

KARNATAKA LOKAYUKTA

No. Lok/ARE-1/Enq-173/2013

Bangalore,

Dated.01/10/2016.

:- REPORT OF ENQUIRY :-

Sub:- Departmental Enquiry against (1) Sri. C. Devarajappa, the then Executive Officer, Taluk Panchayathi, Kaduru Taluk, Chikmagalur District and (2) Sri. A.R. Manjunath, Panchayath Development Officer (in charge), Singatagere Grama Panchayathi, Kaduru Taluk, Chikmagalur District - regarding.

Ref:- Proceedings Order No. LOK/INQ/14-A/173/2013, Dated: 28/03/2013 of Hon'ble Upalokayukta-2, State of Karnataka, Bangalore.

This is an enquiry conducted in pursuance to the Government Order **No.** ಗ್ರಾಅಪ/23/ವಿಸೇವಿ/2013, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 20/03/2013 of the Disciplinary Authority, i.e., Under Secretary to the Government, Rural Development and Panchayathraj Department, M.S. Building, Bangalore against (1) Sri. C. Devarajappa, the then Executive Officer, Taluk Panchayathi, Kaduru Taluk, Chikmagalur District and (2) Sri. A.R. Manjunath, Panchaath Development Officer (in charge), Singatagere Grama Panchayathi, Kaduru Taluk, Chikmagalur District (hereinafter referred as **DGOs 1 and 2** - in short). Originally Hon'ble Upalokayukta entrusted the departmental enquiry to the Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bangalore by nominating him as Enquiry Officer. Additional Registrar of Enquiries-3 after

receipt of records, sent the article of charges, statement of imputation, list of witnesses and documents to DGOs and they were summoned to appear. Accordingly, DGOs appeared in person on 03/07/2013 and First oral statement was recorded. DGOs pleaded not guilty and claimed to be tried. The DGOs filed their written statement denying the charge and statement of insinuation made against him. In the meanwhile, the enquiry was transferred to Additional Registrar Enquiries-1, by order of Hon'ble Karnataka Lokayukta.

2. In order to establish the charges leveled against the DGOs, Disciplinary Authority has examined three witnesses as PWs-1 to PW-3 and exhibits P-1 to P-7 are marked and closed their side. Thereafter Second Oral Statement of DGOs 1 and 2 was recorded. The DGOs have examined two as DWs-1 and 2 and have not marked any documents on their behalf and closed their side of evidence. On behalf of disciplinary authority presenting officer submitted Written Brief. The Presenting Officer in her written arguments has stated that though the complainant, who is examined as PW-1, has turned hostile, the other witnesses examined in the case have supported the case of disciplinary authority and even PW-1 has stated that he kept the tainted money in the shirt pocket of DGO No.1 in his chamber's at the time of trap and further DGOs have admitted the fact that the bait amount was kept in the shirt pocket of DGO No.1 by the complainant and further DGO No.1 had not refused or protested the act of the complainant in keeping the amount in his shirt pocket and therefore it can be presumed that he had

accepted the bribe amount. Learned presenting officer has further stated that PW-1, who is a shadow witness sent with the complainant at the time of trap, has fully supported the case of the disciplinary authority and has categorically stated that he has seen DGO No.1 receiving the tainted money from the complainant and further the evidence of investigating officer corroborates the evidence of PW-2 about the recovery of the tainted money from the possession of DGO No.1 and even though DGOs have given evidence, it is in no way help them in their defence and therefore the charge framed against DGOs is proved.

3. The learned counsel appearing for the DGOs 1 and 2 has stated in his written brief that the complainant, who is examined as PW-1 in the case has not supported the case of the disciplinary authority and he has specifically stated that one Malleshappa took him to Lokayukta Station and his signature was taken to the complaint and further he did not give any amount to the police and DGOs did not ask him to pay money and therefore the allegation of DGOs demanding money from the complainant is not proved. Learned counsel has further contended that though PW-1 is treated as an hostile witness and cross-examined by the presenting officer nothing is elicited from him in support of the case of disciplinary authority and the evidence of PW-1 clearly shows that the DGOs have been falsely implicated. Learned counsel has further stated that even the evidence of PW-2 shows that he had not gone inside the chamber's of DGO No.1 at the time of trap and therefore his evidence that the DGO

No.1 demanded and received amount from the complainant cannot be believed. Learned counsel has further stated that the facts and circumstances of the case shows that the DGOs have not committed any misconduct and they have been falsely implicated in the case and the defence put-forward by them is probable and consistent and therefore the charge is not proved.

