records are enclosed herewith.

Action taken in the matter is to be intimated to this Authority.

  
( Justice Subhash B Adi)  
Upalokayukta  
Karnataka State, Bangalore

## KARNATAKA LOKAYUKTA

No.LOK/ARE-4/ENQ-104/2013

M.S.Building,  
Dr.B.R.Ambedkar Road,  
Bangalore-560 001  
Date: 13/01/2017

### :: N O T E ::

**Sub:** Departmental Enquiry against,  
Sri E.S. Murthy  
Junior Engineer (E)  
MESCOM  
Sakharayapattana  
Kaduru Taluk  
Chikmagalur District  
(Presently working at 110/111  
KV MUSS, KPTCL, Nagenahalli,  
Sakharayapattana,  
Chikmagalur District)

- Ref:** 1) Order. No. KPTCL/B21/32335/2012-13, Bangalore dated: 15/01/2013 and its corrigendum dated: 01/02/2013
- 2) Order No.LOK/INQ/14-A/104/2013 Bangalore dated: 25/02/2013 of the Hon'ble Upalokayukta

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With reference to the subject and reference cited above, original enquiry report in sealed cover and connected original records as below, are forwarded for kind perusal and needful.

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Receipt of the above report and original records may kindly be acknowledged.

The date of Retirement of the DGO: **30/06/2038.**

  
 (CHANDRASHEKAR PATIL)  
 Additional Registrar Enquiries-4  
 Karnataka Lokayukta,  
 Bangalore

**To:**  
 The Hon'ble Upalokayukta-2  
 Karnataka Lokayukta,  
**Bangalore**





## KARNATAKA LOKAYUKTA

No.LOK/ARE-4/ENQ/104/2013

M.S. Building  
Dr.B.R. Ambedkar Road  
Bangalore-560 001  
Date: 13/01/2017

### :: ENQUIRY REPORT ::

**Sub:** Departmental Enquiry against,  
Sri E.S. Murthy  
Junior Engineer (E)  
MESCOM  
Sakharayapattana  
Kaduru Taluk  
Chikmagalur District  
(Presently working at 110/111  
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**Ref:** 1) Order. No. KPTCL/B21/32335/2012-  
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its corrigendum dated: 01/02/2013  
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Bangalore dated: 25/02/2013  
of the Hon'ble Upalokayukta

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This Departmental Enquiry is directed against Sri E.S. Murthy, Junior Engineer (E), MESCOM, Sakharayapattana, Kaduru Taluk, Chikmagalur District, (Presently working at 110/111 KV MUSS, KPTCL, Nagenahalli, Sakharayapattana, Chikmagalur District) (herein after referred to as the Delinquent Government Official in short "DGO")



2. In view of the Government Order cited above at reference-1, the Hon'ble Upalokayukta, vide order dated: 25/02/2013 cited above at reference-2, nominated Additional Registrar of Enquiries-4 of the office of the Karnataka Lokayukta as the Enquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Enquires-4 prepared Articles of Charge, Statement of Imputations of mis-conduct, list of documents proposed to be relied and list of witnesses proposed to be examined in support of Article 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.

3. The Article of Charges framed by ARE-4 against the DGO is as below;

**ANNEXURE NO.I**  
**CHARGE**

*That, you Sri E.S. Murthy-the DGO, while working as Junior Engineer (E) MESCOM, Sakharayapattana, Kaduru Taluk, Chikmagalur District (Presently working at 110/111 KV MUSS, KPTCL, Nagenahalli, Sakharayapattana, Chikmagalur District, one Sri Eshwar-Electrical Contractor of Chikmagalur (herein after referred to as the 'complainant) approached you DGO and submitted that since about 10 years he is having electrical licence and he does electrical works. For supply of an additional 25 KV- TC had been sanctioned by MESCOM for Pillanalli village on 28/03/2009. So, as asked by you-DGO he had taken the said work on contractor labour basis. However, whenever he approached you-DGO for*


*material in connection with the said work, you-DGO was asking the complainant to come now and then but without supplying/giving the same (to him) . Thereafter, when he approached you-DGO again in that connection before about 8 days of 1/7/2009, you-DGO told him that unless the complainant gives Rs.2,000/- material will not be distributed/given. Even on 29/06/2009, when the complainant had approached you-DGO for having material, you-DGO told that unless the bribe amount of Rs.2,000/- is paid, material will not be disturbed whatever may be the delay. On 01/07/2009, you-DGO took the tainted(bribe) amount of Rs.2,000/- from the complainant at your office at Sakharayapattana of Kadur Taluk in Chikmagalur district, for supply of material to the complainant, thereby failing to maintain absolute integrity and devotion to duty, the act of which is unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1) of Karnataka Electricity Board Employees Service (Conduct) Regulations, 1988.*

