

GOVERNMENT OF KARNATAKA



KARNATAKA LOKAYUKTA

NO:UPLOK-1/DE/310/2015/ ARE-4

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001,
Date: 13/04/2018

RECOMMENDATION

Sub:- Departmental inquiry against Sri H.Vinod Kumar, the then Executive Engineer, KPC No.2 Sub Division, Bhalki (Presently working as Executive Engineer, Cauvery Neeravari Nigam Limited, Design & Investigation Division, Bannur)- reg.

Ref:- 1) Government Order No.ಜಸಂಇ 82 ಸೇಇಎ 2015, Bengaluru dated 6/6/2015

2) Nomination order No.UPLOK-1/DE/310/2015, Bengaluru dated 10/6/2015 of Upalokayukta-1, State of Karnataka, Bengaluru

3) Inquiry Report dated 11/4/2018 of Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru

The Government by its Order dated 6/6/2015, initiated the disciplinary proceedings against Sri H.Vinod Kumar, Executive Engineer, then working at K.P.C. Division No.2, Bhalki (Presently working at Design & Investigation Division, Bannur) (hereinafter referred to as Delinquent Government Official for short as **'DGO'**) and entrusted the Departmental Inquiry to this Institution.

2. This Institution by Nomination Order No.UPLOK-1/DE/310/2015, Bengaluru dated 10/6/2015, nominated Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct Departmental Inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO Sri H.Vinod Kumar, Executive Engineer, then working at K.P.C. Division No.2, Bhalki (Presently working at Design & Investigation Division, Bannur) was tried for the following charge:-

“That you – DGO/ Sri H. Vinod Kumar, while working as Executive Engineer in Water Resources Department of KPC Division No.2 at Bhalki during the year 2005-06 illegally granted permission to one Sri Manikappa S/o. Mallappa to lay the Water Pipeline through the land of complainant in Sy. No.48/2 of Konteshirsi Village in Bhalki Taluk without the consent or NOC inspite of objections by complainant Sri Mallikarjun S/o. Shivaraj Punna R/o. Kunte Sirsi that too by showing as permission is given to draw the water from Maanzra river in fact the said river is Kaaranza. Thereby, you DGO being a Government Servant failed to maintain absolute integrity besides devotion to duty and which act of yours is unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R. 3(1)((i) to (iii) of Karnataka Civil Services (Conduct) Rules, 1966.”

4. The Inquiry Officer (Additional Registrar of Enquiries-4) on proper appreciation of oral and documentary evidence has held that the Disciplinary Authority has proved the above charge against DGO Sri H.Vinod Kumar, Executive Engineer, then working at K.P.C. Division No.2, Bhalki (Presently working at Design & Investigation Division, Bannur).

5. On re-consideration of inquiry report, I do not find any reason to interfere with the findings recorded by the Inquiry

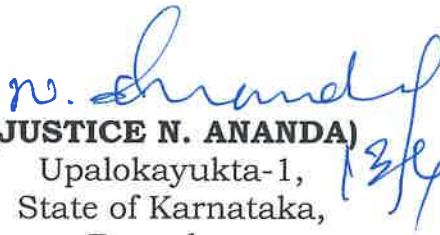
Officer. It is hereby recommended to the Government to accept the report of Inquiry Officer.

6. As per the First Oral Statement submitted by DGO, he is due to retire from service on 31/1/2020.

7. Having regard to the nature of charge proved against DGO Sri H. Vinod Kumar, it is hereby recommended to the Government for imposing penalty of reducing the pay in the time scale of pay by two lower stages, with cumulative effect on DGO Sri H.Vinod Kumar, Executive Engineer, then working at K.P.C. Division No.2, Bhalki (Presently working at Design & Investigation Division, Bannur).

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

Connected records are enclosed herewith.