4. The charge leveled against the DGO's is as follows:

That you, DGO No.1 Sri. C. Devaranappa, the then Executive Officer, Taluk Panchayath, Kaduru Taluk, Chikmagalur District and you DGO No.2 Sri. A.R. Manjunath, PDI (in charge) Singatagere Grama Panchayathi, Kaduru Taluk, Chikmagalur District demanded and accepted a bribe of Rs.4,000/- on 19/04/2011 from complainant Sri. B.P. Devanand S/o Parameshwarappa, R/o Basavanahalli, Singatagere Hobli, Kadur Taluk, Chimagalur District for countersigning the bills with regard to the payment of coolie work charges to the complainant and his family members in respect of the work of putting slab stones around Anthraghatamma Temple within the limits of Basavanahalli-Singatagere Village under National Employment Guarantee Scheme, that is for doing an official act, and thereby you both have failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government Servants and thus you are guilty of misconduct under Rule 3(1) of Karnataka Civil Service (Conduct) Rules 1966.

5. The only points that arises for my consideration is:

i) Whether the Disciplinary Authority is able to establish the charge framed against the DGO No.1 ?

ii) Whether the Disciplinary Authority is able to establish the charge framed against the DGO No.2 ?

My finding on above points as under

Point No.1 in the **AFFIRMATIVE**

Point No.2 in the **NEGATIVE** for the following reasons;-

:- R E A S O N S :-

6. In this case the case of the disciplinary authority is as under;-

Complainant Sri. B.P. Devanand resident of Basavanahalli, Singatagere Hobli of Kaduru Taluk had executed the work of fixing slab stones around Antharaghattamma Temple in his village along with other villagers, and an amount of Rs.83,620/- was sanctioned under National Employment Guarantee Scheme. Afterwards, on 23/03/2011 he met DGO No.2 in this case and enquired about the payment of the amount due to him and his family members and also other villagers and DGO No.2 informed him that the file is already prepared and DGO No.1 has to countersign the papers and further DGO No.1 was demanding money to do so. Then complainant met DGO No.1 in his office and enquired about the work and DGO No.1 asked him to pay Rs.4,000/- to countersign the bills.

Complainant was not willing to pay bribe to the DGOS and therefore he approached Lokayukta Police, Chikkamagaluru and lodged a complaint. On the basis of the said complaint, a case was registered against the DGOs and trap was arranged on 19/04/2011. When the complainant approached DGO No.1 along with bait amount, DGO No.1 again demanded and accepted bait amount of Rs.4,000/- from the complainant and he was caught red-handed. The police officer conducted further investigation and filed charge sheet against DGO No.1 and 2 in the criminal court. Investigating officer also sent a report to Hon'ble Upalokayukta and on the basis of the said report Hon'ble Upalokayukta registered suo-moto case and sent report under Section 12(3) of Karnataka Lokayukta Act 1984 to the Competent Authority. The Competent Authority has ordered disciplinary enquiry and entrusted the matter to Hon'ble Upalokayukta.

7. In order to prove the charge framed against DGOs 1 and 2, the presenting officer has examined three witnesses. Among the witnesses examined by the disciplinary authority, PW-1 is the person, who gave complaint against the DGOs to Karnataka Lokayukta Police, Chikkamagaluru. PW-2 is the shadow witness who was sent with the complainant at the time of trap and he is also said to be an eye witness to the incident of DGOs demanding bribe and accepting the bribe amount at the time of trap and PW-3 is the investigating officer, who arranged trap and prepared entrustment and recovery mahazar.