**ANNEXURE NO. II**

**STATEMENT OF IMPUTATIONS OF MISCONDUCT**

*The complainant approached the DGO and submitted that since about 10 years he is having electrical license and he does electrical works. For supply of an additional 25 KV- TC had been sanctioned by MESCOM for Pillanalli village on 28/03/2009. So, as asked by the DGO he had taken the said work on contractor labour basis. However, whenever he approached the DGO for*

material in connection with the said work, the DGO was asking the complainant to come now and then but without supplying/giving the same (to him). Thereafter, when he approached the DGO again in that connection before about 8 days of 01/07/2009, the DGO told him that unless the complainant gives Rs. 2,000/- material will not be distributed/given. Even on 29/06/2009, when the complainant had approached the DGO for having material, the DGO told that unless the bribe amount of Rs. 2,000/- is paid, material will not be disturbed whatever may be the delay. The complainant was not willing to pay the bribe demanded by the DGO. Therefore, the complainant lodged a complaint before the Lokayukta Police Inspector of Chikmagalur (herein after referred to as the Investigating Officer, for short "the I.O.") The I.O. registered the complaint in Cr.NO. 4/2009 for the offences punishable U/S 7,13(1)(d) R/W 13(2) of Prevention of Corruption Act 1988. The I.O. took up investigation and on 01/07/2009 the DGO received the tainted (bribe) amount of Rs.2,000/- from the complainant at his MESCOM office in Sakharayapattana of Kadur Taluk of Chikmagalur District. The I.O. seized the tainted (bribe) amount from the DGO under mahazar. The I.O. recorded statement of the complainant and panch witnesses. The record of investigation and materials collected by the I.O. showed that the DGO has committed misconduct failing to maintain absolute integrity and devotion to duty and acted in a manner unbecoming of a Government Servant. As the materials on record showed prima facie case about DGO receiving bribe for discharging duty as Government




*Servant, a suo-motu investigation was taken up U/S 7(2) of the Karnataka Lokayukta Act against the DGO. An Observation Note was sent to the DGO calling for his explanation. The DGO gave his reply and the same has not been found convincing to drop the proceedings. As there is a prima facie case showing that the DGO has committed misconduct as per Rule 3(1) of Karnataka Electricity Board Employees Service (Conduct) Regulations 1988, report U/S 12(3) of the Karnataka Lokayukta Act was sent to the Competent Authority with recommendation to initiate the disciplinary proceedings against the DGO. Accordingly, the Competent Authority initiated Disciplinary Proceedings against the DGO and entrusted the enquiry to the Hon'ble Upalokayukta U/R 14-A of Karnataka Electricity Board Employees (Classification, Control and Appeal) Rules, 1987. Hence, the charge.*

4. DGO appeared before this Enquiry Authority on 27/05/2013 and on the same day his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO appeared through his counsel pleaded not guilty and on the same day submitted his written statement by denying the charges leveled against him in total regarding the demand and acceptance of the bribe from the complainant/Sri Eshwar, Electric Contractor of Chikmagalur. It is contended by him that, the work in respect of installation of transformer in the particular case is a departmental work and required to place indent personally and thereafter disburse the materials to the contractor who has obtained a labour award. Since the matter

before the Hon'ble Session Court at Chikmagalur. Accordingly prays to exonerate him in this case.

5. In order to substantiate the charges leveled against the DGO, the Disciplinary Authority examined PW1/Sri Eshwar, the complainant of this case, PW2/Sri G.H. Hemantharaju, shadow panch witness and PW3/Sri Ramanaik, the then Dy.S.P., Chikmagalur, the I.O. of this case and got marked documents at Ex.P1 to P11. After closing the evidence of the Disciplinary Authority on 16/03/2016 the DGO filed detail defence statement in the form of Second Oral Statement by denying the entire evidence adduced on behalf of the Disciplinary Authority and sought for permission to lead defence evidence. The DGO examined DW1/Sri Umesh Nayak, the then A.E., MESCOM, Kadur Sub-division and got marked at Ex.D1 and D2. Thereafter, the questioning of the DGO being recorded U/Rule 11(18) of KCS (CC & A) Rules, 1957 by explaining the incriminating circumstances appearing against him on the evidence of the disciplinary authority through PW1 to PW3. DGO denied the evidence of the Disciplinary Authority contending that, the complainant has not obtained any labour award and even he has not deposited EMD amount and further stated that, it is a small departmental work and therefore, the question of demanding the bribe from the complainant does not arisen. Further stated that, the complainant who had obtained a loan from him actually repaid the amount and made him to involve in this Lokayukta trap proceedings.