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

KARNATAKA LOKAYUKTA

No.LOK/ARE-4/ENQ-310/2015

M.S.Building,
Dr.B.R.Ambedkar Road
Bangalore-560 001
Date: 11/04/2018

ENQUIRY REPORT

Sub: Departmental Enquiry against,

Sri H. Vinod Kumar
Executive Engineer
Cauvery Neeravari Nigama Limited
Design and investigation Division
Bannur (previously working in KPC
NO. 2, Sub-division at Bhalki)

- Ref:**
- 1) Report u/s 12(3) of the K.L Act, 1984 in
Compt/Uplok/GLB/639/2007/DRE-3
dated: 06/04/2015
 - 2) Govt. Order. No.WRD 82 SDE 2015,
Bangalore dated: 06/06/2015
 - 3) Order No.UPLOK-1/DE/310/2015
Dtd.10/06/2015 of the Hon'ble
Upalokayukta

1. This Departmental Enquiry is directed against Sri H. Vinod Kumar, Executive Engineer, Cauvery Neeravari Nigama Limited, Design and investigation Division Bannur (previously working in KPC No. 2, Sub-division at Bhalki) (herein after referred to as the Delinquent Government Official in short "DGO")

2. After completion of the investigation a report u/sec. 12(3) of the Karnataka Lokayukta Act was sent to the Government as per Reference No.1.

3. In view of the Government Order cited above at reference-2, the Hon'ble Upalokayukta, vide order dated: 10/06/2015 cited above at reference-3, 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.

4. The Articles of Charges framed by ARE-4 against the DGO is below;

ANNEXURE NO.I
CHARGE

That, you-DGO/Sri H. Vinod Kumar, while working as Executive Engineer in Water Resources Department of KPC Division No.2 at Bhalki during 2005-06 illegally granted permission to one Sri Manikappa s/o Mallappa to lay the water pipe line through the land of complainant in sy.No. 48/2 of Konteshirsi village in Bhalki Taluk without the consent or NOC inspite of objections by complainant Sri Mallikarjun s/o Shivaraj

Punna r/o Kunte Sirsi that too by showing as permission is given to draw the water from Maanzra river in fact the said river is Kaaranza. Thereby, you-DGO being a Government Servant failed to maintain absolute integrity besides devotion to duty and which act of yours is unbecoming of a Government Servant and thereby committed misconduct as enumerated U/R 3(1)(i) to (iii) of Karnataka Civil Service (Conduct) Rules 1966.

ANNEXURE NO.II
STATEMENT OF IMPUTATIONS OF MISCONDUCT

3. On the complaint filed by Sri Mallikarjun s/o Shivaraj Punna r/o Kunte Sirsi in Bhalki Taluk, alleging that, permission has been illegally issued in favour of one Shri Manikappa s/o Mallappa for laying pipeline through the land bearing sy.No. 48/2 and 48/3 belonging to the complainant's family members, without obtaining consent or NOC from them to draw water from Maanzra river though the said river is "Kaaranza" (ಕಾರಂಜಾ) and not "Maanzra (ಮಾಂಜರಾ)river (herein after referred as "complainant" for short), against DGO committed misconduct, an investigation was taken up u/sec. 9 of Karnataka Lokayukta Act 1984).

After taking up investigation, when A.E.E., KPCC Sub-division No.3 at Bhalki in Bidar District and complainant were asked to furnish the name and the present address of the officer, who issued the permission, he furnished the name of Shri M.H. Eshwara Naik- presently working as Superintending Engineer in "Krishna Bhagya Jala Nigama Niyamitha" at Bheemarayanagudi

in Shahapur Taluk. But he submitted that, the permission was issued by you-DGO.

You-DGO issued permission on the basis of the report submitted by the A.E.E., and by oversight, the name of the river was wrongly mentioned as "Maanzra" instead of "Kaaranja" and the same was corrected at the instance of Shri. Manikappa s/o Mallappa and the permission issued has expired on 20/02/2011 and thus denied the allegations made in the complaint.

A careful consideration of the entire material on record shows that:

(i) As per the RTC produced by the complainant, he and four others of his family are in possession of land bearing Sy.No. 48/2 measuring 16 Acres 6 guntas at Konteshirsi village in Bhalki Taluk;

(ii) As per the survey map issued by the surveyor, Shri Manikappa has drawn pipe line to his land bearing Sy.No. 46 through the land bearing Sy.No. 48/2 of complainant's family members and also land of one Shri. Shankar besides Shri. Vaijanath;

(iii) You-DGO being the competent authority to issue permission for drawing water from the river, has granted the same to Shri Manikappa without the consent of the complainant or his family members, though Shri Shankar and Shri. Vaijanath only had given consent to draw pipe line through their lands;

