

KARNATAKA LOKAYUKTA

No. Lok/ARE-1/Enq-298/2012

Bangalore,

Dated.02/11/2016.

:- REPORT OF ENQUIRY -:

Sub:- Departmental Enquiry against Sri. Nagaraju, the then Junior Engineer, Panchayathraj Engineering Sub-Division, Kunigal. -- regarding.

Ref:- Proceedings Order No. LOK/INQ/14-A/298/2012, Dated: 17/07/2012 of Hon'ble Upalokayukta-1, State of Karnataka, Bangalore.

This is an enquiry conducted in pursuance to the Government Order **No. ೧೨೨೮/21/ಇಎನ್‌ಕೂ/2012**, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 03/07/2012 of the Disciplinary Authority, i.e., Under Secretary to the Government, Rural Development and Panchayathraj Department, Government of Karnataka, Bangalore against Sri. Nagaraju, the then Junior Engineer, Panchayathraj Engineering Sub-Division, Kunigal (hereinafter referred as **DGO** - in short). Originally Hon'ble Upalokayukta-1 entrusted the departmental enquiry to the Additional Registrar of Enquiries-6, Karnataka Lokayukta, Bangalore, by nominating him as Enquiry Officer. Additional Registrar of Enquiries-6, after receipt of records, article of charges, statement of imputation, list of witnesses and documents were sent to DGO and he was summoned to appear. Accordingly, DGO appeared in person and First Oral Statement was recorded.

DGO pleaded not guilty and claimed to be tried. The DGO filed his written statement denying the charge and statement of insinuation made against him. Afterwards, DGO filed written statement. 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 DGO, Disciplinary Authority has examined four witnesses as PWs-1 to 4 and exhibits P-1 to P-8 are marked and closed their side. Thereafter, Second Oral Statement of DGO was recorded. The DGO has not examined any witness and not marked any documents on his behalf. On behalf of disciplinary authority presenting officer submitted Written Brief. The Presenting Officer in her written arguments has stated that though the complainant has not supported the case of the disciplinary authority, he has admitted about giving complaint to Lokayukta Police and also he has admitted certain facts regarding entrustment proceedings and trap proceedings and the same can be used against the DGO. Learned presenting officer has further stated that PW-2 panch witness present at the time of entrustment proceedings and trap proceedings and PW-3 is the shadow witness accompanied the complainant at the time of trap, have supported the case of disciplinary authority and the evidence of investigating officer examined as PW-4 makes it clear that complainant had given complaint against DGO and the DGO was trapped while accepting bribe from the complainant and therefore the charge is proved.

3. Learned counsel appearing for the DGO in his written arguments has stated that the witnesses examined by the disciplinary authority have given contradictory versions and PW-1, who is the complainant, has given a complete go by to the case of the disciplinary authority and the evidence on record creates serious doubt about the alleged demand and acceptance of bribe amount by DGO. Learned counsel has further contended that the disciplinary authority has not proved the allegations made against the DGO and the DGO is already acquitted in the criminal case filed against him and therefore he is entitled to be exonerated in this case also. Learned counsel placed reliance on the decisions reported in AP (2014) 13 SCC 15, (ii) 2012 (1) KCCR 414, (iii) AIR 2010 SC 1589, (iv) 2006 (3) KCCR 1422 and (v) 2004 (2) KCCR 1233 in support of his arguments.

4. The charge framed against the DGO is as follows:

That you Sri. Nagaraju, the DGO, while working as Junior Engineer at Panchayathraj Engineering Sub-Division in Kunigal of Tumkur District, the complainant namely Sri. Guruprasad S/o of Ramakrishnappa, a Contractor, who had executed work of forming box drain from Anjaneya Temple to Harijan Colony of Kuttalli Village of Begur Village Panchayath under Mahatma Gandhi Rural Employment Scheme requested you to give the paper of particulars given by Sri. Narasimhamurthy, the Assistant Executive Engineer, so as to give the same to the Secretary of Begur Village Panchayath and then you asked for bribe of Rs.7,000/- on 15/04/2011 and took Rs.5,500/- asking to give the balance for the said document and on 25/04/2011, took the balance bribe of Rs.1,500/- at your office failing to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a

Government Servant and thus you are guilty of misconduct under Rule 3(1)(i) to (iii) of KCS (Conduct) Rules 1966.