8. PW-1 Sri. Devananda V.P. has stated in his evidence that DGO No.1 was working as Executive Officer of Kaduru Taluk Panchayath during the year 2011 and DGO No.2 was working as Panchayath Development Officer of Singatagere Village Panchayath. The witness has further stated during the year 2011 Rs.2,625/- was due to him and his family members in respect of the work executed by them in fixing stone slabs around temple in his village under National Employment Guarantee Scheme and other villagers had also executed the work and money was due to them also. The witness has also stated that in the month of April 2011 he went and met DGO No.1 to enquire about the amount payable to him and his villagers and at that time DGO No.1 scolded him and he informed the said fact to one Malleshappa and he took him to Lokayukta Police Station, Chikkamagaluru and police inspector got written a complaint from him asking him to mention that DGO No.1 has asked him for bribe of Rs.4,000/-. PW-1 has stated that police smeared some powder on currency notes of Rs.4,000/- and prepared a mahazar as per Ex.P-2 in the station. The witness has further stated that on the next day police asked him to go and give Rs.4,000/- to DGO No.1 and when he went and met DGO No.1 he was verifying file and at that time he kept the amount in his shirt pocket and came out of the room and police went inside. PW-1 has further stated that police took photographs and also took his signature on Ex.P-3. PW-1 is treated as an hostile witness and cross-examined by the presenting officer, but during cross-examination he has not stated anything in support of

the case of disciplinary authority. During cross-examination by the counsel for DGOs PW-1 has stated that his signature to the mahazar was taken on 19/04/2011 and further the amount was not seized in his presence. It is suggested to the witness that he put the bait amount in the shirt pocket of DGO No.1 at the time of trap thinking that his work will be done early and the witness has admitted the suggestion. The witness has also admitted the suggestion that DGO No.1 did not demand bribe from him and he also did not receive the amount in his hands.

9. PW-2 Sri. Beeregowda has stated in his evidence that during the year 2011 he worked as FDA in the Office of Deputy Commissioner of Excise, Chikamagaluru and on 19/04/2011 he had been to Lokayukta Station, Chikkamagaluru and another person by name Indukumar had also come there and PW-1 Devananda was present in the station and police officer introduced the said person to him. PW-2 has further stated that Police Officer informed him about the complaint given by PW-1 and then Rs.4,000/- consisting of 4 currency notes of denomination of Rs.1,000/- each was produced by PW-1 and some powder was smeared on those currency notes and then CW-3 Indukumar kept the amount in the shirt pocket of PW-1 and prepared mahazar as per Ex.P-2. The witness has further stated that police officer instructed PW-1 to handover that amount if the persons, who had asked money, demand for the same again and then give signal to him. PW-2 has further stated that police officer asked him to accompany PW-1 when PW-1 go to

meet the persons, who demanded bribe. PW-2 has further stated that on the same day they went to Kaduru and police officer sent him and PW-1 inside the Taluk Panchayath Office and PW-1 went inside the chamber's of Executive Officer and he stood at the door of the chamber and Pw-1 and DGO No.1 talk to each other and then PW-1 took out the amount from his shirt pocket and gave it to DGO No.1 and DGO No.1 received that amount and kept it in his shirt pocket and afterwards PW-1 gave signal to the police. PW-2 has further stated that when police came near the complainant, he shown DGO No.1 and told that he received money from him and afterwards DGO no.1 was apprehended and his hands were washed in some solution and the colour of the right hand wash turned to pink colour. PW-2 has further stated that when police officer questioned DGO No.1 about the amount received by him, he told that the amount was in his shirt pocket and afterwards the amount was taken out and the serial numbers of the currency notes were checked with the numbers noted down earlier and the numbers tallied with each other. The witness further stated that police officer prepared mahazar as per Ex.P-3 and he signed the mahazar and DGOs 1 and 2 gave explanation as per Ex.P-4 and P-5 respectively at that time. During cross-examination it is suggested to the witness that no entrustment proceedings were conducted in his presence in the station and he has signed the mahazar at Ex.P-2 even though it was not prepared in his presence and the witness has denied the suggestion. It is further suggested to the witness that when he and PW-1 went and met DGO No.1 he

was preparing to attend a meeting and at that time PW-1 voluntarily kept the amount in the pocket of DGO No.1 and the witness has denied the suggestion. The witness has admitted the suggestion that the amount which was in the shirt pocket of DGO No.1 was taken out by DGO No.1 and then his hands were washed.

