

KARNATAKA - LOKAYUKTA

BEFORE ADDITIONAL REGISTRAR (ENQUIRIES -10)

PRESENT :

SRI. MASTER R.K.G.M.M. MAHASWAMIJI, MA., LL.M.,
ADDITIONAL REGISTRAR ENQUIRIES-10,
M.S. BUILDING,
KARNATAKA LOKAYUKTA,
BANGALORE – 560 001.

DEPARTMENTAL ENQUIRY NO. UPLOK-2/DE/646/2017/ARE-10

COMPLAINANT	SRI. M.A. MANSOOR
DISCIPLINARY AUTHORITY	GOVERNMENT OF KARNATAKA, URBAN DEVELOPMENT DEPARTMENT (M.A.-2) (Through the Presenting Officer)
V/s	
DELINQUENT GOVERNMENT OFFICIAL	SRI. SAJITH KUMAR, Bill Collector, City Municipal Council, Madikeri, Kodagu District (DGO - Placed - <i>exparte</i>)

Subject : Departmental Inquiry against DGO as noted in the cause title –reg.,

Reference/s : 1. Report u/S 12(3) of the Karnataka Lokayukta Act, 1984 in Compt/Uplok/MYS/304/2016/DRE-4 dt. 20.12.2016.
2. Government Order No. UD/02/TMS/2017 Bengaluru dated 04.04.2017.
3. Nomination Order No. Uplok-2/DE/646/2017 Bengaluru dt.12.05.2017 of Hon'ble Upalokayukta-2.

- i. Nature of Case : Departmental Enquiry
- ii. Provision of law under which : 3 (1)(ii) & (iii) of The
Article of charge framed : Karnataka Civil Services (Conduct) Rules, 1966.
- iii. Date of Submission of report : 27th October 2018.

-: DEPARTMENTAL - ENQUIRY - REPORT :-

1. This is the departmental enquiry initiated and held against DGO as the complainant by name Sri. *M.A. MANSOOR* has filed a complaint in Lokayukta Office, against the Delinquent Government Official alleging his dereliction of duty/misconduct.
2. On the report of Dy. Superintendent of Police, Karnataka Lokayukta, Madikeri, **comments/reply** from the DGO called. But, the address of the DGO was not traced, hence, it is treated as no comments from the DGO and a **Report** was sent to the Government u/S 12(3) of the Karnataka Lokayukta Act, 1984 as per reference No. 1. In pursuance of the report, Government was pleased to issue the **Government Order** (G.O.) dated 04.04.2017 authorizing Hon'ble Upalokayukta to hold an enquiry as per reference No. 2.
3. In pursuance of the Government Order, **nomination order** was issued by Hon'ble Upalokayukta on 12.05.2017 authorizing ARE-10 to frame Article of Charge against DGO and to hold an enquiry to find out truth and to submit a report as per reference No. 3.
4. Accordingly, *Article of charge* was framed/prepared under Rule 11(3) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 and was sent to the Delinquent Government Official on 27.06.2017.

5. The article of **charge** and the statement of imputations of misconduct framed/prepared and leveled against the DGO are **reproduced as here under :-**

ಅನುಬಂಧ-1
ದೋಷಾರೋಪಣೆ-1

5(1). ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಶ್ರೀ. ಸಜಿತ್ ಕುಮಾರ್, ಬಿಲ್ ಕಲೆಕ್ಟರ್, ನಗರಸಭೆ, ಮಡಿಕೇರಿ, ಕೊಡಗು ಜಿಲ್ಲೆ ಆದ ನೀವು, ಅರ್ಜಿದಾರರಿಂದ ಮಳಿಗೆ ಬಾಡಿಗೆ ಸಂಬಂಧ 11 ರಶೀದಿಗಳಲ್ಲಿ ವಸೂಲು ಮಾಡಿದ ರೂ. 2,26,705/- ಗಳನ್ನು ನಗರಸಭೆ ಲೆಕ್ಕಕ್ಕೆ ಜಮೆ ಮಾಡದೇ, ಕಛೇರಿ ಪ್ರತಿಗಳಲ್ಲಿ ಬೇರೆ ಬೇರೆ ಹೆಸರುಗಳನ್ನು ನಮೂದಿಸಿ, ರೂ. 7,920/- ಗಳನ್ನು ಮಾತ್ರ ನಗರಸಭೆಗೆ ಜಮಾ ಮಾಡಿ, ಹಣ ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡು ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿರುತ್ತೀರಿ.