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

Whether the Disciplinary Authority is able to establish the charge framed against the DGO?

My finding on the above point is in the **AFFIRMATIVE** for the following:

:- REASONS :-

6. Before examining the evidence produced by the disciplinary authority, it is necessary to narrate the case of the disciplinary authority. The DGO was working as Junior Engineer in Panchayathraj Engineering Sub-Division, Kunigal of Tumkur District. The complainant Sri. Guruprasad S/o of Ramakrishnappa, a Contractor, had executed work of forming box drain from Anjaneya Temple to Harijan Colony of Kuthralli Village of Begur Village Panchayath under Mahatma Gandhi Rural Employment Scheme and Rs.36,525/- was payable to the complainant towards the said work. In that regard when complainant approached the Asst. Exe. Engineer he prepared record and gave it to the complainant asking him to give the same to the DGO for preparing cheque in respect of the amount due to him. Afterwards, complainant approached the DGO and handed over the letter given by the Asst. Exe. Engineer and requested him to issue the cheque. At that time the DGO demanded bribe of Rs.7,000/- and received Rs.5,500/- from him and insisted him to pay the balance amount. Complainant recorded the conversation between him and the DGO in his mobile phone

and since he was not willing to pay balance bribe to the DGO he approached Lokayukta Police, Tumkur and informed the police officer about the demand made by the DGO and filed a complaint on 23/04/2011. Police officer registered a case against the DGO on the complainant of Sri. Guruprasad and arranged trap and the complainant was sent to the DGO along with a shadow witness with tainted amount and when the complainant met the DGO in his office and requested him to attend to his work, DGO again demanded bribe and accepted the amount and the DGO was caught red-handed. The police officer conducted further investigation and filed charge sheet in Court against the DGO and also sent a report to Hon'ble Upalokayukta. On the basis of the said report, Hon'ble Upalokayukta sent a report under Section 12(3) of the Karnataka Lokayukta Act 1984 to the Competent Authority to initiate disciplinary action against the DGO. The Competent Authority has ordered disciplinary enquiry and entrusted the matter to Hon'ble Upalokayukta.

7. During the enquiry the presenting officer has examined four witnesses and has got marked 8 documents. Among the witnesses examined by the disciplinary authority, PW-1 is the person, who has given complaint against the DGO to Karnataka Lokayukta Police, Tumkur. PW-2 is a witness to the entrustment and trap mahazar. PW-3 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 DGO demanding and accepting bribe amount from the complainant at the time of trap and PW-4 is the investigating

officer, who arranged trap and prepared entrustment and recovery mahazars.

8. PW-1 Sri. Guruprasad in his oral evidence given before this authority has not supported the case of the disciplinary authority. PW-1 has stated in his evidence that about one and half year back his friend Somanna took him to Lokayukta Office, Tumkur and got written a complaint from him as per Ex.P-1 and afterwards police took him to Kunigal and then police went inside an office and prepared a typed document. PW-1 has further stated that Ex.P-2 bears his signature. He has further stated that he do not know anything about the case. PW-1 is treated as an hostile witness and cross-examined by the presenting officer, but during the cross-examination he has denied the suggestions made by the presenting officer about he giving complaint against the DGO to the police and participating in the entrustment proceedings and trap proceedings. PW-1 has admitted his signature in the mahazars at Ex.P-3 and P-4, but has stated that he do not remember when he signed the said documents.

