



KARNATAKA LOKAYUKTA

No.LOK/INQ/14-A/431/2011/ARE-4

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 16.09.2019.

RECOMMENDATION

Sub:- Departmental inquiry against Shri Vasu Bhimassen, the then Junior Engineer(Elecl), P.D.Halli Rural Sub-division, GESCOM, Bellary - reg.

Ref:- 1) Proceedings Order No. KPTCL/B21/23522/2011-12 dated 15.11.2011 of the Director (A&HR), KPTCL, Bengaluru.

2) Nomination order No. LOK/INQ/14-A/431/2011 dated 23.11.2011 of Upalokayukta, State of Karnataka.

3) Inquiry report dated 12.09.2019 of Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru.

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The KPTCL by its Proceedings order dated 15.11.2011 initiated the disciplinary proceedings against Shri Vasu Bhimassen, the then Junior Engineer(Elecl), P.D.Halli Rural Sub-division, GESCOM, Bellary [hereinafter referred to as Delinquent Board Official, for short as 'DBO'] and entrusted the departmental inquiry to this Institution.

2. This Institution by Nomination Order No. LOK/INQ/14-A/431/2011 dated 23.11.2011 nominated Additional Registrar of Enquiries-3, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct departmental inquiry against DBO for the alleged charge of misconduct, said to have been committed by him. Subsequently, by Nomination Order No. LOK/INQ/14-A/2014 dated 14.03.2014 Additional Registrar of Enquiries-8, Karnataka Lokayukta, Bengaluru, was nominated as the Inquiry Officer and later on, by Nomination Order No. Uplok-2/DE/2016 dated 03.08.2016 Additional Registrar of Enquiries-4, Karnataka Lokayukta, Bengaluru, was re-nominated as the Inquiry Officer to continue the departmental inquiry against DBO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO - Shri Vasu Bhimasen, the then Junior Engineer(Elecl), P.D.Halli Rural Sub-division, GESCOM, Bellary, was tried for the following charge :-

"That, you Shri Vasu S/o Bhimasen Achar, while working as Junior Engineer(Elecl), P.D.Halli

Rural Sub-division, GESCOM, Bellary District demanded and accepted bribe of Rs.5,000/- on 12.12.2007 from complainant Sri T.Ganesh S/o late Hulugeppa r/o Bisilahalli Village in Bellary Taluk and District for shifting the live lines of Electricity running over his house that is for doing an official act, and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Board Employee and thus you are guilty of misconduct under Rule 3(1) of Karnataka Electricity Board Employees (Conduct) Regulations, 1988."

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 the DBO - Shri Vasu Bhimasen, the then Junior Engineer(Elecl), P.D.Halli Rural Sub-division, GESCOM, Bellary."



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

6. As per the First Oral Statement of DBO furnished by the Inquiry Officer, the DBO - Shri Vasu Bhimasen, has retired from service on 28.02.2014.

7. Having regard to the nature of charge (demand and acceptance of bribe) 'proved' against the DBO - Shri Vasu Bhimasen, the then Junior Engineer(Elecl), P.D.Halli Rural Sub-division, GESCOM, Bellary, it is hereby recommended to the Government to impose penalty of 'permanently withholding 50% of the pension payable to the DBO - Shri Vasu Bhimasen.

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA)  
Upalokayukta,  
State of Karnataka. 

**KARNATAKA LOKAYUKTA**

No.LOK/INQ/14-A/431/2011/ARE-4

M.S. Building  
Dr.B.R.Ambedkar Road  
Bengaluru-560 001  
Date: 12/09/2019

**:: INQUIRY REPORT ::**

**Sub:** Departmental Inquiry against,

- 1) Sri Vasu Bhimasen  
Junior Engineer (Elecl.)  
P.D. Halli  
Rural Sub-Division  
GESCOM, Bellary (**Now retired**)

**Ref:**

- 1) Report u/s 12(3) of the K.L  
Act, 1984 in Compt/Uplok/  
GLB/274/2008/DRE-5  
Dated:15/07/2011
- 2) Order. No. KPTCL/B21/  
23522/2011-12, Bengaluru dated:  
15/11/2011
- 3) Order No.LOK/INQ/14-  
A/431/2011, Bengaluru  
dated:23/11/2011  
of the Hon'ble Upalokayukta