6. The Presenting Officer as well as DGO submitted their detail written brief. In addition arguments on both sides being heard.

7. Therefore, the only point, that arisen for the consideration of this enquiry authority is:-

*Whether the Disciplinary Authority satisfactorily proved that, DGO-Sri E.S. Murthy, the then Junior Engineer (E), MESCOM of Sakharayapattana in Kadur Taluk in Chikmagalur District, on demand accepted a bribe of Rs. 2,000/- from the complainant on 01/07/2009 at MESCOM office, Sakharayapattana, Kadur Taluk from the complainant/ Sri Eshwar, Electrical Contractor, Chikmagalur in connection with the supply of material for additional 25 KV – TC sanctioned to Pillanalli village and thereby failing to maintain absolute integrity and devotion to duty which act is unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1) of Karnataka Electricity Board Employees Service (Conduct) Regulations, 1988?*

8. My finding on the above point is held in **“AFFIRMATIVE”** for the following:

**:: REASONS ::**

9. **Point NO.1:- The case of the Disciplinary Authority:-** that, complainant by name Sri Eshwar, an electrical contractor of Hosahalli, Chikmagalur having a registered electrical license holder for the last 10 years and doing a

electrical works even the electrical works awarded by MESCOM. An additional 25 KV - TC had been sanctioned by MESCOM for Pillanalli village on 28/03/2009. The DGO the then Junior Engineer (electrical), MESCOM, Sakharayapattana, Kadur Taluk, Chikmagalur district, asked the complainant to do the work as a labour contract basis. The complainant who agreed to do the said work as per the request of this DGO approached him for supply of the material in connection with the said work and for which the DGO made him to come now and then, without supplying any material for the said work. The complainant approached the DGO about 5 days prior to 01/07/2009 with a request to supply the material for the said work of Pillanalli and then the DGO demanded him to pay Rs. 2,000/- or else he will not going to supply the materials. Even repeated the said demand when the complainant approached him on 29/06/2009. Therefore, the complainant who was not willing to pay the bribe amount demanded by the DGO, approached Karnataka Lokayukta, Chikmagalur. Sri Ramanaik, Dy.S.P., Karnataka Lokayukta, Chikmagalur, who received the complaint filed by the complainant on 01/07/2009 and after securing the official panch witnesses by name Sri Subramanya S. and Sri Hemantharaju G.H., conducted a pre-trap formalities and thereafter trap laid at the office of the DGO situated at Sakharayapattana of Kadur Taluk. It is further case of the Disciplinary Authority that, the complainant approached the DGO on 01/07/2009 at the MESCOM office, Sakharayapattana at about 12.20 p.m. with a request for supply of materials for the 25 KV-TC of Pillanalli and then the DGO on demand accepted a bribe of Rs.2,000/- from the



complainant and kept it in his left side shirt pocket. Then the DGO trapped and his hands being washed in a sodium carbonate solution, which turned into pink colour and shirt pocket wash solution of this DGO in a sodium carbonate solution turned into pink colour. The amount recovered from the pocket of this DGO found tallied with the denominations and numbers noted in the Entrustment Mahazar. The DGO failed to give any explanation for having found in possession of the said tainted amount and simply given an explanation stating that, he will submit the explanation through his advocate. The hand wash solution, shirt pocket solution of this DGO collected in a separate bottle and the records pertaining to the works of the complainant being seized. Accordingly Trap Mahazar drawn. That on chemical examination, the hand wash solution and shirt pocket solution of this DGO found presence of phenolphthalein. Accordingly, by placing these material facts, the disciplinary authority wanted to prove that this DGO demanded and accepted a bribe of Rs. 2,000/- from the complainant in connection with the official work and thereby committed misconduct as enumerated U/R 3(1) of Karnataka Electricity Board Employees Service (Conduct) Regulations, 1988.