10. PW-3 Sri. K.T. Gururaj has stated in his evidence that on 07/04/2011 PW-1 came to the station and complained about DGO No.1 demanding bribe for disbursing the amount due to him from the Panchayath and he gave a voice recorder to PW-1 and asked him to record his conversation with DGO No.1. PW-3 has further stated that on 18/04/2011 PW-1 came back to the station and gave complaint as per Ex.P-1 against DGOs 1 and 2 and he registered case against DGOs and sent FIR to the court. The witness has further stated that he secured PW-2 and CW-3 as panch witnesses to the station and in their presence conducted entrustment procedure and Rs.4,000/- was received from PW-1 and the serial numbers of the currency notes were noted down and then phenolphthalein powder was smeared on the currency notes and then the amount was kept in the shirt pocket of PW-1 through CW-3 with instruction to again approach the DGOs and enquire about his work and if the DGOs again demand for money then the amount kept in his shirt pocket shall be handed over to them and give signal and afterwards a mahazar as per Ex.P-2 was prepared in the station. The witness has further stated that on the same day he along with his staff,

complainant and panch witnesses went near the office of DGOs and PWs 1 and 2 were sent inside the office and after sometime complainant gave pre-arranged signal and immediately he along with another panch witness and staff went inside the office and PW-1 shown DGO No.1 and told that he demanded and accepted money from him and afterwards the hands of DGO No.1 were washed in sodium carbonate solution and the colour of the solution in which right hand was washed turned to pink. The witness has further stated that when he questioned DGO No.1 about the amount received from the complainant he told that the amount is in his shirt pocket and afterwards the amount was taken out through PW-2 and the serial numbers and denomination of those currency notes were checked with the serial numbers noted down in the station and the numbers tallied with each other. The witness has further stated that he took back the micro voice recover given to complainant and it was played before the witnesses. The witness has further stated that DGO No.2 was secured to that place and the explanation of both the DGOs were taken as per Ex.P-4 and P-5. PW-3 has further stated that he conducted further investigation and filed charge sheet before court. During cross-examination, it is suggested to the witness that no pre-trap formalities were held in the station and the mahazar at Ex.P-2 is created one and the witness has denied the suggestion. It is further suggested to the witness that he has falsely stated about the solution in which right hand of DGO No.1 was washed turning to pink colour and the witness has denied the suggestion. It is further suggested to the

witness that the DGO No.1 had not demanded and accepted money from the complainant and the witness has denied the suggestion.

11. DW-1 Sri. B.K. Nagaraj has stated in his evidence that he and his family members had worked under National Employment Guarantee Scheme and the amount payable to him and the complainant and other villagers was credited to the respective bank accounts. DW-2 Sri. B.M. Kalleshappa has also stated in his evidence that he and his family members had worked under NREG Scheme and the collie amount payable to them was credited to the respective bank accounts.

12. In this case, PW-1 is the person, who gave complaint against the DGOs stating that they were demanding bribe from him for payment of the amount due to him and to other villagers. PW-1 in his oral evidence given before this authority has given contradictory versions. PW-1 admits the fact that the he had approached Lokayukta Police, Chikkamagaluru about non-payment of the amount due to him and his family members in respect of the work done by them under NREG Scheme, but he say that police themselves prepared the complaint and took his signature. Complainant also admits the fact that the bait amount of Rs.4,000/- smeared with phenolphthalein powder was entrusted to him by the police officer in the station and he has also admitted his signature in the entrustment mahazar at Ex.P-2 prepared in the station. Complainant has further admitted in his evidence about he approaching DGO No.1 in his chamber's and giving the amount to him.