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This Departmental Inquiry is directed against Sri Vasu Bhimasen, Junior Engineer (Elecl.), P.D. Halli, Rural Sub-Division, GESCOM, Bellary (**Now retired**) (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: 23/11/2011 cited above at reference-3, nominated Additional Registrar of Enquiries-3 of the office of the Karnataka Lokayukta as the Inquiry Officer to frame charges and to conduct Inquiry against the aforesaid DGO. Additional Registrar Enquires-3 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. As per order No.LOK/INQ/14-A/2014 dated: 14/3/2014 this inquiry was transferred to ARE-8. As per O.M. No.UPLOK-2/DE/2016 dated: 3.8.2016 of Honb'le Registrar this inquiry was transferred to ARE-4.

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

**ANNEXURE -I**  
**CHARGE:**

*That you, DGO Sri Vasu s/o Bhimasen Achar (herein after referred to as Delinquent Government Official, in short DGO), while working as Junior Engineer*

*(Elect.) P.D. Halli, Rural Sub-Division, GESCOM, Bellary District demanded and accepted a bribe of Rs. 5,000/- on 12/12/2007 from complainant Sri T. Ganesh s/o late Hulugeppa r/o Bisilahalli Village in Bellary Taluk and District for shifting the live lines of Electricity running over his house that is for doing an official act and thereby you failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Board Employee and thus you are guilty of misconduct under Rule 3(1) of Karnataka Electricity Board Employees (Conduct) Regulations 1988.*

### **ANNEXURE-II**

#### **STATEMENT OF IMPUTATION OF MISCONDUCT**

*The complainant Sri T. Ganesh s/o late Hulugeppa r/o Bisilahalli village in Bellary Taluk and District filed a complaint on 12/12/2007 before the DSP, Karnataka Lokayukta, Hospet alleging that the live lines of Electricity of GESCOM were running over his house and that he had filed an application before Karnataka Electricity Board on 29/07/2007 for shifting those live lines of Electricity and that Sri Vasu s/o Bhimasen Achar, Junior Engineer (Elect.) P.D. Halli, Rural Sub-Division, GESCOM, Bellary (herein after referred to as Delinquent Government Servant, in short DGO) told the complainant to come and see him after some time and that many a times he went to the DGO and asked him about the shifting of lines of Electricity and that the DGO made the complainant to wander to his house asking to come today and tomorrow and that on 11/12/2007 he again went to the GESCOM office and met the DGO and enquired with him about his work and at that time the DGO told him that his work*

would not be done if he comes with empty hands and he also told him that he would not do his work till he pays him a bribe of Rs. 5,000/-.

As the complainant was not willing to pay any bribe to the DGO, he went to DSP, Karnataka Lokayukta Bellary on 12/12/2007 and lodged a complaint. On the basis of the same a case was registered in Bellary Lokayukta Police Station Cr. No. 5/2007 for offences punishable under Sections 7, 13(1)(d) r/w section 13(2) of the P.C. Act 1988 and FIR was submitted to the concerned learned Special Judge.

After registering the case, investigating officer observed all the pre-trap formalities and entrustment mahazar was conducted and you, the DGO was trapped on 12/12/2007 by the Investigating Officer after your demanding and accepting the bribe amount of Rs. 5,000/- from the complainant in the presence of shadow witness and the said bribe amount which you had received from the complainant was seized from your possession under the seizure mahazar after following the required post-trap formalities. During the investigation the I.O. has recorded the statements of panchas and other witnesses and further statement of the complainant. The I.O. during the investigation has sent the seized articles to the chemical examiner and obtained the report from him and he has given the result as positive.