9. PW-2 Sri. Hanumanthaiah has stated in his evidence that he was working as Junior Assistant in the 'office of BESCOM Urban Sub-Division in Tumkur and on 23/04/2011 Lokayukta Police called him to the station and PW-1 and PW-3 were present in the station and PW-1 had given a complaint against DGO alleging that DGO was demanding bribe to him. PW-2 has further stated that police officer received Rs.1,500/- from PW-1 and phenolphthalein powder was smeared on the currency notes and then the amount was given to PW-1 by preparing mahazar as per Ex.P-3. The witness has further

stated that on the same day he accompanied the police, complainant and other witness to Kunigal and PW-1 and PW-3 were sent inside the office, but they came back stating that the DGO was not in the office and therefore they returned to Tumkur and then police officer took back the amount from PW-1 and a mahazar as per Ex.P-4 was prepared and police officer asked him to come on 25/04/2011 and sent him home. PW-2 has further stated that he again went to Lokayukta Office on 25/04/2011 and PW-1 and PW-3 had also come there and police again gave the amount to PW-1 by preparing mahazar as per Ex.P-5. The witness has further stated that on the same day they went near Taluk Panchayath Office, Kunigal and PWs 1 and 3 were sent inside the office and police officer instructed PW-1 to give signal if DGO receive the amount. PW-2 has further stated that after some time PW-1 gave pre-arrange signal and immediately police officer went inside the office and he also accompanied the police officer and PW-1 shown the DGO in this case and told that he received money from him by asking him to keep the amount in his almirah and the afterwards the amount which was in the almirah DGO was taken out and the currency notes were verified and then the amount was seized by preparing mahazar and a written explanation of DGO was taken as per Ex.P-6. During cross-examination, it is suggested to the witness that no proceedings were held in Lokayukta station or in the office of DGO and the witness has denied the suggestion.

10. PW-3 Sri. B.G. Suresh has stated in his evidence that he was working as First Division Assistant in the office of Assistant Director of Agriculture at Tumkur and on 23/04/2011 Lokayukta Police Tumkur called him to their office and PWs 1 and 2 were present in the station and the police officer introduced PW-1 to him and PW-1 had given a complaint against the DGO alleging that he was demanding bribe for passing the bill in respect of the work executed by him. PW-3 has further stated that police officer received Rs.1,500/- from PW-1 and some powder was smeared on the currency notes and then the amount was entrusted to PW-1 with instruction to handover the amount to the DGO if he again ask for the same and then the hands of PW-2 were washed in solution and the colour of the solution turned to pink. The witness has further stated that police officer took him and PWs 1 and 2 and other staff to Kunigal and then sent him along with the complainant inside the PWD office and when they went inside and enquired, they came to know that the DGO was not in the office and therefore they came back to Tumkur and the amount which was entrusted to PW-1 was taken back and kept in almirah and a mahazar as per Ex.P-4 was prepared. PW-3 has further stated that again he went to Lokayukta Station on 25/04/2011 and PWs 1 and 2 had also come there and the amount which was kept in the almirah was taken out and given to PW-1 by preparing mahazar as per Ex.P-5. The witness has further stated that on the same day they went to Kunigal and police officer sent him and PW-1 inside PWD office and PW-1 met the DGO, who came to the office from outside and both of them talk to each

other and while talking with DGO PW-1 took out the amount from his pocket and kept the amount in the almirah of DGO and then DGO locked that almirah and then went outside and PW-1 gave signal to the police. The witness has further stated that when police officer came near PW-1, he told that he has kept the amount in the almirah of the DGO and then police officer questioned the DGO and the almirah was opened and the amount of Rs.1,500/- which was in the almirah was taken out and the currency notes were checked and confirmed that it were the same notes entrusted to the complainant in the station. The witness has further stated that DGO gave a written explanation as per Ex.P-6 and then a mahazar as per Ex.P-2 was prepared in the office and he signed that mahazar. The witness is treated is an hostile witness and cross-examined by the presenting officer. During cross-examination, the witness has admitted that the complaint given by PW-1 was shown to me in the station. PW-3 has also admitted that when police officer questioned the DGO he opened the almirah and shown the amount which was kept in the almirah. When PW-3 is cross-examined by the counsel for DGO he has denied the suggestion that no entrustment proceedings were held in Lokayukta station and no amount was entrusted to PW-1 in the station. The witness has also denied the suggestion that the DGO did not tell the police officer that he had asked PW-1 to keep the amount in the almirah.