PW-1 says that while the DGO was looking into the files, he put the amount in his shirt pocket and came out of the chamber's. The contradictory evidence given by PW-1 clearly shows that the witness has deliberately suppressed real facts. It is to be noted that PW-1 is an educated person and has signed the complaint and mahazar in English. Therefore, it is not possible to believe his say that police took his signature to the complaint at Ex.P-1 without disclosing the contents to him or he signing the mahazar at Ex.P-2 without knowing its contents. Though PW-1 has stated that he put the bait amount in the shirt pocket of the DGO No.1 at the time of trap and came out of the room, the evidence of PWs 2 and 3 and trap mahazar at Ex.P-3 clearly shows that the right hand wash of the DGO in sodium carbonate solution was found positive. Therefore, it is crystal clear that PW-1 has colluded with the DGO No.1 and has deliberately suppressed material fact when he gave evidence in this case. Any how the evidence of PW-1 that he has signed the complaint at Ex.P-1 and also signed the entrustment mahazar at Ex.P-2 and trap mahazar at Ex.P-3 support the case of disciplinary authority. The evidence of PW-1 also corroborates the other evidence on record that the bait amount entrusted to the complainant at the entrustment proceedings in the station was later recovered from the possession of the DGO.

13. The evidence of PW-2, who was sent with the complainant as a shadow witness at the time of trap fully supports the case of the disciplinary authority. PW-2 has specifically stated about the entrustment

proceedings conducted in the station and also trap proceedings conducted in the office of DGO No.1. PW-2 has also deposed about he accompanying the complainant at the time of trap and witnessing the DGO receiving the bait amount from the complainant in his right hand and then keeping it in his shirt pocket. The evidence of PW-2 corroborates the case of the disciplinary authority and also it is corroborated by the evidence of PW-3, who is the investigating officer. The evidence given by PW-2, who is an independent witness clearly shows that the DGO No.1 demanded and received the bait amount at the time of trap and he was caught red-handed. Pw-2 is also a government servant, who has no ill-will or grudge towards the DGO No.1 in order to implicate him in a false case. After careful scrutiny of the evidence of PW-2, I am of the view that his evidence can be safely believed. As pointed out supra, PW-3 is the investigating officer of the case, who had registered a case on the basis of the complaint given by PW-1 and arranging trap. PW-3 has deposed about the phenolphthalein test conducted on the DGO No.1 being found positive. After careful scrutiny of the evidence of PW-3, I am of the view that his evidence corroborates the evidence of PWs 1 and 2 about complainant approaching the Lokayukta police, Chikkamagaluru and giving complaint as per Ex.P-1 and also he participating the entrustment proceedings. The evidence of PW-3 corroborates the evidence of PW-2 on all aspects. The evidence of PWs 2 and 3 read together with the evidence of PW-1 makes it clear that DGO No.1 had demanded bribe from the complainant and therefore complainant had approached Lokayukta

police, Chikkamagaluru and had filed complaint as per Ex.P-1 and further the DGO No.1 again demanded and accepted bait amount of Rs.4,000/- from the complainant at the time of trap. Though PW-3 is a police officer, his evidence cannot be suspected on that ground. In fact, during cross-examination of PWs 1 and 2 the DGO No.1 has not disputed the fact that the bait amount was found in his possession at the time of trap and the same was recovered and further the phenolphthalein test conducted on him was also found positive. Therefore, I am of view that there is clinching evidence on record to show that DGO No.1 had demanded bribe from the complainant and further he again demanded and accepted the bait amount at the time of trap. Therefore, I am of the view that the charge framed against DGO No.1 is clearly proved by the disciplinary authority.

14. In this case DGO No.2, was working as Panchayath Development Officer in Singatagere Grama Panchayath, Kaduru Taluk is included as DGO No.2 and though it is alleged that DGO No.2 had demanded bribe from the complainant, none of the witnesses have spoken about the same in their oral evidence given before this authority. PW-3, who is the investigating officer of the case, has stated that after DGO No.1 was trapped red-handed, DGO No.2 was contacted through phone and was secured to the office of DGO No.1 and he was asked to give explanation. It is alleged by the complainant in the complaint at Ex.P-1 that in respect of the amount due to him and his family members and other villagers, he first went and met the DGO No.2