The materials collected by the I.O. during the investigation prima facie disclose that you, the DGO, demanded and accepted bribe of Rs. 5,000/- from the



*complainant on 12/12/2007 for doing an official act i.e., for shifting the live lines of electricity running over his house. Thus you, the DGO have failed to maintain absolute integrity and devotion to duty and this act on your part is unbecoming of a Government Servant. Hence, you have committed an act which amounted to misconduct as stated under Rule 3(1) of Karnataka Electricity Board Employees (Conduct) Regulations 1988.*

*In this connection an observation note was sent to you, the DGO and you have submitted your reply which, after due consideration, was found not acceptable. Therefore, a recommendation was made to the Competent Authority under Section 12(3) of the Karnataka Lokayukta Act 1984, to initiate Departmental Proceedings against you, the DGO. The Government after considering the recommendation made in the report, entrusted the matter to the Hon'ble Upalokayukta to conduct departmental/disciplinary proceedings against you, the DGO and to submit report. Hence, the charge.*

5. DGO appeared before this Inquiry Authority on 27/04/2012 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 inquiry.

6. The DGO has filed lengthy written statement and the gist of the same is as follows:-

The Articles of Charge made against the DGO is entirely denied. The DGO advised the complainant to pay the prescribed fee to the department to get the lines translocated.

Where as the complainant without adhering himself to the formalities repeatedly visited the DGO asking him to shift the lines. The DGO had received Rs.5,000/- from the complainant to deposit/pay the same to the GESCO office as the same was the fees that was to be remitted to the department towards shifting of electric lines. The DGO has not received any bribe amount. The DGO was the accused in Special Case No. 57/2008. After trial the DGO has been acquitted by the Hon'ble District Judge. In the written statement some observations made in the said judgment are also stated that the allegations and the charges leveled against the DGO are false and baseless. Hence, 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 five witnesses as PW1 to PW5 and got marked documents at Ex.P1 to P16. After closing the evidence of the Disciplinary Authority, the Second Oral Statement of DGO was recorded as required u/Rule 11(16) of KCS (CC & A) Rules, 1957. After closing the evidence of the Disciplinary Authority, DGO himself examined as DW1 and got marked documents at Ex.D1 to D10 and closed his evidence. Hence, recording the answers of DGO to questionnaire u/Rule 11(18) of KCS (CC&A) Rules was dispensed with.

8. PW3 is the I.O. and his examination in chief was recorded and before his cross-examination he died and hence PW5 by name Sri Sunkanna who has assisted the I.O. has been examined.

9. The Disciplinary Authority has not filed the written brief, but on the side of the DGO written brief has been filed. Oral arguments of the Presenting Officer and the learned counsel for the DGO was heard. The points, that arise for the consideration of this inquiry authority are:-

- 1) Whether the Disciplinary Authority has satisfactorily proved the charges 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: 1:** It is the case of the Disciplinary Authority that the DGO while working as Junior Engineer (Electrical) P.D. Halli, Rural Sub-Division, GESCOM, Bellary district demanded and accepted bribe of Rs. 5,000/- on 12/12/2007 from the complainant Sri T. Ganesh for shifting the electricity wires running over the house of the complainant and thereby failed to maintain absolute integrity and devotion to duty.

12. The complainant has been examined as PW2 and the copy of his complaint is at Ex.P9. In Ex.P9 it is stated that PW2 is the resident of Bisalahalli village and electric lines have been drawn above his house and for shifting the same he gave an application on 29/10/2007 to GESCOM office and met the Junior Engineer by name Sri Vasu in that respect and the Junior Engineer (DGO) told him to come after some days. Even though PW2 met the DGO several times every time the

DGO simply asked PW2 to come tomorrow or day after tomorrow. On 11/12/2007 PW2 went to the office of the DGO and asked the DGO about his work and the DGO told that his work cannot be done if he comes empty handed and that he should pay Rs. 5,000/- and that his work will be done and not willing to get his work done by paying bribe amount the complaint has been lodged. The complaint has been lodged on 12/12/2007 at 9 a.m.