5(2) ಆದಕಾರಣ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು, ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ, ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ನಡತೆ) ನಿಯಮಾವಳಿ 1966ರ ನಿಯಮ (3)(1)(ii) ಮತ್ತು (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ, ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.

ಅನುಬಂಧ-2ದೋಷಾರೋಪಣೆಯ ವಿವರ

(ಸ್ಟೇಟ್‌ಮೆಂಟ್ ಆಫ್ ಇಂಪ್ಯೂಟೇಷನ್ ಆಫ್ ಮಿಸ್‌ಕಾಂಡೆಕ್ಟ್)

5(3) ಶ್ರೀ. ಎಂ.ಎ ಮನ್ಸೂರ್ ಬಿನ್ ಎಂ.ಎಂ. ಅಬ್ದುಲ್ ಖಾದರ್, ಶಾಪ್ ನಂ. 1, ಕಾಲೇಜ್ ರಸ್ತೆ, ಮಡಿಕೇರಿ, ಕೊಡಗು ಜಿಲ್ಲೆ (ಇನ್ನು ಮುಂದೆ “ದೂರುದಾರರು” ಎಂದು ಕರೆಯಲ್ಪಡುತ್ತಾರೆ) ಇವರು ಈ ದೂರನ್ನು, ಶ್ರೀ. ಸಚಿತ್ ಕುಮಾರ್, ಬಿಲ್ ಕಲೆಕ್ಟರ್, ನಗರಸಭೆ, ಮಡಿಕೇರಿ, ಕೊಡಗು ಜಿಲ್ಲೆರವರ ವಿರುದ್ಧ ದಾಖಲಿಸಿ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ತಮ್ಮ ಅಧಿಕಾರಾವಧಿಯಲ್ಲಿ ಕರ್ತವ್ಯಲೋಪವೆಸಗಿದ್ದಾರೆಂದು ತಿಳಿಸಿದ್ದರಿಂದ, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ 1984ರ ಕಲಂ 9ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಿರುವ ಅಧಿಕಾರ ಚಲಾಯಿಸಿ, ವಿಚಾರಣೆಗೆ ತೆಗೆದುಕೊಂಡು ತನಿಖೆ ಮಾಡಿದೆ.

5(4) ದೂರಿನ ಸಂಕ್ಷಿಪ್ತ ಸಾರಾಂಶ :- ದೂರುದಾರರು ತಮ್ಮ ದೂರಿನಲ್ಲಿ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಿಂದ 11 ರಶೀದಿಗಳ ಒಟ್ಟು ಮೊತ್ತ ರೂ. 2,26,705/-ನ್ನು ನಗರಸಭೆಯಲ್ಲಿ ಜಮೆ ಮಾಡದೆ ದುರುಪಯೋಗ ಮಾಡಿದ್ದಾರೆ. ಆದ್ದರಿಂದ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕೆಂದು ಕೋರಿದ್ದಾರೆ.

5(5). ದೂರನ್ನು ದಾಖಲು ಮಾಡಿಕೊಂಡ ನಂತರ, ದೂರಿನ ಮೇಲೆ ತನಿಖೆ ಮಾಡಿ, ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ಪೊಲೀಸ್ ನಿರೀಕ್ಷಕರು, ಕ.ಲೋ. ಮಡಿಕೇರಿ ರವರಿಗೆ ಆದೇಶಿಸಲಾಗಿತ್ತು.