and enquired him and at that time DGO No.2 told him that he has already sent the file to DGO No.1 and he has to get the work done from the DGO No.1 by paying the amount expected by DGO No.1. Even in the complaint at Ex.P-1, there is no allegation about DGO No.2 demanding bribe from the complainant. Except the allegation made in the complaint that DGO No.2 telling the complainant to approach the DGO No.1 about his work and get the work done by paying money that may be expected by DGO No.1, there is no other allegation against DGO No.2. As already pointed out DGO No.2 was not at all present in the office of DGO No.1 when DGO No.1 was trapped red-handed. The evidence of the investigating officer discloses that after DGO No.1 was trapped, he contacted DGO No.2 through phone and secured him to the office of DGO No.1 and took his explanation. As pointed out supra, PW-1 has not whispered even a single word about he meeting DGO No.2 in respect of the amount due to him. On the other hand, PW-1 has stated that some persons of his village had enquired in the panchayath and PDO had told that they have to meet the Executive Officer of the Taluk Panchayath. Except his evidence, absolutely there is no other evidence on record to show that the complainant had met DGO No.2 in respect of the amount due to him or about DGO No.2 asking him to pay bribe to DGO No.1. The evidence produced on record in this case about the involvement of DGO No.2 in demanding and accepting bribe by DGO No.1 is too vague and therefore on the basis of vague evidence it cannot be said that DGO No.2 is guilty of misconduct. After careful scrutiny of the entire evidence on record, I

am of the view that the disciplinary authority has failed to prove the charge framed against DGO No.2.

15. After examining the evidence produced by the disciplinary authority in the case, I am of the view that the disciplinary authority has clearly proved that DGO No.1, being a public servant, had demanded the complainant to pay bribe in order to sign the cheque which was to be deposited to the bank in respect of the work done by the complainant and other villagers under National Employment Guarantee Scheme in his village. After careful scrutiny of the oral and documentary evidence produced by the disciplinary authority, I am of the view that the disciplinary authority has clearly established the charge framed against DGO No.1 and therefore DGO No.1 has failed to maintain absolute integrity and devotion to duty. DGO No.1 has committed grave official misconduct, as defined under Rule 3(i) to (iii) of Karnataka Civil Services (CCA) Rules 1966. Further the disciplinary authority has failed to prove the charge framed against DGO No.2. Therefore, I have answered the point formulated above in respect of DGO No.1 in the **AFFIRMATIVE** and I hold that the disciplinary authority has failed to prove the charge framed against DGO No.2. Hence, I proceed to pass the following order.

:- ORDER :-

The charge framed against DGO 1 is proved.

Further the disciplinary has failed to prove the charge framed against DGO No.2.

It is reported that the DGO No.1 is already retired from service on 31/08/2015 and DGO No.2 is going to retires from service on 30/06/2040.

(C. CHANDRAMALLEGOWDA)
Additional Registrar Enquiries.1,
Karnataka Lokayukta, Bangalore.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF D.A.:-

- PW-1 Sri. Devananda V.P. (Complainant)
PW-2 Sri. Biregowda (Shadow Witness)
PW-3 Sri. K.T. Gururaj (Investigating Officer.)

LIST OF WITNESSES EXAMINED ON BEHALF OF DGOs:-

- DW-1 Sri. B.K. Nagaraj (Defence witness)
DW-2 B.M. Kalleshappa (Defence witness)

LIST OF DOCUMENTS MARKED ON BEHALF OF D.A.:-

- Ex.P-1 : Certified copy of Complaint
Ex.P-2 : Certified copy of Entrustment Mahazar
Ex.P-3 : Certified copy of Trap Mahazar
Ex.P-4 : Certified copy of explanation given by DGO No.1
Ex.P-5 : Certified copy of explanation given by DGO No.2
Ex.P-6 : Certified copies of documents pertaining to PW-1
Ex.P-7 : Certified copies of attendance register and other papers

LIST OF DOCUMENTS MARKED ON BEHALF OF DGOs:-

NIL

(C. CHANDRAMALLEGOWDA)
ARE-1, KLA, Bangalore.