(iv) *The complainant claimed that while drawing pipe line, Shri. Manikappa has caused damage to the tombs of his (complainant's) ancestors in his land.*

(v) *The complainant has, in the meanwhile, obtained a decree against Shri. Manikappa in that regard and also filed a criminal case of tress pass ending in the conviction of Shri. Manikappa;*

(vi) *Though the survey sketch issued by the surveyor clearly showed that pipeline was required to be drawn through the lands of the complainant and his family members as well, consent or no objection from the complainant or his family members was not taken by Shri. Manikappa nor asked by you-DGO.*

(vii) *Inspite of filing objection by the complainant, you-DGO has not taken any action on it.*

(viii) *Further, while issuing permission, you-DGO has shown the name of the river for which permission was given to take water as "Maanzra" river instead of "Kaaranja" river, which shows how carelessly permission was granted.*

In view of said facts and the material on record, reply offered by you-DGO has not been found satisfactory to drop proceedings as noted/ordered in the order sheet. But A.E.E, was not the Competent Authority nor issued permission.

The said facts supported by the material on record prima facie show that, you-DGO being a Government Servant, has failed to maintain absolute integrity besides absolute devotion

to duty and acted in a manner unbecoming of a Government Servant and thereby committed misconduct under rule 3(1)(i)(ii) & (iii) of KCS (Conduct) Rules 1966 and made yourself liable for disciplinary action, now acting u/sec. 12(3) of Karnataka Lokayukta Act, recommendation is made to the Competent Authority to initiate disciplinary proceedings against you-DGO and to entrust the inquiry to this Authority under Rule 14-A of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957. In turn Competent Authority initiated disciplinary proceedings against you-DGO and entrusted the Enquiry to this institution vide Reference No.1 and Hon'ble Upalokayukta-1 nominated this enquiry Authority, to conduct enquiry and report Vide reference NO.2 . Hence, this charge.

5. DGO appeared before this Enquiry Authority on 29/09/2015 and on the same day his First Oral statement was recorded U/R 11(9) of KCS (CC & A) Rules 1957. The DGO pleaded not guilty and claims to hold an enquiry.

6. DGO has filed his written statement as follows:-

The DGO has already submitted his part of explanation during the preliminary enquiry when the enquiry was pending before the Addl. Registrar of Enquiries and at that time itself he has submitted that the relevant documents along with his written explanation. The averments made by the complainant in his complaint are frivolous and baseless. The complainant has given wrong boundaries to sy.No. 48/3. The correct boundaries are East by Basavaraj s/o Shivaraya land, West by lands of Omkar, Hanumanth and Shankar, North by Omkar and his brothers land, South by: Kaaranja river. The

permission was granted to lay pipeline to enable drawing of water from Kaaranja river and the said pipeline had to pass in between sy.No. 48/4, survey NO. 5 and survey No. 8 and 6. Hence, it is clear that, the permission was not at all granted to lay pipeline in the land of the complainant bearing sy.No. 48/03. Therefore, obtaining no objection from the complainant do not arise at all. There is a typographical error in authroisation letter with regard to the name of the river. The name of the river should have been "Kaaranja" instead it was written as "Manjra" which is a typographical error and it has been rectified afterwards. The Tahasiladar of Bhalki Taluk has also issued permission to lay pipelines in sy.No. 46 and the same was based on the report submitted by the Revenue Inspector. The DGO has acted in good faith without showing any favour to any person. The allegations made against the DGO are all baseless, the civil and criminal dispute between the complainant and Sri Manikappa is not known to the DGO. The DGO has not committed any misconduct as alleged. Hence, he prays to exonerate him from the charges leveled against him in this case.

7. In order to substantiate the charge leveled against the DGO, the Disciplinary Authority examined in all two witnesses as PW1 and PW2 and got marked documents at Ex.P1 to P13. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of DGP recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. Recording the answers of DGO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

8. The Disciplinary Authority as well as the DGO have not submitted their written brief. Oral arguments of the Presenting Officer was heard.

9. Upon consideration of the oral and documentary evidence placed on record, the defence of DGO, the only points, that arises for the consideration of this enquiry authority is:-

1) Whether the Disciplinary Authority satisfactorily proved the charge framed against DGO?

2) What order?