5(6) ಅದರಂತೆ, ಪೊಲೀಸ್ ಉಪಾಧೀಕ್ಷಕರು, ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಮಡಿಕೇರಿ ರವರು (ಇನ್ನು ಮುಂದೆ 'ತನಿಖಾಧಿಕಾರಿಗಳು' ಎಂದು ಸಂಬೋಧಿಸಲಾಗುವುದು) ಇವರು ವರದಿಯನ್ನು ಸಲ್ಲಿಸಿ, ದೂರುದಾರರು ತಮ್ಮ ದೂರಿನಲ್ಲಿ ಆಪಾದಿಸಿರುವಂತೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಅರ್ಜಿದಾರರಿಂದ ಮಳಿಗೆ ಬಾಡಿಗೆ ಸಂಬಂಧ 11 ರಶೀದಿಗಳಲ್ಲಿ ವಸೂಲು ಮಾಡಿದ ರೂ. 2,26,705/- ಗಳನ್ನು ನಗರಸಭೆ ಲೆಕ್ಕಕ್ಕೆ ಜಮೆ ಮಾಡದೇ, ಕಛೇರಿ ಪ್ರತಿಗಳಲ್ಲಿ ಬೇರೆ ಬೇರೆ ಹೆಸರುಗಳನ್ನು ನಮೂದಿಸಿ, ರೂ. 7,920/- ಗಳನ್ನು ಮಾತ್ರ ನಗರ ಸಭೆಗೆ ಜಮಾ ಮಾಡಿ, ಹಣ ದುರುಪಯೋಗಪಡಿಸಿರುವುದು ಕಂಡುಬಂದಿರುತ್ತದೆ ಎಂದು ತಿಳಿಸಿದ್ದಾರೆ.

5(7) ತನಿಖಾಧಿಕಾರಿಯವರ ವರದಿಯನ್ನು ಪಡೆದ ನಂತರ, ತನಿಖಾ ವರದಿಯ ಮೇಲೆ ಆಕ್ಷೇಪಣೆ ಕೇಳಿ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ಕಳುಹಿಸಿದ ನೋಟೀಸ್ ಅವರ ಹಾಲಿ ವಾಸವಿರುವ ವಿಳಾಸ ಪತ್ತೆಯಾಗದಿದ್ದರಿಂದ ನೋಟೀಸನ್ನು ಜಾರಿ ಮಾಡದೇ ಹಿಂತಿರುಗಿಸಲಾಗಿದೆ ಎಂದು ಪೊಲೀಸ್ ನಿರೀಕ್ಷಕರು, ಕೆ.ಲೋ. ಮಡಿಕೇರಿ ರವರು ತಿಳಿಸಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ಆಕ್ಷೇಪಣೆ ಇಲ್ಲವೆಂದು ಪರಿಗಣಿಸಲಾಗಿದೆ.

5(8) ಆದುದರಿಂದ, ಕಡತದಲ್ಲಿನ ಅಧಾರಗಳಿಂದ, ಈ ಕೆಳಕಂಡ ಅಂಶಗಳು ಸ್ಪಷ್ಟವಾಗುತ್ತವೆ :-

ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಶ್ರೀ. ಸಜಿತ್‌ಕುಮಾರ್, ಬಿಲ್‌ಕಲೆಕ್ಟರ್, ನಗರಸಭೆ, ಮಡಿಕೇರಿ ರವರು ಅರ್ಜಿದಾರರಿಂದ ಮಳಿಗೆ ಬಾಡಿಗೆ ಸಂಬಂಧ 11 ರಶೀದಿಗಳಲ್ಲಿ ವಸೂಲು ಮಾಡಿದ ರೂ. 2,26,705/- ಗಳನ್ನು ನಗರಸಭೆ ಲೆಕ್ಕಕ್ಕೆ ಜಮೆ ಮಾಡದೇ, ಕಛೇರಿ ಪ್ರತಿಗಳಲ್ಲಿ ಬೇರೆ ಬೇರೆ ಹೆಸರುಗಳನ್ನು ನಮೂದಿಸಿ ರೂ. 7,920/- ಗಳನ್ನು ಮಾತ್ರ ನಗರಸಭೆಗೆ ಜಮಾ ಮಾಡಿ, ಹಣ ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡು ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿರುತ್ತಾರೆ.