11. PW-4 Sri. D.S. Jayakumar has stated in his evidence that he worked as Police Inspector in Karnataka Lokayukta, Tumkur and on 23/04/2011 PW-1 appeared in Lokayukta station, Tumkur and filed a written complaint alleging that the DGO in this case demanded bribe of Rs.7,000/- for release of the amount towards National Rural Employee Guarantee Scheme and received Rs.5,500/- and demanded payment of the remaining amount and received that complaint and registered case against DGO. The witness has further stated that the complainant produced his mobile in which conversation between him and DGO was recorded. PW-4 has further stated that he secured PWs 2 and 3 to the station as panch witnesses and Rs.1,500/- was taken from PW-1 and serial numbers of the currency notes were noted down in a sheet of paper and then phenolphthalein powder was smeared on the currency notes and the same was entrusted to PW-1 with instruction to handover the money to the DGO if he demand for the same and then give signal about the same. PW-4 has further stated that he instructed PW-3 to accompany the complainant when the complainant go and meet the DGO and observe the happenings and a mahazar was prepared in the station as per Ex.P-3. The witness has further stated that on the same day he along with PWs 1 to 3 and other policemen went to Kunigal Town and PWs-1 and 3 were sent inside the office of Panchayathraj Engineering Sub-Division and after some time PWs 1 and 3 came back and told that the DGO was not in the office and when PW-1 contacted him through phone, he asked him to come on Monday and therefore they came back and the bait

amount was taken back from PW-1 and kept it in the almirah and instructed PWs 1 to 3 to come on 25/04/2011 and sent them. The witness has further stated that PWs 1 to 3 again came to the station on 25/04/2011 and the amount kept in the almirah was taken out and entrusted to PW-1 and a voice recorder was also given to PW-1 by preparing mahazar as per Ex.P-5. The witness has further stated that on the same day they went to Kunigal and PWs 1 and 3 were sent inside the office of Panchayathraj Division and at about 1-30 p.m. PWs 1 and 3 came out and gave pre-arranged signal about handing over money and immediately he along with the other panch witness went near the complainant and the complainant shown the DGO and told that he kept the amount in the almirah of DGO on his direction. PW-4 has further stated that he disclosed his identity to the DGO and then he went inside and the amount which was in the almirah of the DGO was taken out and the currency notes were the same notes which were entrusted to PW-1. The witness has further stated that DGO gave a written explanation as per Ex.P-6 and PW-1 and 3 told that the bait amount was kept in the almirah on the instruction of DGO. PW-4 has further stated that he seized documents at Ex.P-7 and prepared mahazar as per Ex.P-2 and conducted investigation and received report of the chemical examiner as per Ex.P-8. During cross-examination, it is suggested to the witness that PW-1 has not given any complaint against DGO and the complaint at Ex.P-1 is created and the witness has denied the suggestion. It is further suggested to the witness no entrustment proceedings or trap proceedings were held and the mahazar are prepared

in the station itself and the witness has denied the suggestion. It is also suggested to the witness that no amount was seized from the almirah of DGO and the witness has denied the same.

12. In this case, PW-1, who is the complainant, has not supported the case of the disciplinary authority in the evidence given before this authority. Even though PW-1 is treated as hostile witness and cross examined by the presenting officer, the witness has not said anything in support of the case of disciplinary authority. Anyhow PW-1 has admitted the signature in the complaint at Ex.P-1 and also in the entrustment mahazar and trap mahazar. It is significant to note that PW-1 is an educated person. Therefore, it is not possible to believe his say that he was taken to Lokayukta station by his friend and got filed false complaint through him. The evidence of PWs 2 to 4 shows that PW-1 was present in the station and participated in the entrustment proceedings and also he went to the DGO along with Pw-3 and handed over bait amount to the DGO and then gave signal. Therefore, I am of the view that PW-1 has deliberately suppressed real facts in his evidence either because he is won over by the DGO or he has become kind towards him.