13. PW2 in his examination in chief has deposed that he had given the application for shifting the electric wires which were passing over his house and in that connection he met the DGO and requested for shifting the electric wires. He has deposed that the DGO told him that he has to spend Rs. 5,000/- towards shifting the electric wires and he agreed to pay him Rs. 5,000/-. He has deposed that he went to the Lokayukta office and lodged the complaint and Ex.P4 is the copy of the complaint. He has deposed that the I.O. did not summon the witnesses and he did not produce any amount before the I.O. He has deposed that the DGO did not demand for bribe from him and he has not paid any bribe amount to the DGO. He has been treated as hostile witness and cross-examined by the learned Presenting Officer. In his cross-examination he has deposed that he has studied up to 8<sup>th</sup> standard and he has written the complaint as per Ex.P9. He has deposed that he wrote the complaint voluntarily without anybody's instructions and the contents of the same are true. Thus PW2 has admitted in his cross-examination that the complaint-Ex.P9 is in his hand writing and the contents of the same are true. If the same is taken into consideration it has to

be said that PW2 has lodged the complaint as per Ex.P9 in view of the DGO demanding for the bribe amount for Rs. 5,000/- for shifting the electric wires passing over his house. PW2 has also deposed in his cross-examination as follows;-

*“DGO demanded bribe amount of Rs. 5,000/- to shift the electric wire which were passing over my house”.*

14. Thus PW2 also admits the averments made in the complaint to the effect that the DGO demanded the bribe amount of Rs. 5,000/- to shift the electric wires which were passing over his house.

15. PW2 denies the entire remaining case of the disciplinary authority. In other words he denies the contents of the entrustment mahazar, the copy of which is at Ex.P1. He also denies the contents of the trap mahazar-Ex.P2. Thus he denies having paid Rs. 5,000/- to the DGO (bait amount) on 12/12/2007 and the DGO receiving the same and keeping the same in his pant pocket. He also denies the I.O. seizing the bait amount from the possession of the DGO. It is pertinent to note that the DGO in his written statement and also in his evidence as DW1 admits that on 12/12/2007 he had received Rs.5,000/ from the complainant and I.O. seized the same from him as bait amount. It is his case that PW2 paid that amount towards the deposit/pay the same to the GESCOM office as the fee for shifting electric line passing over his house. It is pertinent to note that there is no cross-examination of PW2 on the side of the DGO to the effect that on 12/12/2007 PW2 had paid Rs. 5,000/- to the DGO towards deposit/pay to the

GESCOM office for shifting the electric line passing over his house and that amount has been seized from the DGO. Non-cross-examination of PW2 in that respect on the side of the DGO only probablises the case of the disciplinary authority that on 12/12/2007, PW2 gave the tainted currency notes to the DGO as the bribe amount only and not as fee for shifting the electric wires passing over his house. As stated above, PW2 admits the contents of the complaint-Ex.P9 and lodging the complaint before the Lokayukta police and hence his evidence contrary to the contents of complaint and contrary to the averments made in Ex.P2 and P3 only shows that he has tried to help the DGO by suppressing the real facts.

16. PW1 is Sri N.T. Manjuantha, one of the pancha witness. He has deposed that on 12/12/2007 as per the instructions of his higher officer he went to the Lokayukta police station, Bellary and reported before the Dy.S.P. He has deposed that the complainant-Sri Ganesh, another pancha witness was present and Dy.S.P., informed him about the complaint given by Sri Ganesh. He has deposed that he read the complaint also and the complainant (PW2) produced the 10 currency notes of the denomination of Rs. 500/- and himself and another pancha witness noted the numbers and denomination of the currency notes in a chit. He has deposed that phenolphthalein powder was smeared to the notes and those notes were given to him and he kept those currency notes in the shirt pocket of PW2 and afterwards his hands were washed in the solution and that solution turned to pink colour. He has deposed that the I.O. prepared the entrustment mahazar and he has signed the same and copy of the same is

at Ex.P1. He has deposed that after the entrustment mahazar which was conducted between 10.30. a.m. to 11.15 a.m. they went to the office of the DGO in police jeep and PW2 and another pancha witness were asked to go inside the office to meet the DGO and PW2 was instructed to give the signal if the DGO receives the bribe amount. He has deposed that PW2 and another pancha witness went inside the office of the DGO and after some time PW2 came out from the office and gave the signal and immediately himself, I.O. and his staff went inside the office of the DGO and PW2 told that he has given the bribe amount to the DGO and the DGO kept the same in his pant pocket. He has also deposed that the hand wash of the DGO was positive and the tainted currency notes were seized from the possession of the DGO. He has also deposed about the pant wash of the DGO being positive. He has deposed that the trap mahazar was drawn and the copy of the same is at Ex.P2. He has also deposed that the I.O. also seized the documents pertaining to PW2 and the copies of the same are at Ex.P3 to P8. PW1 has been cross-examined and nothing is made out in his cross-examination to discard his evidence.