5(9) ದೂರು, ತನಿಖಾ ವರದಿ ಮತ್ತು ಕಡತದಲ್ಲಿರುವ ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ, ಮೇಲ್ನೋಟಕ್ಕೆ ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ನಡೆಸುವ ಸಂಬಂಧ ಮುಂದುವರಿಯುವುದು ಅಗತ್ಯ ಎಂದು ಕಂಡುಬಂದಿದ್ದು, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರು ಸರ್ಕಾರಿ/ಸಾರ್ವಜನಿಕ ಸೇವಕರಾಗಿದ್ದು ತಮ್ಮ ಕರ್ತವ್ಯ ಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೇ, ಸರ್ಕಾರಿ ನೌಕರರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡು ದುರ್ವರ್ತನೆ/ದುರ್ನಡತೆ ಮೇಲ್ನೋಟಕ್ಕೆ ಕಂಡುಬರುತ್ತದೆ.

5(10) ಅದಲ್ಲದೆ, ನೀವು, ಸರ್ಕಾರಿ ನೌಕರರಾಗಿದ್ದು, ಕರ್ನಾಟಕ ನಾಗರೀಕ ಸೇವೆ (ನಡತೆ) ನಿಯಮ 1966ರ ನಿಯಮ 3(1)(ii) ಮತ್ತು (iii) ರನ್ವಯ ದುರ್ನಡತೆ/ದುರ್ವರ್ತನೆ ಕಂಡು ಬಂದಿದ್ದರಿಂದ, ನಿಮ್ಮ ವಿರುದ್ಧ ಇಲಾಖಾ ಶಿಸ್ತು ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯಿದೆ ಕಲಂ 12(3)ರ ಅಡಿ

ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದಡಿ, ನಿಮ್ಮ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆ ಮಾಡಲು, ಕರ್ನಾಟಕ ನಾಗರಿಕ ಸೇವಾ (ವರ್ಗೀಕರಣ, ನಿಬಂಧ ಮತ್ತು ಮೇಲ್ಮನವಿ) ನಿಯಮಗಳು, 1957 ರ ನಿಯಮ 14-ಎ ರ ಅಡಿ ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಲಾಗಿತ್ತು.

5(11) ಹಾಗಾಗಿ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನಿಮ್ಮ ವಿರುದ್ಧ ಇಲಾಖಾ ವಿಚಾರಣೆಯನ್ನು ನಡೆಸಲು. ಶಿಸ್ತು ಪ್ರಾಧಿಕಾರಿಯಾದ ಸರ್ಕಾರ ತನ್ನ ಆದೇಶದಲ್ಲಿ ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರಿಗೆ ವಹಿಸಿದ್ದು, ಗೌರವಾನ್ವಿತ ಉಪಲೋಕಾಯುಕ್ತರವರು ಅಪರ ನಿಬಂಧಕರು ವಿಚಾರಣೆಗಳು 10 ಇವರನ್ನು ವಿಚಾರಣೆ ನಡೆಸಲು ನೇಮಕ/ನಾಮನಿರ್ದೇಶನ ಮಾಡಿದ್ದಾರೆ. ಆದ್ದರಿಂದ, ನಿಮ್ಮ ವಿರುದ್ಧ ಈ ಮೇಲ್ಕಂಡ, ಆಪಾದನೆ ಇರುತ್ತದೆ.

6. The aforesaid **'article of charge** was served upon the DGO and he appeared before this enquiry authority and his **first oral statement** under Rule 11(9) of KCS (CCA) Rules, 1957 recorded. The DGO has pleaded not guilty and claimed to be enquired about the charge.
7. The DGO has been given an opportunity by this Enquiry Authority for verification/inspection of records/documents and for discoveries if any, and DGO has filed his **written defence statement.**
8. From 05.06.2018, DGO did not appear. On 22.10.2018 DGO called out, but he is absent. Hence, DGO is placed *exparte.*