13. As discussed supra PW-3, is the shadow witness, who had accompanied the complainant at the time of trap and he has also supported the case of the disciplinary authority on all material points except regarding DGO asking the complainant for money. PW-3 in his oral evidence has stated that though he saw PW-1 talking to the DGO at the time of

trap and then keeping the bait amount in the almirah of DGO and immediately DGO locked almirah, he could not hear the conversation between DGO and complainant when the complainant met the DGO at the time of trap. After careful scrutiny of the evidence of PW-3, I am of the view that there is no reason or ground to disbelieve or to discard his evidence. It is to be noted that PW-3 is an independent witness and he has no reason or ground to falsely implicate the DGO in a corruption case. After careful scrutiny of the evidence of PW-3, I am of the view that the evidence clearly shows that the DGO had demanded the complainant to give the money and then asked him to keep the amount in his almirah and immediately after the amount was placed in the almirah, DGO locked the almirah and went out. If really DGO had not demanded money from the complainant, then he would not have allowed the complainant to keep the bait amount in his almirah. The evidence of PWs 2 and 4 shows that the bait amount which was entrusted to the complainant in the station was later found in the almirah of the DGO. Therefore, it is clear that the DGO received money from the complainant at the time of trap. In the written explanation given by the DGO to the police officer as per Ex.P-6, DGO has clearly admitted the fact that complainant kept the amount in his almirah and immediately afterwards he locked the almirah. This makes it abundantly clear that the DGO had accepted the bait amount from the complainant at the time of trap. The DGO being a public servant would not have allowed the complainant to go near his almirah and keep the amount there, if he had not asked the complainant for money. The

evidence of PW-3 regarding entrustment of bait amount to the complainant in the station and later recovery of the bait amount from the almirah of DGO is corroborated by the evidence of PWs 2 and 3. It is to be noted that PW-2 is also an independent witness and the witness has clearly stated that the bait amount which was entrusted to the complainant in Lokayukta station was later recovered from the almirah of DGO. No doubt, DGO had not touched the bait amount at the time of trap, but the circumstances of the case and also the evidence of PW-3 makes it abundantly clear that when PW-1 was sent to the DGO along with bait amount, he talked to the complainant and then complainant kept the amount in the almirah of DGO. Hence, there is no doubt that the DGO had demanded bribe from the complainant and accepted the bait amount at the time of trap by asking the complainant to keep the amount in his almirah.

14. The evidence of PWs 2 to 4 shows that PW-1 had approached Lokayukta police, Tumkur on 23/04/2011 and filed complaint as per Ex.P-1. PW-3 has specifically stated about PW-1 appearing in the police station on 23/04/2011 and filing complaint as per Ex.P-1. PWs 2 and 3 have also spoken about the presence of PW-1 in the station when they went to the station and also they going through the complaint at Ex.P-1. Hence, the evidence given by PW-4 about PW-1 filing complaint at Ex.P-1 can be safely believed. PW-1 has specifically alleged in the complaint at Ex.P-1 that DGO had demanded bribe from him for release of the amount in respect of the work executed by him under NREG Scheme. The complaint at Ex.P-1 corroborates the evidence of PWs 2 to 4

about the complainant approaching the Lokayukta police for filing complaint against the DGO.