17. PW4 is Sri N. Desai Sab, the shadow witness and he has deposed that on 12/12/2007 as per the instructions of his higher officer he went to the Lokayukta police station and reported before Dy.S.P., Sri Bhagavada Matt. He has deposed that another pancha witness (PW1) also came to the Lokayukta police station and reported before the above said I.O. He has deposed that the complainant was present in the police station and the copy of the complaint lodged by him was given to them to go through the same and himself and another

pancha witness went through the same. He has also deposed about the gist of the complaint averments. He has deposed about PW2 producing the amount of Rs. 5,000/- and about all the other averments mentioned in the entrustment mahazar, the copy of which is at Ex.P1. Thus PW4 has deposed about all the averments mentioned in the mahazar-Ex.P1. He has deposed that after Ex.P1 they went to the GESCOM Office, Bellary and himself and PW2 were sent inside that office to meet the DGO and I.O. his staff and another pancha witness remained outside that office waiting for the signal from PW2. He has deposed that himself and PW2 went inside that office and PW2 met the DGO and DGO told that he will come outside and talk with PW2 and to go outside the office. He has deposed that accordingly PW2 and himself came out of the office of the DGO. He has deposed that the DGO came outside his office and met PW2 and talked with him and he was not able to hear their conversation. He has deposed that PW2 gave the tainted currency notes and the DGO received the same and kept it in his pocket. He has deposed that afterwards PW2 gave the pre-instructed signal and immediately the I.O., his staff and another pancha came there and PW1 showed the DGO and as that place was not convenient for drawing the mahazar the DGO was taken inside his office and his hands were washed separately and the solution turned to pink colour. He has deposed that the I.O. asked the DGO about the amount received from PW2 and the DGO removed the amount of Rs. 5,000/- from his left side pant pocket and produced before the I.O. and those notes were the same notes mentioned in Ex.P13. Ex.P13 is the copy of chit containing the denomination and numbers of the notes. He has deposed that



the I.O. washed the inside portion of the left side pant pocket of the DGO in the solution and that solution also turned to pink colour. He has deposed that the pant of the DGO and the above said amount were also seized. He has deposed that the DGO gave his explanation in writing and the copy of the same is at Ex.P11. He has deposed that the file of the complainant was obtained from the DGO and the certified copy of the same were prepared and seized and the copies of those documents are at Ex.P3. He has deposed that the copy of the sketch of scene of occurrence drawn by the I.O. is at Ex.P15. Ex.p15 discloses that the place of the incident is by the side of the road situated in front of the office of the DGO. He has deposed that Ex.P16 are the copies of the photographs taken at the time of the mahazar Ex.P2 and P3. He has deposed that the copy of the Trap Mahazar is at Ex.P2 and his signature is at Ex.P2(b). He has also deposed that on 29/01/2008 he showed the place of occurrence to the PWD Engineer.

18. PW4 has been cross-examined by the learned counsel for the DGO and in his cross-examination he has deposed that he was not able to hear the conversation between the PW2 and DGO. He has clearly deposed that he has seen the DGO making the hand sign for payment of the amount and afterwards PW2 gave the tainted currency notes.

19. As stated above, Ex.P11 is the copy of the explanation given by the DGO. In the same the DGO has stated that he had told PW2 that fee has to be paid for shifting electric wires and on 12/12/2007 when PW2 came to his office he told PW2 to pay the shifting charges and PW2 told that he is having less

amount and the DGO told that the full amount has to be deposited. Ex.P11 it is further stated that PW2 followed the DGO and told that he is having Rs. 5,000/- and to receive the same and that in the evening he will bring the remaining amount and also told that he will spend the amount if the amount is not received by DGO and that he will pay the remaining amount later and hence he received the amount of Rs. 5,000/- and told that after the balance amount of Rs. 1,380/- is paid the receipt will be given.