9. *In this enquiry, to establish the charge against DGO, the presenting officer has examined Sri. M.A. Mansoor (complainant) as pw-1 and Sri. B. Parashurama, Deputy Supdt. of Police, Lokayukta, Madikere & Investigation Officer, as PW-2, and got marked, in all, 8 documents as Ex P-1 to 8 on behalf of Disciplinary Authority.*
10. Since DGO is placed *exparte*, recording of Second Oral Statement and leading of defence evidence by him don't arise.
11. As DGO is placed *exparte*, I have heard the learned presenting officer only.
12. *Now, the points that emerge for my consideration and conclusion are as follows :*
- 1 : Whether the charge against DGO as noted/reproduced at para No.5(1) is proved by the Disciplinary Authority through its presenting officer?*
- 2 : What finding/conclusion ?*
13. I have heard and carefully perused the enquiry papers and analyzed and appreciated the oral and documentary evidence placed on record.
14. My *findings* on aforesaid points are *as under :-*
- POINT No. 1 : In the AFFIRMATIVE.
- POINT No. 2 : As per my

FINDING/CONCLUSION

for the following ;

*** REASONS ***

15. **POINT NO. 1** : *It is the case of the Disciplinary Authority that, DGO being Bill Collector in City Municipal Council, Kodagu-Madikeri, has misappropriated the amount, although collected Rs. 2,26,705/- from shops in 11 receipts, but, deposited only Rs. 7,920/- by mentioning the different names in the office copy. Thus, DGO has committed dereliction of duty/misconduct.*
16. *In order to prove, the charge leveled against DGO, the presenting officer has examined 2 witness and got marked 8 documents and closed the side.*
17. *Now, I shall proceed to appreciate and analyze the oral and documentary evidence of the disciplinary authority viz.,(PW1 & 2 and Ex P1 to 8) which are as follows :-*
18. PW-1 SRI M.A. MANSOOR (complainant). *He deposed that, the DGO was working as bill collector in Madikeri, CMC, since 8 years. His shop No.1 is situated in College Road, Madikeri City and monthly rent of Rs.22,860/- including tax was payable and the DGO was collecting the rent, water charges etc.*

19. *PW-1 further deposed that, he used to pay entire rent regularly and DGO issued receipts for Rs. 2,26,705/- towards collection of rent.*
20. *PW-1 says that, but, he received the notice from CMC Madikeri, that still he was to pay an amount of Rs.5,51,232/-. Hence, he went to the office of CMC and enquired about the same and the Commissioner informed him that, the out of collected amount the DGO has remitted only Rs.17,470/- and the DGO has not remitted the remaining amount of Rs. 2,09,235/- and he misappropriated the same.*
21. *PW-1 further says that, therefore, he lodged a complaint to Lokayukta Office along with form No.1 and 2 as per Ex. P -1.*
22. *PW-1 states that, along with Ex. P-1, he has produced Copies of 11 receipts, Paper cuttings and Copy of Rent agreement as per Ex. P - 2 to 4 respectively.*
23. *PW-2 SRI B. PARSHURAMA (Police Inspector, KLA, Chamarajanagara & Investigation Officer) he deposed that, on 17.3.2016 he received copies of complaint file from ARE-7 to investigate and submit a report in respect of allegation made against DGO and he perused complaint and other relevant documents.*
24. *PW-2 further deposed that, on 24.3.2016 he wrote a letter to Commissioner, CMC, Madikeri to furnish information/documents available and for that, information/report dt:13.7.2016 was sent to him as per Ex. P -5, wherein, it is reported that the DGO has collected Rs.2,26,855/-, but Rs. 6,721/- only deposited and Rs. 2,20,130/- is misappropriated by the DGO. Therefore, a criminal*

complaint is lodged against DGO to Madikeri Town Police Station and same is registered in Crime No.134/2015 u/s 415,418 & 420 of IPC.