10. My finding on the above points are as follows

Point No.1: In the “**AFFIRMATIVE**”

Point No.2: As per the final order for the following:

:: REASONS ::

11. **Point NO.1:** It is the case of the Disciplinary Authority that, the DGO while working as Executive Engineer in Water Resources Department of KPC No.2, Sub-Division at Bhalki during 2005-2006 illegally granted permission to one Sri Manikappa s/o Mallappa to lay water pipeline through the land of the complainant bearing No. 48/2 of Konteshirsi village in Bhalki Taluk without consent or NOC of the complainant and thereby DGO failed to maintain absolute integrity and devotion to duty. It is not in dispute that, at the relevant point of time, the DGO was working as Executive Engineer in Water Resources Department KPC No.2, Sub-division at Bhalki and he has given the permission dated:

21/02/2006 to one Sri Manikappa s/o Mallappa to lay water pipe from Kaaranja river to the land of the above said Sri Manikappa s/o Mallappa bearing sy.No. 46. By going through the sketch copies produced by both parties it can be said that towards the northern side of Kaaranja river there is land bearing sy.No. 48 and towards the northern side of sy.No. 48 there is the land of the above said Sri Manikappa bearing sy.NO.46.

12. Complainant has been examined as PW1 and the complaint lodged by him before the Lokayukta is at Ex.P1. The gist of the Ex.P1 is to the effect that, the complainant is the owner in possession of the land bearing sy. No. 48/2 to the extent of 3 acre 10 guntas and towards northern side of his land there is a land of above said Sri Manikappa. There is Samadhi of ancestors of the complainant in his above said land. As per general Rules under the Karnataka Land Revenue Act if any person wants to utilise the water from any river and take the water to his land he has to seek permission from Deputy Commissioner to lay pipeline and in that respect the owners of the lands in which the pipeline will be laid have to give their consent. The above said Sri Manikappa has represented upon the DGO by producing ~~the~~ false documents and got permission to draw the water from the river to irrigate his land bearing sy.NO. 46 and the DGO has granted permission without ^{the} permission of the complainant and without verifying the records. After coming to know about the permission granted the complainant filed his objections on 13/06/2007 and 27/07/2007 and also filed objections before JESCOM, Bhalki on 13/06/2007 and 23/07/2007. But the

concerned authorities have not considered the objections. It is further stated that, even though Sri Manikappa was permitted only to lay pipeline to his land bearing sy.No. 46 he has laid the pipeline in sy.No. 48/2 of the complainant where the Samadhi of the ancestors of the complainant are situated, due to which there is damage to the Samadhi and initially the permission was given to the effect that, Sri Manikappa is permitted to draw the water from "Maanzra" river to the land bearing sy.No. 46. But afterwards there is rectification and instead of "Maanzra" river "Kaaranja" river on the ground that, it is the typographical mistake. PW1 has deposed that the copy of the permission granted by the DGO is produced along with the complaint and it is part of Ex.P4. According to the same the said Sri Manikappa has been permitted to draw the water from the "Maanzra" (later amended as "Kaaranja" river) to his sy.No 46 by using 5 H.P. Motor. In the same one of the condition is to the effect that, the permission granted can be revoked at any time without giving any reasons or notice. In the same it is not stated through which survey No. land Sri Manikappa is permitted to draw the pipeline. No sketch is annexed to the above said permission to show in which survey number Sri Manikappa is permitted to lay the pipeline. But it is only stated that, he has been permitted to draw water from the above said river to his sy.No. 46 measuring 3 acre 18 guntas. Ex.P4 also contains copy of the agreement between the DGO and Executive Engineer, KPC No.2, Sub-division at Bhalki in which it is stated that, Sri Manikappa is permitted to lift the water for irrigation purpose to his land bearing sy.No. 46 from the above said "maanzra" river (later amended as "kaaranja" river) for a period of 5 years.