20. Ex.P3 is the copy of the letter addressed to the PW2 from GESCOM, Bellary dated: 24/11/2007 wherein he has been intimated that he has to pay the amount of Rs. 6,330/- to shift the electric wires. Ex.P4 is the copy of the estimate for Rs. 6,380/- for shifting the electric wires. Thus it is the case of the DGO that PW2 was required to pay the amount of Rs. 6,380/- to GESCOM for shifting the electric wires and he had received of Rs. 5,000/- from PW2 on 12/12/2007 as part of the above said amount and not as bribe. It is pertinent to note that the above said amount of Rs. 6,380/- has to be paid in the cash section of the office of the DGO and the DGO is not expected to receive that amount or any portion of the same. Ex.D8 is the copy of the letter dated: 13/02/2008 by PW2 to A.E.E., wherein the shara is made that the shifting fee amount has to be paid in the cash counter only. As stated above, there is no cross-examination of PW2 regarding the averments made in the explanation of the DGO Ex.P11. In otherwords there is not even a suggestion to PW2 in his cross-examination that PW2 paid the amount of Rs. 5,000/- to the DGO on 12/12/007 as part of the shifting charges by assuring that he

will pay the balance shifting charges afterwards. DW1 who is the DGO has deposed that he received Rs. 5,000/- from PW2 towards shifting charges and not as bribe amount. As stated above the shifting charges has to be paid to the cashier working in the cash section of the office of the DGO and it is not the case of the DGO that he had told PW2 to pay the amount in the cash section which only probablises the case of the Disciplinary Authority to the effect that the DGO had received the above said amount of Rs. 5,000/- as the bribe amount only and not as part of the prescribed fee for shifting the electric wires.

21. PW5 is one Sri Sunkanna and he has deposed that from 2005 to June 2009 he was working as stenographer, Karnataka Lokayukta, Bellary office and he has worked under PW3 for two years in Bellary. He has deposed that at that time PW3 was working as Dy.S.P., and he can identify the signature of PW3. He has deposed that he has typed Ex.P1-Entrustment Mahazar and Ex.P2-Trap Mahazar. He has deposed that his signatures are at Ex.P1(e) and Ex.P2(f). He has deposed about PW3 securing two panchas and PW2 producing the amount of Rs. 5,000/- and about all other averments mentioned in the entrustment mahazar-Ex.P1. He has deposed that he was present at the time of the entrustment mahazar and after the entrustment mahazar they went to the office of the DGO. He has deposed that PW2 and PW3 were sent inside the office of the DGO to meet the DGO and himself and others remained outside that office. He has deposed that PW2 gave the pre-instructed signal and immediately himself and PW3 and his staff and another pancha witness went to the office of the

DGO and PW2 showed the DGO and told that he has received the amount from him. He has deposed that the hands of the DGO were washed separately in sodium carbonate solution and that solution turned to pink colour. He has deposed that when PW3 enquired the DGO about the amount received from PW2, DGO removed the amount from his pant pocket and produced the same and those notes were the same notes mentioned in the Ex.P13. He has also deposed about the pant wash of the DGO being positive. He has deposed that Ex.P3 to P8 are the copies of the documents that was seized at the time of the trap mahazar. He has deposed that, Ex.p15 is the copy of the sketch prepared by PW3 of the scene of occurrence. He has also identified the signatures of Pw3 in Ex.P3 to P8.

22. PW5 has been cross-examined at length by the learned counsel for the DGO. But nothing is made out in his cross-examination to discard his evidence stated above.

23. DW1 who is the DGO admits that he had received Rs. 5,000/- from PW1 on 12/12/2007 and his hand wash was positive and the tainted currency notes were seized from his possession. As stated above his version is to the effect that he had receive the tainted currency notes as part of the shifting charges and not as a bribe is not believable for the reasons already stated above.