15. Learned counsel appearing for the DGO in his arguments has relied on number of decisions of Hon'ble Supreme Court As well as Hon'ble High Court of Karnataka and submitted that the disciplinary authority has failed to prove the charge framed against DGO and the evidence produced in the case cannot be relied upon and it give room for serious doubts. After going through the decisions relied on by the learned counsel for DGO, I am of the view that those decisions are rendered in respect of appreciation of evidence in a criminal case filed alleging offences under the provisions of Prevention of Corruption Act. Now the law is well settled that the appreciation of evidence in a criminal case is entirely different from appreciation of evidence in a departmental enquiry case. The standard of proof required in a criminal case is also entirely different from the proof required in departmental enquiry case. In the criminal case strict proof is required to prove the offence alleged beyond reasonable doubts, where as in departmental enquiry the charge can be proved on the basis of preponderance of probabilities. Therefore, the arguments advanced on behalf of the DGO cannot be accepted.

16. Learned counsel in his arguments submitted that the DGO is already acquitted in the criminal case in Special Case No.72/2012 on the file of 2nd Addl. District & Sessions Judge, Tumkur, which was also filed on the same set of facts and therefore the DGO cannot be held guilt in departmental enquiry. Hon'ble Supreme Court in the decision reported in

(2005) 7 SCC 764 (Ajithkumar Nag V/s General Manager (PJ) Indian Oil Corporation Limited, Haldia and Others has held that;

“As far as acquittal of the appellant by a criminal court is concerned, in our opinion, the said order does not preclude the Corporation from taking an action if it is otherwise permissible. In our judgement, the law is fairly well settled. 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 the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rules relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused “beyond reasonable doubt”, he cannot be convicted by a court of law. In a departmental enquiry, on the other hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of “preponderance of probability”. Acquittal of the appellant

by a Judicial Magistrate, therefore, does not ipso facto absolve him from the liability under the disciplinary jurisdiction of the Corporation. We are, therefore, unable to uphold the contention of the appellant that since he was acquitted by a criminal court, the impugned order dismissing him from service deserves to be quashed and set aside.”

In another decision reported in (1997) 2 SCC 699 (Depot. Manager, AP State Road Transport Corporation V/s Mohammed Yusuf Miya and Others) has held that “ the purpose of departmental enquiry and of prosecution are two different and distinct aspects. The criminal prosecution is launched for an offence for violation of a duty, the offender owes to the society or for breach of which law has provided that the offender shall make satisfaction to the public. So, crime is an act of commission in violation of law or omission of public duty. The departmental enquiry is to maintain discipline in the service and efficiency of public service.” Therefore, acquittal of the DGO in the criminal case by the Sessions Court, Tumkur will not help the DGO in this case.

17. 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 the DGO, while working as Junior Engineer in Panchayathraj Engineering Sub-Division, Kunigal had demanded the complainant to pay bribe in order to make payment in respect of the work done by the complainant under MNREG Scheme and again he demanded and accepted the bait amount from the complainant at the time of trap. Therefore, the DGO has failed to maintain absolute integrity and devotion to duty and he

has committed grave official misconduct, as defined under Rule 3 (i) to (iii) of the KCS (Conduct) Rules 1957 and hence I have answered the point formulated above in the **AFFIRMATIVE** and proceed to pass the following order.

:- ORDER :-

The charge framed against the DGO is proved.

It is reported that the DGO is going to retire from service on 31/07/2027.

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

ANNEXURE

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

- PW-1 Sri. Guruparasa (Complainant)
PW-2 Sri. Hanumanthaiah (Panch Witness)
PW-3 Sri. B.G. Suresh (Shadow Witness)
Pw-4 Sri. D.S. Jayakumar (Investigating Officer)

LIST OF WITNESSES EXAMINED ON BEHALF OF DGO:-

NIL

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

- Ex.P-1 : Certified copy of Complaint
Ex.P-2 : Certified copy of Trap Mahazar
Ex.P-3 : Certified copy of Entrustment Mahazar
Ex.P-4 : Certified copy of Mahazar
Ex.P-5 : Certified copy of another Mahazar
Ex.P-6 : Certified copy of Explanation given by DGO
Ex.P-7 : Certified copies of documents pertaining to PW-1

Ex.P-8 : Certified copy of FSL Report

LIST OF DOCUMENTS MARKED ON BEHALF OF DGO:-

NIL

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



KARNATAKA LOKAYUKTA

No.LOK/ARE-1/14-A/Enq.298/2012

M.S.Buildings,
Bengaluru,
Dated 4/11/2016

RECOMMENDATION

Sub: Departmental Enquiry against Sri Nagaraju,
the then Juiniior Engineer, Panchayath Raj
Engineering Sub-Division, Kunigal-reg.