KARNATAKA LOKAYUKTA

No.Lok/ARE-1/Enq-173/2013

Multi-storeyed Building,
Dr.B.R. Ambedkar Veedhi,
Bengaluru, dt.05.10.2016.RECOMMENDATION

Sub: Departmental Enquiry against Sriyuths:

- (1) C. Devarajappa, Executive Officer,
Taluk Panchayath, Kaduru Taluk,
Chickmagalur District (retd.); and
- (2) A.R. Manjunath, Panchayath Development
Officer (in charge), Singatagere Gram
Panchayath, Kadur Taluk, Chickmagalur
District - reg.

Ref: 1. Government Order Nos. ಗ್ರಾಅಪ 23 ಎಸೇಬಿ 2013
dated 20.03.2013 .2. Nomination Order No. LOK/INQ/14-A/
173/2013 dated 28.03.2013 .

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Government, by its Order dated 20.03.2013, initiated the disciplinary proceedings against Sriyuths: (1) C. Devarajappa, Executive Officer, Taluk Panchayath, Kaduru Taluk, Chickmagalur District (retd.); and (2) A.R. Manjunath,

Panchayath Development Officer (in charge), Singatagere Gram Panchayath, Kadur Taluk, Chickmagalur District [hereinafter referred to as the Delinquent Government Officials 1 & 2 respectively, for short 'DGOs 1 & 2'] and entrusted the departmental inquiry to this Institution. This Institution, by Nomination Order dated 28.03.2013, nominated the Additional Registrar of Enquiries-1, Karnataka Lokayukta, Bengaluru, to conduct the departmental inquiry against the DGOs for the alleged charge of misconduct alleged to have been committed by them.

2. The Inquiry Officer has submitted his report dated 01.10.2016 inter alia holding that, the Disciplinary Authority has 'proved' the charge of misconduct against DGO1 and 'failed to prove' the charge levelled against DGO2.

3. The charge of misconduct alleged against the DGO1 was that, while he was working as Executive Officer, Taluk Panchayath, Kaduru Taluk, Chickmagalur District; and DGO2 was working as Panchayath Development Officer (in charge),

*Sgdi*

Singatagere Gram Panchayath, Kadur Taluk, Chickmagalur District, demanded and accepted bribe amount of ₹ 4,000/- on 19.04.2011 from one Shri B.P. Devanand s/o Parameshwarappa, r/o Basavanahalli, Singatagere Hobli, Kadur Taluk, Chickmagalur District [hereinafter referred to as 'the complainant'] for countersigning the bill with regard to the payment of coolie work charges to the complainant and his family members in respect of the work of putting slab stones around Anthragathamma temple within the limits of Basavanahalli-Singatagere village under National Employment Guarantee Scheme. Thus, both the DGOs failed to maintain absolute integrity, devotion to duty and rendered themselves as unbecoming of Government servants and committed misconduct within the meaning of Rule 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

4. To prove the charge of misconduct, Disciplinary Authority has examined 3 witnesses as PWs 1 to 3. PW1 is the Investigating Officer; PW2 is the shadow witness; and PW3 is



the Investigating Officer, whereas, on behalf of DGOs, two witnesses have been examined as DWs1 & 2.

5. The Inquiry Officer, on detailed consideration of the evidence, has found that, the charge alleged against the DGO1 is 'proved' by the Disciplinary Authority, whereas the charge leveled against DGO2 is 'not proved'. The Inquiry Officer has given very cogent, acceptable reasons for his conclusion.

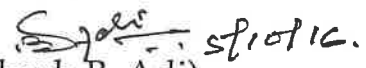
6. In view of the findings of the Inquiry Officer, it is hereby recommended to the Government that, the *DGO1 - Shri C. Devarajappa, Executive Officer, Taluk Panchayath, Kaduru Taluk, Chickmagalur District*, since retired from service, be punished with "*denial of 25% of pensionary benefits perpetually*" in exercise of powers under Rule 214(1)(a) of the Karnataka Civil Service Rules. However, the disciplinary proceedings against *DGO2 - Shri A.R. Manjunath, Panchayath Development Officer (in charge), Singatagere Gram Panchayath, Kadur Taluk, Chickmagalur District*, be '*dropped*' as the charge levelled against him is '*not proved*' by the Disciplinary Authority.

*Sgd.*



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

Connected records are enclosed herewith.