24. The DGO has produced Ex.D1 the certified copy of the judgment in Special Case No. 57/2008 dated: 23/02/2010. Ex.D1 discloses that the DGO has been acquitted in the criminal case filed by the Lokayukta police, Bellary, for the offence punishable u/sec., 7(13)(1)(d) r/w sec. 13(2) of the

Prevention of Corruption Act, 1988 on the ground that the prosecution has failed to prove its case beyond all reasonable doubt. Even otherwise it is pertinent to note that only on the ground that the DGO has been acquitted in the criminal case it cannot be held that, the disciplinary authority has not proved its case in this departmental inquiry. It is well established principle of law that, in the criminal case the prosecution has to prove its case beyond all reasonable doubt. Where as in the departmental inquiry the evidence has to be scrutinised on the basis of the preponderance of probabilities. In the decision reported in 1997(2) SCC 699 in case of Depot Manager, APSRTC V/S Mohammed Yosuf Miya and others, (2005)7 SCC 764 between Ajit Kumar Nag v/s General manager (P) Indian Oil Corporation Limited, Haldia and others and recent decision of Hon'ble Supreme Court in (2012)13 Supreme Court Cases 142 in a case of Avinash Sadashiv Bhosale (dead) V/S Union of India and others made out very clear that, the purpose of departmental inquiry and the prosecution are too different and distinct aspect though the two proceedings relates to the same set of facts. The nature of evidence in criminal case is entirely different from the departmental proceedings and in the criminal case the prosecution is required to prove the guilt of the accused beyond all reasonable doubt on the touch-stone of human conduct and where as the evidence required in a departmental inquiry is not regulated by the Evidence Act. Therefore, misconduct of the DGO required to be taken into consideration on the basis of preponderance of probabilities and merely the DGO has been acquitted in the criminal case by the judgment in Special Case No.57/2008 by the Principal

Sessions Judge and Special Judge, Bellary District, by itself is not sufficient to overlook the evidence placed on record by the Disciplinary Authority in this Inquiry.

25. Ex.D2 is the certified copy of the deposition of PW2 as PW1 in Special Case No. 57/2008. Ex.D3 is the certified copy of the deposition of PW1 as PW3 in the above said Special case. Ex.D4 is the certified copy of the deposition of PW3 of this inquiry as PW7 in the above said special case. It is pertinent to note that in the cross-examination of PW1 and PW2 no contradiction is made out by confronting their evidence given before the criminal court. Hence, Ex.D2 and D3 are not of much importance in this inquiry. Ex.D5 is the copy of the application given by PW2 for shifting the electric line. In the same it is only stated that the electric wires have been drawn above his house due to which PW2 is put to trouble and to shift the lines. Ex.D6 and Ex.P4 are one and the same documents (estimate). In the back sheet of the same it is mentioned that PW2 is doing reconstruction work. But no where in Ex.D5 it is mentioned that PW2 wants to reconstruct his house and hence he wants the electric lines to be shifted DW1 in his cross-examination admits that he has not produced any documents to show that PW2 had sought for shifting the lines for construction or reconstruction of his house. He also admits that if the electric lines is drawn so as to endanger human life the shifting of the same is the responsibility of the KEB and shifting charges has to be borne by the KEB. When PW2 has not at all sought for shifting the electric lines on the ground of re-construction of his house and sought for shifting of the wires on the ground that they

are passing over his house and troubling him the estimate done as per Ex.D6 is not in accordance with the KEB Rules as deposed by DW1. It is pertinent to note that when the electric wires are drawn above the house of PW2 definitely it endanger the life of the person who goes to the roof of the house of PW2. Even otherwise as stated above, the facts and circumstances of this case only probablises the case of the disciplinary authority that the DGO has received the amount of Rs. 5,000/- from PW2 on 12/12/2007 outside his office as bribe amount only and not as part of the shifting charges of the electric lines.