10. During this enquiry, the Second Oral Statement of DGO has not been recorded specifically in the prescribed form to show that, as if it is a Second Oral Statement recorded u/Rule 11(16) of KCS (CC & A) Rules, 1957. However, after closing the evidence of the Disciplinary Authority, the matter posted for defence statement and accordingly, this DGO filed his defence statement by denying the entire evidence led by the

Disciplinary Authority and sought permission to lead his defence evidence. Thus by this defence evidence it was filed by the DGO being placed on record to be treated as Second Oral Statement u/Rule 11(16) of KCS (CC&A) Rules 1957 and hold that, as there is no need to record specific Second Oral Statement in the prescribed form. In the circumstances of the defence statement filed by the DGO fulfill the condition of Rule 11(16) of KCS (CC&A) Rules, 1957.

11. Now I required to appreciate the oral and documentary evidence placed on record to support the charges leveled against the DGO. PW1/Sri Eshwar being a Electrical Contractor, in the name of M/s Eshwar Electricals has given evidence stating that, he being an electrical contractor had taken contract work of 25 KV -TC for the farmers at Pillanalli village and given requisition to the Junior Engineer of MESCOM at Sakharayapattana for supply of materials. He further stated that, DGO being the Junior Engineer, of MESCOM, Sakharayapattana and when he met him in connection with the said work, the DGO demanded him to pay bribe of Rs.2,000/- for giving indent for supply of materials to install 25 KV-TC for the farmers at Pillanalli village. He further stated that, in this connection he filed an Ex.P1/complaint to Lokayukta office at Chikmagalur and accordingly, Dy.S.P., Karnataka Lokayukta, Chikmagalur secured the presence of pancha witnesses by name Sri Subramanya S. and Sri Hemantharaju, G.H., and on production of four currency notes of Rs.500/- each got applied the phenolphthalein powder and noted the numbers of the currency notes and placed in his shirt pocket through pancha witness Sri G.H.

Hemantharaju and in this connection, the hands of the Sri Hemantharaju being washed in a solution which turned into pink colour. Thereby stated that, accordingly, drawn entrustment mahazar as per Ex.P2. He further stated that on the very same day trap laid at the office of the DGO situated at Sakharayapattana of Kadur Taluk and then as per the directions of Dy.S.P., himself and panch witness by name Sri Hemantharaju went inside the MESCOM office and met this DGO. He also stated that, when he approached the DGO at the said office, the DGO demanded the money and accordingly received amount of Rs. 2,000/- paid by him through his right hand and kept in his shirt pocket. He further stated that, immediately after giving a signal I.O. entered the said office and got washed the hands of the DGO in a solution which turned into pink colour and got removed the amount from the pocket of this DGO which tallied with the numbers noted in the separate sheet at the time of the Entrustment Mahazar and shirt pocket solution of this DGO also turned into pink colour. He also stated that, the hand wash solution and shirt pocket solution was collected in a separate bottle and sealed, and the amount being seized and taken photographs and drawn Trap Mahazar as per Ex.P3. Thus upon consideration of the evidence of PW1/Sri Eshwar the complainant of this case there is some material to hold that, this DGO on demand accepted a bribe amount of Rs. 2,000/- from the complainant in connection with the official work and same being recovered by the investigating officer under Ex.P3/Mahazar. The DGO much cross-examined this PW1 and never denied the fact that, at the said relevant time of trap an amount of Rs. 2,000/- received from the complainant and same being

recovered by the I.O. and his hand wash solution turned into pink colour. However, the DGO has taken defence that, the amount received by him from the complainant is not a bribe and it is an amount taken by him as a loan. But in this connection, the DGO never cross-examined this PW1 specifically that, the amount received by him from the complainant/PW1 at the time of trap proceedings is an amount loan received by him and simply in the cross-examination of PW1 put a suggestion by the DGO that, the complainant was in good terms with him prior to the incident and was taking amount from him oftenly and returning it later. Except this contention there is no specific that, when the complaint has received the amount as a loan from him. Therefore, when the DGO has not disputed the fact that, he received the amount from the complainant at the time of the trap and it was recovered by the I.O. tallied with the Entrustment Mahazar and further his hand wash solution turned into pink colour is itself sufficient to hold that, there is no reason to disbelieve or discard the evidence of this PW1 in connection with the material aspect of the fact that, at the time of the trap this DGO accepted an amount of Rs.2,000/- from the complainant and kept it in his shirt pocket and same being recovered by the I.O. of this case. When such an amount received by the DGO is an amount of bribe or not is to be considered at the later stage on appreciation of the oral and documentary evidence placed by the Disciplinary Authority in this case and that too on consideration of the defence taken by the DGO in this case. Anyhow upon consideration of the evidence of this PW1/Sri Eshwar, the complainant of this case is clearly goes to show that, on 01/07/2009 at the office of the



MESCOM, Sakharayapattana, this DGO accepted an amount of Rs. 2,000/- from the complainant and same being recovered under a Trap Mahazar as per Ex.P3.