13. PW1 has deposed that, without his permission, the DGO has laid water pipeline in his land bearing sy.No 48/2 and thereby caused damage to the Samadhi of his ancestors situated in sy.No.48/2. He has deposed that, he objected for the permission granted to the above said Sri Manikappa after coming to know about the same. But no action has taken on his complaint. He has deposed that, sy.No. 48/2 totally measures 16 acres 10 guntas and it belongs to himself and his brothers. Ex.P4 also contains the RTC extract of sy.No. 48/2 for the year 2006-2007 which stands in the joint names of the complainant and his brothers. It is not in dispute that, sy.No. 48/2 totally measuring 16 acres 6 guntas belongs to the complainant and his brothers and as stated above, it is the specific case of the complainant that out of the same his extent is 3 acre 10 guntas and in the said 3 acre 10 guntas water pipeline has been laid. It is also not in dispute that, sy.No. 46 belongs to above said Sri Manikappa and it is situated towards northern side of sy No. 48/2 .

14. DGO has produced some documents along with his comments (copies of the documents) and one of the document is the permission said to have granted by Tahasildar, Bhalki, in favour of Sri Manikappa dated: 16/09/2006. In the same it is stated that, Sri Manikappa has sought for drawing water to his land bearing sy.No. 46 from kaaranja river through pipeline and in that respect report of the Revenue Inspector is received and the Revenue Inspector has reported that Sri Manikappa has to take water through sy.No. 48 and pattadars of sy.No. 48 have given no objection for the same and hence the permission sought for is granted. In the above said

document it is not stated who are the pattadars of sy.No. 48 who have given no objection and the DGO has not produced any documents to show that, before the Revenue Inspector the complainant has given no objection for drawing pipeline in his land bearing sy.No. 48/2. In fact no objection said to have been given by the pattadars of sy.No. 48 before Revenue Inspector is not produced.

15. Another document produced by the DGO is the sketch copy (touch map) in which it is shown that, the pipeline passed through sy.No. 48/6 and 48/4 to reach sy. No. 46, but the same is not annexed to the permission granted to Sri Manikappa and it cannot be given much weight. In the same it is shown that, sy.No. 48/6 belongs to Sri Veerashetty s/o Shivaraya and sy.No. 48/8 belongs to one Sankappa @ Shankarappa s/o Gundappa. Another document produced is the permission giveⁿ to Sri Manikappa s/o Mallappa by the E.E., KPC No. 2 Sub-Division at Bhalki wherein it is stated that, the permission is given to draw water from "maanzra" river (later amended as "kaaranja" river) to sy.no. 46 In the same it is not stated that in Sy.No. 48/6 and 48/8 water pipeline has to be laid for the above said purpose. It is the case of the complainant that, without his no objection and without his knowledge the above said permission has been granted by the DGO and the said Sri Manikappa on the strength of the above said permission laid the pipeline in survey No. 48/2.

16. Complainant who has been examined as PW1, has produced copies of ~~the numbers of the~~^{many} documents which are together marked as per Ex.P4. One of the document produced

is the Xerox copy of no objection for laying the pipeline for irrigation purpose and the same is given by Sri Sankappa s/o Gundappa. In the same it is stated that, Sri Sankappa s/o Gundappa punna is the owner of land bearing sy.No. 48 and extent column is left "blank". In fact sy.No. 48 has been subdivided and many sub-numbers have been given and even the sub-number of the land belonging to Sri Sankappa is not mentioned in the above said affidavit. In the above said affidavit it is only stated that, Sri Sankappa has no objection for Sri Manikappa to take water by laying pipeline in his land bearing sy.No. 48. Another document produced by the complainant is RTC extract of sy.No.48/2 which shows that, it measures 16 acres 10 guntas and it stands in the joint names of PW1 and his brothers. As stated above, it is the case of the complainant that, out of the above said Acre 16-10 guntas he is the owner in possession of 3 acre 10 guntas and the boundaries of the same is also given in his complaint. The RTC extract of sy;NO.48/6^e shows that, it stands in the name of one Sri Omprakash s/o Basavantharao Mali Patil. But as stated above, in the touch map produced on behalf of the DGO it is stated that, sy.No. 48/6 belongs to Sri Veerashetty s/o Shivaraya. DGO has also not produced any RTC extract sy.No. 48/8 to show that, it stands in the name of Sri Sankappa. On the other hand, the RTC extract produced by the complainant bearing sy.No.48/4P1 shows that, it stands jointly in the name of Sri Sankappa s/o Gundappa and Sri Vaijanath s/o Gundappa Punna. Even assuming that, the above said Sri Sankappa is the Shankarappa who has filed his affidavit as stated above Sri Shankrappa is owner of sy.No. 48/4P1 along with his brother Sri Vaijanath, and not the exclusive owner of