26. Thus the DGO has failed to maintain absolute integrity, devotion to duty and acted in a manner of unbecoming of a Government Servant. Hence, I answer this point in the **AFFIRMATIVE.**

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

**:: ORDER ::**

*The Disciplinary Authority has satisfactorily proved the charge against the DGO- Sri Vasu Bhimassen, Junior Engineer (Elecl.), P.D. Halli, Rural Sub-Division, GESCOM, Bellary **(Now retired).***

28. Hence this report is submitted to Hon'ble Upalokayukta-2 for kind perusal and for further action in the matter.

Dated this the 12<sup>th</sup> day of September, 2019

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

**: ANNEXURE ::**

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

PW-1 : Sri N.T. Manjunath (pancha witness)  
PW-2 : Sri Ganesh (complainant)  
PW-3: Sri Somaiah Doddabasaiah Bhagavadamatt (I.O.)  
PW-4:Sri N. Desai sab (shadow witness)  
PW-5:Sri Sunkanna (witness)

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

DW-1:Sri Vasu Bhimasena (DGO)

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

Ex.P-1:Certified copy of the Entrustment Mahazar  
Ex.P-1(a to e): Relevant entries in Ex.P1  
Ex.P-2:Certified copy of the Trap Mahazar  
Ex.P-2(a to f): Relevant entries in Ex.P2  
Ex.P-3: Certified copy of the letter of A.E.E. dated: 24/11/2007  
addressed to Sri T. Ganesh  
Ex.P-3(a): Relevant entry in Ex.P3  
Ex.P-4:Certified copy of the estimate  
Ex.P-4(a): Relevant entry in Ex.P4  
Ex.P-5: Certified copy of the estimate report  
Ex.P-6:Certified copy of the letter of Sri Ganesh dated: 29/10/2007  
addressed to KEB  
Ex.P-6(a): Relevant entry in Ex.P6  
Ex.P-7:Certified copy of the register  
Ex.P-7(a); Relevant entry in Ex.P7  
Ex.P-8:Certified copy of the register book of Gulbarga Electricity  
Supply Company Limited  
Ex.P-8(a):Relevant entry in Ex.P8



- Ex.P-9: Certified copy of the complaint  
 Ex.P-9(a): Relevant entry in Ex.P9  
 Ex.P-10: Certified copy of the FIR  
 Ex.P-10(a): Relevant entry in Ex.P10  
 Ex.P-11: Certified copy of the explanation of DGO  
 Ex.P-11(a to d): Relevant entries in Ex.P11  
 Ex.P-12: Certified copy of the sketch  
 Ex.P-12(a); Relevant entry in Ex.P12  
 Ex.P-13: Certified copy of the notes numbers and denomination mentioned white sheet  
 Ex.P-13(a to c): Relevant entries in Ex.P13  
 Ex.P-14: Certified copy of the chemical examination report  
 Ex.P-14(a); Relevant entry in Ex.P14  
 Ex.P-15: Xerox copy of the sketch  
 Ex.P-15(a,b); Relevant entries in Ex.P15  
 Ex.P-16: Xerox copy of the Xeroxed photos on the white sheet

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

- Ex.D-1: Certified copy of the judgment passed in Special Case No. 57/2008  
 Ex.D-2: Certified copy of the deposition of Sri Ganesh (PW2)  
 Ex.D-3: -Certified copy of the deposition of Sri N.T. Manjunath (PW1)  
 Ex.D-4: Certified copy of the examination in chief of Si Somayya Doddabasayya Bagawadmata (PW3)  
 Ex.D-5: Certified copy of the letter of Sri T. Ganesh dated: 29/10/2007 addressed to KEB  
 Ex.D-5(a): Relevant entry in Ex.D5  
 Ex.D-6: Certified copy of the estimate of KEB  
 Ex.D-6(a,b): Relevant entries in Ex.D6  
 Ex.D-7: Certified copy of the letter of A.E.E., dated: 24/11/2007 addressed to Sri T. Ganesh  
 Ex.D-7( a,b): Relevant entries in Ex.D7  
 Ex.D-8: Certified copy of the letter of Sri T. Ganesh addressed to A.E.E.,, Grameena Sub-Division, dated: 13/02/2008  
 Ex.D-9: Certified copy of the deposition of Sri N. Desai sab (PW4) in Special Case No. 57/2008  
 Ex.D-10: Certified copy of the electricity stop mahazar

Dated this the 12<sup>th</sup> day of September, 2019

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