12. PW2/Sri G.H. Hemanthraju, the shadow witness of this case firstly given evidence to the effect that, on 01/07/2009 he being summoned by Dy.S.P., Karnataka Lokayukta, Chikmagalur and then introduced the complainant to himself and also another panch witness Sri Subramanaya and narrated about the facts stated in the complaint filed by the complainant by PW1/Sri Eshwar. He further stated regarding the drawing of formalities as per Ex.P2/Entrustment Mahazar at the office of Dy.S.P., Karnataka Lokayukta, Chikmagalur. He also stated that, on the very same day the trap laid at the office of the MESCOM at Sakharayapattana, Kadur Taluk and then the complainant along with him went inside the said office and then he observed the happenings by standing near the door of the chamber of the DGO. Further this PW2 has stated that, the complainant/PW1 gave an amount of Rs. 2,000/- to this DGO who received the same in his right hand and kept it in his shirt pocket and thereafter on giving a signal the I.O. apprehended this DGO and got washed his right hand solution which turned into pink colour. He also further stated that, the amount kept in the pocket of this DGO being removed through another witness Sri Subrmanaya and on verification tallied with the numbers noted at the time of the Entrustment Mahaazr and shirt pocket solution of this DGO turned into pink colour. He also states that, at the time of the photograph being taken and drawn an mahazar as per the Ex.P2. Thus upon consideration of the evidence of this PW2

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goes to show that on 01/07/2009 at the office of the MESCOM, Sakharayapattana. Thus DGO received an amount of Rs. 2,000/- from the complainant/PW1/Sri Eshwar and same being recovered under Ex.P3/mahazar and the right hand wash solution and as well as the shirt pocket solution of this DGO turned into pink colour. Thus it is clear that, this DGO found in possession of Rs.2,000/- paid by the complainant at the time of the trap and same being tallied with the numbers noted in the Entrustment Mahazar. The DGO in the cross-examination of this witness never denied regarding the fact that, he received amount from the complainant and same being recovered by the I.O. under Ex.P3/mahazar and his hand wash solution turned into pink colour.

13. Lastly PW3/Sri Ramanaik, the then Dy.S.P., Karnataka Lokayukta, Chickmagalur and investigating officer of this case has given evidence to the effect that, on 01/07/2009 at about 9.30 a.m. the complainant/Sri Eshwar filed Ex.P1/complaint alleging regarding the demanding bribe by this DGO in connection with the official work and accordingly registering the case in Crime No. 4/2009 proceeded to investigate the matter by securing the presence of official panch witnesses by name Sri Subramanya and Hemantharaju, and conducted an Entrustment Mahazar as per Ex.P2. He further stated that, on the very same day on 01/07/2009 at about 12.15 p.m. trap laid at the office of the MESCOM, Sakharayapattana and then he sent the complainant as well as shadow witness/PW2/Sri Hemantharaju, inside the office of the MESCOM where the present DGO was working as a Junior Engineer. He further

stated that, after receipt of the pre-arranged signal at about 12.20 p.m. himself and his staff and another panch went inside the office of MESCOM, Sakharayapattana apprehended this DGO and got washed his hands in a sodium carbonate solution separately and out of which his right hand wash solution turned into pink colour and same being seized in a separate empty bottle. He further stated that, the amount kept in the shirt pocket of the DGO being got removed and on verification of the same through panch found tallied with the numbers noted in the entrustment mahazar and same being seized in a separate cover. He also stated that, the shirt pocket of the DGO being washed in a sodium carbonate solution and the said solution also turned into pink colour. He also states that, the complainant as well as the shadow witness/PW2 narrated about the incident and the DGO on question has given explanation only stating that, he will submit after consulting with his advocate. He also stated that, a trap mahazar was drawn as per Ex.P3 after taking the photograph and seizure of the documents. He further stated that, the hand wash solution and shirt pocket solution of this DGO being subjected to chemical examination and got marked as per Ex.P9. Thus the evidence given by this PW3/Sri Ramanaik, the I.O. of this case is also regarding the procedure adopted by him in a investigation of this matter and also to the fact that, the amount of Rs. 2,000/- entrusted to the complainant at the time of the entrustment mahazar found in possession of this DGO as per Ex.P3/Trap Mahazar. Thereby the evidence of this PW3 is in corroborate with the evidence of PW1 and PW2 of this case. The DGO cross-examined this witness never denied regarding the fact that, the amount of