25. *PW-2 has stated that, 11 xerox receipts of bills and covering letter along with 1) true copy of FIR Crime No.134/2015 u/s 415,418 & 420 of IPC, 2) true copy complaint, 3) true copy statement of CW-1 are at Ex. Ex P -6 & 7.*
26. *PW-2 has further stated that, he has submitted Investigation Report dated 29.7.2016 as per Ex. P-8.*
27. *In so far as argument in this enquiry is concerned, the learned Presenting Officer has submitted that PW1, being the complainant and PW-2 being the Police Inspector, KLA, Madikeri have fully supported the case of disciplinary authority and Ex P1 to 8 are also consistent with the case/enquiry and on the basis of depositions of supported witness and Ex P1 to 8 affirmative finding can be given as charge *proved*.*
28. *Per contra, the delinquent Government official is placed *exparte*.*
29. *Having heard and on careful perusal and appreciation of oral and documentary evidence of disciplinary authority placed on record, it is obviously clear that the disciplinary authority has placed sufficient and satisfactory oral and documentary evidence to prove its case/enquiry against the DGO as per the*

standard of *preponderance of probabilities* to warrant my finding on the charge against DGO in the affirmative as *proved*.

30. *On perusal of depositions of PW 1 Sri M.A. Mansoor and PW-2 Sri. B. Parashurama, it is seen that, PW-1 being complainant and PW-2 being Police Inspector/Investigation Officer, KLA, Madikeri, have completely supported the case of disciplinary authority.*
31. *It is important to note that, in the depositions of PW-1 and 2, I find that nothing worth mentioning points are elicited to discredit/disbelieve the depositions of PW-1 & 2. Hence, the evidence of PW1 & 2 is inspiring confidence to believe and to rely upon.*
32. *It is relevant to note that, the depositions of PW1 and 2 are consistent and corroborative with Ex. P.1 to 8.*
33. *It is worthy to note that, moreover, the DGO did not appear before this Enquiry Authority, after closure of evidence of disciplinary authority by taking his own defence to say and to show that the case of the disciplinary authority is false, although, he has filed Written Defense Statement. Hence, an adverse inference can also be drawn against the DGO as per Section 114 of the Indian Evidence Act, 1872.*

34. *At this juncture*, it is necessary to note that, it is settled position of law that if the opposite party did not choose to lead rebuttal/defense evidence, then, an adverse inference can be drawn against him.

34(1) *In this context*, it is useful to refer a decision in case of ESHWAR BAI C. PATEL V/S. NARIHAR BEHERA reported in AIR 1999 SC 1341, wherein, the Hon'ble **Apex Court** has held *that*;

“When a person fails to enter into Witness Box to state his case on oath, an adverse Inference can be drawn as per Sec.114 of Indian Evidence Act, against such person”.

34(2) *In this regard*, it is also profitable to refer another decision in case of VIDHYADHAR V/S. MANIKRAO AND ANOTHER (1999) 3 SCC 573, wherein, the Hon'ble **Apex Court** has held *thus*:-

“Evidence Act, 1872 – S.114 III (g) –Presumption – If a party abstains from entering the witness box, an adverse inference would arise against him.

“ Where a party to the suit does not appear in the witness box and states his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set-up by him is not correct”.

- 34(3) In the present case, although, DGO has filed written defense statement, later on, he did not appear and did not lead defense evidence to prove his contention. *Hence*, an adverse inference can be drawn against him.
35. *On careful analysis* and appreciation of oral and documentary evidence placed on record, it is *manifestly clear that* the evidence of PW1 and 2 is fully corroborated and consistent with Ex P1 to 8 and the same are inspiring confidence of this enquiry authority to rely and to act upon and there is nothing brought on record to disbelieve the same. In my considered view, case of the disciplinary authority, in particular, Ex. P -8 Investigation Report of PW-2 is *acceptable*.
36. *For the reasons stated above* and observations made in the light of depositions of PW1 and 2 and relevant documents (i.e. Ex. P1 to 8) and provisions of law and under the given set of facts and circumstances of this enquiry, I have arrived at *inevitable conclusion to hold that* the Disciplinary Authority through its presenting officer is successful in proving the charge framed and leveled against the DGO *up to* the standard of *preponderance of probabilities*, to record my finding, in the affirmative as *proved*.
37. **POINT No. 2** : In view of my finding on point No. 1, for foregoing reasons and discussions, I proceed to submit enquiry report *as under* :-

: ENQUIRY- REPORT :

- (i) From the oral and documentary evidence and materials placed on record, I hold and record my finding *that* the Delinquent Government Official Sri. **Sajith Kumar**, Bill Collector, City Municipal Council, Madikeri, Kodagu District, has *failed* to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of a Government servant and *found* guilty of *misconduct/charge* under Rule 3(1)(ii) and (iii) of Karnataka Civil Services (Conduct) Rules, 1966.
- ii. *Accordingly*, I hold and record/assign my finding on the charge leveled by the disciplinary authority against Delinquent Government official as **PROVED**.
- iii *Hence*, this Enquiry Report is submitted/ placed before Hon'ble Upalokayukta-2 for kind *consideration*.