the same. But according to touch map stated above, the pipeline does not go in sy.No. 48/4P1. Another RTC extract produced is regarding sy.No. 48/3P which stands in the name of Sri Sankappa s/o Gundappa Punne to the extent of 1 acre 30 guntas. According to touch map stated above, produced by the DGO even the pipeline does not go in sy.No. 48/3P also. Hence, it can be said the DGO has not cared to see whether the owners of sy.No. 48/6 and 48/8 shown in the touch map stated above have given no objection for Sri Manikappa to lay water pipeline or not. As stated above, there is the affidavit only Sri Sankappa @ Shankarapa in which the sub-number of sy.No. 48 is not mentioned nor the extent is mentioned.

17. PW1 has clearly deposed that, on the basis of the permission given by the DGO the above said Sri Manikappa has laid the pipeline in sy.NO. 48/2 belonging to the complainant and in that process damage has been caused to the Samadhi of the ancestors of the complainant and in that respect he has filed civil suit also. The complainant has produced copy of the judgment passed in O.S. No.30/2007 dated: 24/04/2010 which shows that, the complainant had filed the said suit against Sri Manikappa and his son Sri Surya kantha for removal of the pipeline laid by the defendant in sy.No.48/2, 48/3 and 42 and for damages etc., and that suit after contest has been decreed granting mandatory injunction against the defendants for removing the pipeline laid by them under ground in sy.No. 48/2, 48/3 and 42 which runs south-north takes turn to east, then take turn to south and then takes turn to east.

18. In the above judgment it is clearly held that the above said Sri Manikappa and his son have laid the pipeline in the land of the complainant bearing sy.No. 48/2 on the basis of the above said permission given by the DGO.

19. PW1 has also produced before the court the certified copy of the judgment passed in C.C. No.228/2007 on the file of the Civil Judge (Jr.Dn), JMFC, at Bhalki dated: 07/09/2010 which shows that, the complainant of this case was the complainant in the above said criminal case and the above said Sri Manikappa and his son were the accused persons. The above said case had been registered for the offences punishable u/sec. 447, 427, 504, 506 r/w 34 of IPC. The perusal of the judgment shows that, said case was filed in view of the accused persons stated above tress-passing to the land of the complainant and laying the pipeline in the land bearing sy.NO. 42 and causing damage to the complainant etc. The above said document also discloses that, the accused persons have been convicted in the above said case.

20. One of the document marked as Ex.P5 is the copy of the complaint given by Sri Vaijanath to A.E.E., Bhalki in which it is stated that, he has not given any permission to anybody to fix electric motor for drawing the water in his sy.No.48/4 measuring 30 guntas. Thus the DGO has not produced any authenticated document to show in which sub-numbers of sy.No. 48 permission was given to Sri Manikappa to lay pipeline. In the absence of the same the affidavit of Sri Sankappa stated above cannot be given much weight. More over as stated above, no sketch is annexed to the permission to show in which sub-number of survey No. 48 Sri Manikappa

was permitted to lay the pipeline. The DGO should have taken care to see that, no objection of the owner of the land in which the pipeline is going to be laid is obtained before given the permission. As stated above, the DGO has not produced any documents to show that, sy.No. 48/8, belongs to Sri Sankappa stated above. It has to be said that, DGO has not exercised due diligence before giving the permission to Sri Manikappa to draw the pipeline and permitted him to lay the pipeline in the land of the complainant without the consent of the complainant. In the written statement the DGO has contended that permission was granted to lay the pipeline in between sy.No. 48/4 and sy.No. 5,8 and 6 which is contrary to the touch map produced by the DGO.

21. It is also pertinent to note that, on the basis of the permission granted by the DGO the said Sri Manikappa has drawn the said pipeline in the land of the complainant bearing sy.No. 48/2 in respect of which the complainant had to file the civil suit as stated above and obtain the mandatory injunction.