Rs. 2,000/- found in his possession at the time of the trap and his right hand wash solution turned into pink colour. Thus, the defence taken by the DGO in this case clearly goes to show that, he admitted the fact that, at the time of the trap proceedings on 01/07/2009 he found in possession of the amount of Rs. 2,000/- which received from the complainant/PW1/Sri Eshwar.

14. Thus upon consideration of the evidence of PW1 to PW3 there is consistent evidence regarding the fact that, on 01/07/2009 at about 12.15 to 12.25 p.m. at the office of the MESCOM, Sakharayapattana of Kadur Taluk in Chikmagalur district, this DGO received amount of Rs. 2,000/- from the complainant and kept it in his shirt pocket and same being recovered by PW3/Sri Ramanaik under Ex.P3/mahazar. This aspect is nothing but an admitted fact on the part of this DGO as could be gathered from the way in which he has taken defence in this case and way in which he cross-examined the PW1 to PW3 examined on behalf of the disciplinary authority. Apart from the above, the DGO while questioning u/Rule 11(18) of KCS (CC & A) Rules, 1957 in answer to the Question No.10 and 22 clearly admitted the fact that, he received the amount from the complainant at the time of this trap proceedings. However, in answer to Question No. 9 and last question of page No. 16 stating that, he received the said amount as a repayment of hand loan by this PW1. The said defence of the DGO is quite untenable and cannot be accepted in the circumstances of this case. Because firstly it is not disputed by the DGO that, at the time of the trap he has given explanation as per Ex.P5 wherein simply stated that, at the





time he was under pressure and will submit later after consulting with his advocate and nothing else. The DGO submitted his defence statement on 25/07/2013 never taken any contention that the amount of Rs. 2,000/- received by him from the complainant at the time of the trap is a amount of loan returned by PW1. In fact in the said defence statement nothing is stated regarding his defence now taken surprisingly and so vaguely in the cross-examination of this PW1. As in the cross-examination of PW1 simply suggested that, it is the amount returned by this PW1 and same being denied by this PW1. In the cross-examination there is no specific question being asked as to the fact taken in the defence that, PW1 frequently taking amount from this DGO and returning the same. So also the very vaguely put a question to the PW3/Sri Ramanaik the I.O. of this case that, the amount found in possession of the DGO is the amount returned by the complainant. The DGO who has not taken any specific defence at the first instance when the I.O. asked to give explanation and even has not submitted anything at the time of his defence written statement in answer to the articles of charge. Whatever vague defence taken in the cross-examination of PW1 to PW3 is quite untenable and cannot be accepted. Now it is very relevant to consider the contention taken by the DGO in the defence statement filed on 16/03/2016 and wherein it is stated that, since he was refused to give the contract work to this PW1/Sri Eshwar, the complainant of this case without following the rules and regulations and he was intending to carry out the work through department only and the complainant became anger against him and filed this false case. The very defence taken by this DGO appears to be an



after thought and concocted for the purpose of this case. As stated above, the first instance at the time of the trap proceedings the DGO never taken any contention regarding the fact that, the amount of Rs.2,000/- received by him from the complainant/PW1 is an amount repaid hand loan. The very defence of the DGO that the official work involved in this case pertains to the installation of 25 KV -TC at Paillanalli village is in pursuance with the work order of Executive Engineer in No. D 969 dated: 28/03/2009. The trap proceedings took place on 01/07/2009. There is no specific in the defence statement taken by the DGO and also in the cross-examination as to the fact that, when this PW1 obtained an amount from him. However, from the contention taken by the DGO is made out very clear that, the PW1 is quite acquaintance with him. If this contention of the DGO is to be accepted regarding the fact that, he was intending to carry the work departmentally after work order dated: 28/03/2009 and refused to give contract work to the complainant/PW1 the question of lending the amount to this PW1 as contended by him does not arise. Because when according to this DGO, the PW1 dissatisfied with his working in connection with the giving of contract work involved in this case definitely there may not be any occasion for this DGO to lend the said amount. Such contention taken by this DGO very vaguely without any specific date and manner in which the amount lend to this PW1 for the first time in the cross-examination of this PW1 is nothing but a false and untenable. Therefore, considering above over all evidence, the defence of the DGO that, the amount received by him at the time of the trap from this PW1/Sri Eshwar is an amount returned for the