Dated 27th October 2018

(Master RKGMM Mahaswamiji)
Additional Registrar Enquiries-10
Karnataka Lokayukta
Bangalore

:: ANNEXURE ::**I. LIST OF WITNESS/S EXAMINED ON BEHALF OF DISCIPLINARY AUTHORITY:**

- PW-1 SRI. M.A. MANSOOR (complainant)
Pw-2 SRI. B. PARASHURAM, (Police Inspector,
Lokayukta, Madikeri and Investigation Officer).

II. LIST OF DOCUMENTS MARKED/EXHIBITED ON BEHALF OF DISCIPLINARY AUTHORITY :

- Ex.P-1 : Complaint dated 18.01.2016 along with Form No, I & II
- Ex.P-2 : Copies of 11 receipts
- Ex.P-3 : 6 sheets of paper cuttings.
- Ex.P-4 : Copy of rent agreement
- Ex.P-5 : Information Letter/report dated 13.07.2016 of Municipal Commissioner.
- Ex.P-6 : 11 xerox receipts of bills.
- Ex.P-7 : Covering letter along with (True copy of FIR Crime No. 134/2015 u/s 415, 418 & 420 of IPC 2) True copy of complaint 3) True copy of statement of CW-1.
- Ex.P-8 : Investigation Report of PW-2 dated 29.07.2016.

III LIST OF WITNESS/S EXAMINED ON BEHALF OF DGO/DEFENCE

Nil – placed-exparte

IV LIST OF DOCUMENTS MARKED/EXHIBITED ON
BEHALF OF DGO/DEFENCE

Nil – placed-exparte

(Master RKGMM Mahaswamiji)
Additional Registrar Enquiries-10
Karnataka Lokayukta
Bangalore

Date : *27*-10-2018.

Place : Bangalore.



KARNATAKA LOKAYUKTA

No.UPLOK-2/DE/646/2017/ARE-10

Multi Storied Building,
Dr. B.R. Ambedkar Veedhi,
Bengaluru-560 001.
Dated 30.10.2018

RECOMMENDATION

Sub:- Departmental inquiry against Shri Sajith Kumar, Bill Collector, City Municipal Council, Madikeri, Kodagu District - reg.

Ref:- 1) Government Order No. UDD 02 TMS 2017 dated 04.04.2017.

2) Nomination order No. UPLOK-2/DE/646/2017 dated 12.05.2017 of Upalokayukta-2, State of Karnataka.