  
(Justice Subhash B. Adi)  
Upalokayukta,  
State of Karnataka.

Slg\*



**KARNATAKA LOKAYUKTA**

No. LOK/INQ/14-A/173/2013

M.S. Building,  
Dr. B.R. Ambedkar Veedhi,  
Bangalore, Dtd: 11.3.2019.

**Sub:-** Departmental Enquiry against Sri.C.Devarajappa, Former Executive Officer, Taluk Panchayath, Kadur – regarding.

**Ref:-** (i) Government Order No.ಗ್ರಾಅಪ 23  
ವಿಸೇವಿ 2013 ದಿ: 20.3.2013

(ii) Nomination order No.  
LOK/INQ/14-A/173/2013 dated:  
28.3.2013.

iii) your letter No.ಗ್ರಾಅಪ 263 ವಿಸೇವಿ  
2016 ದಿ: 24.1.2019

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In the enquiry No. LOK/INQ/14-A/173/2013, the Enquiry Officer submitted report stating that the charge framed against DGO Sri.C.Devarajappa, Former Executive Officer, Taluk Panchayath, Kadur is proved. After considering the report of the enquiry officer this authority recommended to the disciplinary authority to impose the penalty of **“denial of 25% of pensionary benefits perpetually” in exercise of powers under Rule 214(1) (a) of the Karnataka Civil Service Rules, 1957.**

Now letter No.ಗ್ರಾಅಪ 263 ವಿಸೇವಿ 2016 ದಿ: 29.11.2018 is received from the Principal secretary to Government RDPR, stating that DGO Sri.C.Devarajappa, is already dismissed from Government service as she was convicted in the criminal case filed by Lokayukta police in sessions court by issuing Government order No. ID 186 DGD 2012 dtd: 27.8.2015 and therefore the matter may be brought to the notice of Hon'ble Upalokayukta for taking further action.

In this regard it is to be mentioned that Conviction or Acquittal of a Government Servant in a criminal case for the

offences under Prevention of Corruption Act is not a bar to proceed against the said public servant under the service rules for the misconduct committed by him in demanding and accepting bribe. Hon'ble Supreme Court in a number of decisions has laid down the law in this regard. Hon'ble Supreme Court in the decision reported in (1997) 2 SCC 699 (Depot. Manager, AP State Road Transport Corporation V/s Mohammed Yusuf Miya & Others) has held that;

The approach and the objective in the criminal proceedings and the disciplinary proceedings is altogether distinct and different. In the disciplinary proceedings, the question is whether the respondent is guilty of such conduct as would merit his removal from service or a lesser punishment, as the case may be, whereas in the criminal proceedings, the question is whether the offences registered against him under the Prevention of corruption Act (and the Indian Penal Code, if any) are established and, if established, what sentence should be imposed upon him."

In another decision reported in (2005) 7 SCC 764 (Ajithkumar Nag V/s General Manager, Indian Oil Corporation Haldia & Others) Hon'ble Supreme Court has held that;

"Acquittal by a criminal court would not debar an employer from exercising power in accordance with the rules and regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas, the object of criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the Delinquent departmentally and to impose penalty in accordance with service rules.

Therefore, the conviction or acquittal of Sri.C.Devarajappa, in the criminal case filed against him, is not a bar to the disciplinary authority to impose punishment for the misconduct committed by the said official under service rules in case he is acquitted in the appeal filed by him. Therefore the recommendation sent by this authority for imposing penalty of dismissal from service on the official Sri.C.Devarajappa needs to be kept pending till disposal of the Criminal Appeal filed by DGO . If the official Sri.C.Devarajappa

is acquitted in the criminal appeal, then the recommendation sent by this authority needs to be implemented. On the other hand if the Hon'ble High Court uphold the conviction and punishment imposed by the sessions court, then the penalty of dismissal from service, already imposed on the official, need not be modified and the recommendation sent by this authority may be treated as redundant. ]

Receipt of this letter may be intimated to this authority.

*N. Anand*  
(JUSTICE N. ANAND)  
Upalokayukta,  
Karnataka State,  
Bangalore. 13/3.