amount lend by him cannot be accepted. When such being the case, the fact remains that, this DGO having received the amount of Rs. 2,000/- from this PW1/Sri Eshwar on 01/07/2009 at about 12.15 to 12.25 p.m. at MESCOM office, Sakharayapattana of Kadur Taluk in Chikmagalur district and same being recovered under Ex.P3/Mahazar is fully established by the disciplinary authority through the evidence of PW1 to PW3 with reference to Ex.P3 supporting trap mahazar. In these circumstances, the DGO who admitted the fact of receipt of the amount of Rs.2,000/- from the complainant/PW1/Sri Eshwar, required to give satisfactory answer stating that, it is not a bribe amount and it is only an amount returned by this PW1 for the amount lend by him. For the reasons discussed above, the stand taken by this DGO is quite inconsistent and cannot be accepted to hold that, he has taken a valid defence. Therefore, in the circumstances of this case, the DGO who received the amount from this PW1/Sri Eshwar being an electrical contractor and having close contact with in connection with the official work itself sufficient to hold that, the DGO received such an amount from this PW1 as a bribe in connection with the official work.

15. The DGO strongly contending that, the complainant is not a registered contractor of MESCOM, to do the departmental work and on the fact that, admittedly he has not deposited labour award amount/EMD and no work entrusted to him in connection with the installation of 25 KV – TC at Pillanalli village and thereby the question of this DGO accepted the bribe amount on demand does not arise. No doubt PW1 in the cross-examination admitted fact that, he

was not registered as a contract in MESCOM and had not obtained any labour award by payment of EMD amount in connection with this 25 KV – TC of Pillanalli village. Merely on the admission of this PW1 regarding the fact that, he had not obtained the labour award and not registered contractor in MESCOM is itself is not sufficient to hold that, the amount received by this DGO from this PW1/Sri Eshwar is not a bribe and there is no official work of the complainant being pending with him on the date of alleged trap. The DGO by examination of DW1/Sri Umesh Nayak, the then Assistant Engineer, MESCOM, Kaduru Sub-division placed the material regarding the procedure prescribed for awarding a labour contract to a private person in connection with the electrical work of the department and to prove that, the present 25 KV – TC, Pillanalli village work was taken to execute departmentally and for which the DGO who is responsible to execute the work requires place indent for himself to get the material from the store and there is no occasion to give indent in favour of the complainant. The DGO also in his questioning and also in the cross-examination of this PW1 to PW3 and by way of evidence of DW1/Sri Umesh Nayak came up with a definite contention that, this 25 KV – TC work of the Pillanalli village undertaken by him as per the sanction made by Executive Engineer on 28/03/2009 and in that connection the said work has taken as a departmental work. The said aspect is forthcoming from the evidence of DW1 and defence of the DGO cannot be disputed. But the situation in this case the DGO associated with this PW1/Sri Eshwar in connection with this work of 25 KV – TC of Pillanalli village is forthcoming on record very clearly as the Ex.P6/records pertains to this work goes to

show that, this DGO has taken receipt from the complainant for supply of materials in pursuance with the work order No. D969 dated: 28/03/2009 and it is signed by this DGO. It seems the contention of the PW1 is to be accepted that, the DGO asked him to execute the work on labour contractor and thereby he proceeded to execute the work in asking for supply of materials. These aspect goes to show that, the DGO though undertaken to execute the work departmentally proceeded to get the work through PW1/Sri Eshwar and thereby even taken a receipt for supply of material from this PW1 in connection with the said work. The said receipt forthcoming in Ex.P6 is not disputed by this DGO. However, it is contending that, the work order for labour contract given to one Sri Ramu, Electrical Contractor. The defence taken by this DGO in this connection itself goes to show that, when he taken the work departmentally intending to execute the same through electrical contractor unofficially and for which definitely he might have asked this PW1 to execute the work without there being any labour contract. When the DGO intending to get the work departmentally the question of giving contract to provide electrical contractor does not arises. But the DGO from whom the records being recovered has not given any explanation as to why the signature of this PW1 is taken to material supply, acknowledgment. Apart from the above, the DGO has taken contention that, the work entrusted to one Sri Ramu, Electrical by filing Ex.D2 award of work on labour contract goes to show that, though work taken to execute departmentally the DGO intending to get the same through the electrical contractor. So for as Ex.D2 is concerned, in awarding so called labour contract to Sri Ramu, electrical is all