It is not the case of the DGO that, Sri Manikappa has drawn the pipeline in sy.No. 48/2, even though permission was not granted to him to draw the pipeline in that sy.No. On the other hand, records discloses that, immediately after laying the pipeline in the land of the complainant, the complainant has given the complaint to DGO on 27/07/2007 to remove the pipeline illegally laid in his land. But the DGO has not taken any action in that respect. The copy of the letter dated: 27/07/2007 is one of the document of Ex.P4. Even in his comments DGO does not contend that, by misusing the permission granted the above said Sri Manikappa has laid the

pipeline in the land of the complainant and that he has taken action to cancel the permission issued to the above said Sri Manikappa. The DGO in his comments simply maintains that the Tahasildar, Bhalki had permitted to draw the pipeline and after getting no objection from the concerned owner the permission has been granted. Even if the touch map is considered, then it has to be said that, DGO should have canceled the permission granted to Sri Manikappa as he had not laid the pipeline in sy.No. 48/6 and 48/8. As stated above, no document is produced by the DGO to show that, sy.No.48/8 belongs to Sri Sankappa stated above.

22. It is pertinent to note that the casual approach of DGO in issuing the permission in favour of Sri Manikappa and not cancelling the same even after the complaint of the complainant clearly shows that, the DGO has not considered the complaint of the complainant at all which only shows that DGO had permitted Sri Manikappa to lay the pipeline in sy. No. 48/2 belonging to the complainant. Even in the cross-examination of PW1 nothing is made out to discard the evidence given by PW1. For all the reasons stated above, I hold that, the Disciplinary Authority has proved that, the DGO while working as Executive Engineer, in Water Resources Department of KPC No.2, sub-division at Bhalki has granted permission to the above said Sri Manikappa s/o Mallappa to lay the water pipeline in sy.No. 48/2 without obtaining no objection from the complainant who is the owner of the same.

23. Thus DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a

Government Servant. Hence, I answer the above point in the **AFFIRMATIVE.**

24. Point NO.2:- For the reasons discussed above, I proceed to pass the following:-

:: ORDER ::

The Disciplinary Authority has satisfactorily proved the charge in this case that, DGO-Sri H. Vinod Kumar, Executive Engineer, Cauvery Neeravari Nigama Limited, Design and investigation Division Bannur (previously working in KPC No. 2, Sub-division at Bhalki), committed mis-conduct as enumerated U/R 3(1) (i) to (iii) of Karnataka Civil Service (Conduct) Rules, 1966.

25. Hence this report is submitted to Hon'ble Upalokayukta -1 for kind perusal and for further action in the matter.

Dated this the 11th day of April, 2018

-Sd/-
(Somaraju)
Additional Registrar Enquiries-4,
Karnataka Lokayukta,
Bangalore.

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

- PW-1 :-Sri Mallikarjuna Punna (complainant)
 PW-2 :-Sri D.S. Vijayakumar (scrutiny officer)

LIST OF WITNESSES EXAMINED ON BEHALF OF THE DEFENCE:

NIL

LIST OF EXHIBITS MARKED ON BEHALF OF DISCIPLINARY AUTHORITY

- Ex.P-1: Original complaint
 Ex.P-2: Original Form No.1
 Ex.P-3: Original Form No.2
 Ex.P-4: Original complaint dated; 16/11/2007 with Xerox copies of the enclosures (total containing 17 sheets)
 Ex.P-5: Original rejoinder of the complainant dated: 30/11/2009 with enclosures
 Ex.P-6: Xerox copy of the letter of the complainant dated: 19/10/2010 with enclosures (containing 24 sheets)
 Ex.P-7: Original letter of complainant dated: 28/02/2013 with enclosures (containing 11 sheets)
 Ex.P-8: Original letter of the complainant dated: 27/08/2012
 Ex.P-9: Xerox copy of the letter of the respondent NO.2 (M.H. Eshwara nayak) dated: 24/09/2012
 Ex.P-10:Original comment of the DGO with certified copy of enclosures (containing 7 sheets)
 Ex.P-11: Original letter of DGO dated: 27/01/2014with certified copy of the enclosure (containing 2 sheets)
 Ex.P-12: Certified copy of the letter of Sri Ramachandra, Village Accountant dated: 13/11/2008 addressed to Tahasildar
 Ex.P-13:Xerox copy of the 12(3) report dated: 06/04/2015

LIST OF EXHIBITS MARKED ON BEHALF OF DGO:

NIL

Dated this the 11th day of April, 2018

-Sd/-

(Somaraju)

Additional Registrar Enquiries-4,
 Karnataka Lokayukta,
 Bangalore.