3) Inquiry report dated 27.10.2018 of Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru.

~~~~~

The Government by its order dated 04.04.2017 initiated the disciplinary proceedings against Shri Sajith Kumar, Bill Collector, City Municipal Council, Madikeri, Kodagu District [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-2/DE/646/2017 dated 12.05.2017 nominated Additional Registrar of Enquiries-10, Karnataka Lokayukta, Bengaluru, as the Inquiry Officer to frame charges and to conduct

7/12

departmental inquiry against DGO for the alleged charge of misconduct, said to have been committed by him.

3. The DGO - Shri Sajith Kumar, Bill Collector, City Municipal Council, Madikeri, Kodagu District was tried for the following charge:-

“ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ಶ್ರೀ ಸಜಿತ್ ಕುಮಾರ್, ಬಿಲ್ ಕಲೆಕ್ಟರ್, ನಗರಸಭೆ, ಮಡಿಕೇರಿ, ಕೊಡಗು ಜಿಲ್ಲೆ ಆದ ನೀವು, ಅರ್ಜಿದಾರರಿಂದ ಮಳಿಗೆ ಬಾಡಿಗೆ ಸಂಬಂಧ 11 ರಶೀದಿಗಳಲ್ಲಿ ವಸೂಲು ಮಾಡಿದ ರೂ. 2,26,705/- ಗಳನ್ನು ನಗರಸಭೆ ಲೆಕ್ಕಕ್ಕೆ ಜಮೆ ಮಾಡದೇ, ಕಛೇರಿ ಪ್ರತಿಗಳಲ್ಲಿ ಬೇರೆ ಬೇರೆ ಹೆಸರುಗಳನ್ನು ನಮೂದಿಸಿ, ರೂ. 7,920/- ಗಳನ್ನು ಮಾತ್ರ ನಗರಸಭೆಗೆ ಜಮಾ ಮಾಡಿ, ಹಣ ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡು ಕರ್ತವ್ಯಲೋಪ ಎಸಗಿರುತ್ತೀರಿ.

ಆದಕಾರಣ, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು, ಸರ್ಕಾರಿ ಸೇವಕರಾಗಿದ್ದು, ನಿಮ್ಮ ಕರ್ತವ್ಯಪಾಲನೆಯಲ್ಲಿ ಪರಿಪೂರ್ಣ ಪ್ರಾಮಾಣಿಕತೆ, ಸಂಪೂರ್ಣ ಕರ್ತವ್ಯ ನಿಷ್ಠೆಯನ್ನು ತೋರಿಸದೆ, ಸ್ವಂತ ಲಾಭಕ್ಕಾಗಿ ಸಾರ್ವಜನಿಕ ಸೇವಕರಿಗೆ ತರವಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಂಡಿದ್ದು, ಆಪಾದಿತ ಸರ್ಕಾರಿ ನೌಕರರಾದ ನೀವು ಕರ್ನಾಟಕ ಸರ್ಕಾರಿ ಸೇವಾ (ನಡತೆ) ನಿಯಮಾವಳಿ 1966ರ ನಿಯಮ (3)(1)(ii) ಮತ್ತು (iii) ನೇ ನಿಬಂಧನೆಯನ್ನು ಉಲ್ಲಂಘಿಸಿ, ದುರ್ನಡತೆ ಎಸಗಿದ್ದೀರಿ.”

4. The Inquiry Officer (Additional Registrar of Enquiries-10) on proper appreciation of oral and documentary evidence has held that, “the Delinquent Government Official Shri Sajith Kumar, Bill Collector, City Municipal Council, Madikeri, Kodagu District, has failed to maintain absolute integrity and devotion to duty and committed an act which is unbecoming of

a Government servant and found guilty of misconduct/charge under Rule 3 (1)(ii) and (iii) of Karnataka Civil Services (Conduct) Rules, 1966".

5. The Inquiry Officer has held that, the DGO being Bill Collector in City Municipal Council, Madikeri, Kodagu District, collected Rs.2,26,705/- from 11 shops and issued receipts, but remitted only a sum of Rs.17,470/-. Thus, the DGO has misappropriated the remaining amount of Rs.2,09,235/-.

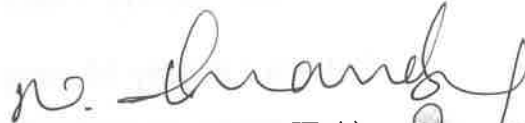
6. On re-consideration of report of inquiry, I do not find any reason to interfere with the findings recorded by the Inquiry Officer. Therefore, it is hereby recommended to the Government to accept the report of Inquiry Officer.

7. As per the First Oral Statement of DGO furnished by the Inquiry Officer, DGO - Shri Sajith Kumar is due for retirement on 31.08.2047.

8. Having regard to the nature of charge (demand and acceptance of bribe) '*proved*' against DGO - Shri Sajith Kumar, Bill Collector, City Municipal Council, Madikeri, Kodagu District, it is hereby recommended to the Government to impose penalty of 'compulsory retirement from service on DGO - Shri Sajith Kumar and also, to recover a sum of Rs.2,09,235/- from the pensionary benefits payable to DGO - Shri Sajith Kumar.'

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

Connected records are enclosed herewith.

  
(JUSTICE N. ANANDA) 20/10  
Upalokayukta,  
State of Karnataka.