together pertaining to different dates i.e., after this trap proceedings. Therefore, the defence set out by the DGO by producing Ex.D2 cannot be accepted. Therefore, considering the above over all reasonings it is clear that, DGO asked this PW1 to execute the work in installing 25 KV – TC of Pillanalli village and for which demanded him to pay Rs.2,000/- in connection with the official favour. Therefore, whatever contention taken by the DGO that, official work of the complainant is not pending with him cannot be accepted. But in the circumstances of this case, the DGO who wanted to execute the work departmentally as per the work order dated: 23/08/2009 actually intending to execute the work through PW1/Sri Eshwar, Electrical Contractor unofficially and in that connection an amount of Rs.2,000/- being received from the complainant. These aspect shows that, DGO received an amount of Rs. 2,000/- from the complainant in order to show official favour by using position of his office in order to get execution of the work of 25 KV – TC at Pillanalli village of Kadur Taluk in Chikmagalur District. Therefore, considering the above overall reasonings there is sufficient evidence placed by the Disciplinary Authority to proved the fact that, this DGO accepted a bribe of Rs. 2,000/- from the complainant in order to show an official favour and committed misconduct. Accordingly the articles of charge framed in this case against the DGO is proved satisfactorily and answer the above point in the **AFFIRMATIVE**. Hence, I proceed to pass the following:-



**:: ORDER ::**

*The Disciplinary Authority has satisfactorily proved the charge in this case that, DGO- Sri E.S. Murthy, Junior Engineer (E), MESCOM, Sakharayapattana, Kaduru Taluk, Chikmagalur District (Presently working at 110/111 KV MUSS, KPTCL, Nagenahalli, Sakharayapattana, Chikmagalur District), committed misconduct as enumerated U/R 3(1) of the Karnataka Electricity Board Employees Service (Conduct) Regulations, 1988.*

16. Hence this report is submitted to Hon'ble Upalokayukta for kind perusal and for further action in the matter.

Dated this the 13<sup>th</sup> day of January, 2017

  
(Chandrashekar Patil)

Additional Registrar Enquiries-4,  
Karnataka Lokayukta,  
Bangalore.

**ANNEXURE****LIST OF WITNESSES EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

- PW-1 :-Sri Eshwar (complainant)  
 PW-2 :- Sri G.H. Hemantharaju (Second panch)  
 PW-3:- Sri Ramanaik (I.O.)

**LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:**

- DW1-:-Sri Umesh Nayak (witness)


**LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY**

- Ex.P-1: Certified copy of the complaint  
 Ex.P1(a,b): Relevant entries in Ex.P1  
 Ex.P-2: Certified copy of the Entrustment Mahazar  
 Ex.P2(a to d): Relevant entries in Ex.P2  
 Ex.P-3: Certified copy of the Trap Mahazar  
 Ex.P3(a to c): Relevant entries in Ex.P3  
 Ex.P-4: Certified copy of the FIR  
 Ex.P4(a): Relevant entry in Ex.P4  
 Ex.P-5: Certified copy of the explanation of DGO  
 Ex.P5(a to e): Relevant entries in Ex.P5  
 Ex.P-6: Certified copy of the file of the complainant  
 (containing 21 sheets)  
 Ex.P6(a to d): Relevant entries in Ex.P6  
 Ex.P-7: Certified copy of the rough sketch  
 Ex.P-7(a): Relevant entry in Ex.P7  
 Ex.P-8: Certified copy of the photo entrustment mahazar  
 Ex.P8(a to d): Relevant entries in Ex.P8  
 Ex.P-9: Certified copy of the chemical examination report  
 Ex.P-10: Certified copy of the sketch  
 Ex.P-11: Xerox copies of the photos affixed on the white sheet

**LIST OF EXHIBITS MARKED ON BEHALF OF DGO:**

- Ex.D1:-Certified copy of letter of Assistant Executive Engineer, MESCOM, Biruru dated: 03/07/2009 with certified copy of the circular dated: 01/08/1997  
 Ex.D2:-Certified copy of the KPTCL, awarding of work on labour contract Form

Dated this the 13<sup>th</sup> day of January, 2017

  
 (Chandrashekar Patil)

Additional Registrar Enquiries-4,  
 Karnataka Lokayukta,  
 Bangalore.