Ref: 1.Government Order No.Gra.a.pa/21/enq/2012,
Bengaluru, Dated 3/7/2012
2.Nomination order by Hon'ble Upalokayukta-
dtd.17/7/2012

Government, by order dtd.3/7/2012, initiated the disciplinary proceedings against one Sri Nagaraju, the then Juiniior Engineer, Panchayath Raj Engineering Sub-Division, Kunigal, (hereinafter referred to as 'DGO' in short) and entrusted the disciplinary proceedings to this institution.

This institution, by nomination order dtd.17/7/2012 nominated the Additional Registrar Enquiries-6 as enquiry officer to conduct the departmental enquiry against the DGO for the alleged misconduct alleged to have been committed by him. Subsequently, the enquiry was transferred to ARE-1. The enquiry officer, after completion of the departmental enquiry, has submitted his report dtd.2/11/2016, inter-alia, holding that, the disciplinary authority has proved the charges as framed against the DGO.

S. W.

The charge alleged against the DGO was that, while he was working as Juiniior Engineer, Panchayath Raj Engineering Sub-Division, Kunigal,one Sri Guruprasad s/o Ramakrishnappa, a Contractor, (hereinafter referred to as 'complainant) who had executed the work of forming box drain from Anjaneya Temple to Harijan colony of Kuttalli village of Begur Village Panchayath under MGREG scheme, requested the DGO to give the papers containing the particulars given by one Sri Narasimhamurthy, the then Asst.Executive Engineer to present the same to the Secretary of Begur village panchayath for the purpose of getting his bill sanctioned. However, the DGO, to discharge his official function, demanded Rs.7,000/- as bribe amount on 15/4/2011 and received Rs.5,500/-. The DGO further demanded and received the balance of bribe of Rs. 1,500/- on 25/4/2011 from the complainant 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, 1968'.

The Disciplinary authority, to discharge its burden, has examined 4 witnesses, i.e., the complainant as PW1, panch witness as PW2, shadow witness as PW3 and the IO as PW4. Whereas, the DGO got examined 2 witnesses as DW1 and DW2.

Complainant PW1 was treated as hostile and was cross examined. He has admitted his signature on the pre trap mahazar and seizure mahazar as well as on the complaint. His evidence supports the disciplinary authority. Whereas, PW3 shadow witness has also been trated as hostile. But, in his cross-examination, he has admitted

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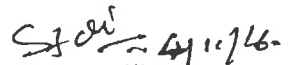
that, he was present in the Lokayukta police station and he identifies his signature on the documents.

PW4 the IO's evidence corroborates with the evidence of PW2 as well as the cross examination of PW1 and PW3. The evidence led by the Disciplinary Authority reveals that, the DGO, in order to hand over the papers to the complainant, demanded and accepted the bribe amount. There is a consistency in the evidence of the witnesses that, the tainted amount was found in the almerah of the DGO and the DGO removed the tainted amount. The DGO, failed to discharge his burden, as the tainted amount was found in his almerah.

In view of the findings of the enquiry officer and also having regard to the nature and gravity of misconduct committed by the DGO, as required under Rule 14-A(d) of the KCS (CCA) Rules, 1957, it is hereby recommended to the Government that, the DGO Sri Nagaraju, the then Juinior Engineer, Panchayath Raj Engineering Sub-Division, Kunigal, **be punished with order of dismissal from service** in exercise of power under Rule 8(viii) of the KCS (CCA) Rules, 1957.

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

