

E. & P. H. (194 8) Department.

Ms. SERIES.

G.O. NO. Ms.561 Education.

Dated the 18th March 1948.

[Despatch Abstract.]

MEMORIAL TO HIS EXCELLENCY THE GOVERNOR - Sri P.G. Ramanathan, Retired

Head clerk, Presidency Collge, Madras - Rejected.

Back Papers

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
C10	1703	Bdu	23544				

Further Papers.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

OFFICE OF THE DIRECTOR OF PUBLIC INSTRUCTION, M A D R A S.

R.C. No.5486-C.6/46 dated 3rd October 1947.

&f&

Sub: Sri P.G. Ramanathan, Retired Headclerk, Presidency College, Madras - Memorial to His Excellency the Governor.

REF: From Sri P.G. Ramanathan, retired Headclerk, Presidency College, Madras dated 9..9..1947.



SUBMITTED.

2. I consider that the memorial of Sri P.G. Ramanathan does not deserve any consideration.

3. The attention of the Government is, in this connection, invited to G.O.MS. No. 1073 Education dated 23...5...1947.

for DIRECTOR OF PUBLIC INSTRUCTION.

To
The Secretary to Government,
Education and Public Health Department.

Ram.4/10.

17, Kassim Ali Lane,
Triplicane, Madras,
9th September 1947.



To

His Excellency

The Governor of Madras,

Through

The Director of Public Instruction

&

The Secretary to Government Education and Public Health.

The humble Memorial of Sri P. G. Ramanathan formerly Head
Clerk, Presidency College, Madras

Respectfully Showeth

That the memorialist was employed in the Presidency College,
Madras, as Head Clerk on a salary of Rs.125 and a Dearness allowance
of Rs.18/- per month.

That the petitioner had by then put in nearly 31 years of
service with a blameless record as his service register and confidential
records from successive Principals will show.

That on the 21st of January 1944 there was a loss of Rs.7460/-
out of the fee collections from the students of the college on that
day which loss the memorialist reported then and there to the Principal
Dr. B. B. Dey.

That the Principal thereupon telephoned to the City Police to
make enquiries into the incident and the Police forthwith examined the
memorialist and searched his residence but found nothing to connect
the memorialist with the loss of the money.

That the Police after an investigation that lasted over a
period of 7 months charge sheeted the Petitioner with breach of trust
in respect of the said amount of Rs.7460/- before the Chief Presidency
Magistrate, Madras who convicted the memorialist.

That the memorialist preferred appeals to the High Court of
Madras against the convictions and sentences and the High Court acquitted
the memorialist on all charges honorably. A copy of the judgment of
the High Court is herewith enclosed

That the Director of Public Instruction directed an enquiry
into the conduct of the memorialist on again the same charges and negli

(h)

negligence respecting the safe custody of the fees amount of Rs.7460/-

That on the 22nd January 1944 the Principal of the college Dr. B. B. Dey sent for the memorialist and induced him to deposit the sum of Rs.7300/- with him pending the police investigation and ^{said} that the Police are confident of recovering the stolen amount on which the deposit would be returned to the memorialist. A note to this effect was made then by Dr. Dey. He had also taken a written statement from ^{the petitioner} ~~me~~ which has been reported to be not traceable. Believing in these assurances the memorialist borrowed Rs.7300/- from his relations (which fact was verified by the Police and found to be correct) and deposited the same with the Principal.

That the Special office for enquiries into the conduct of Government Servants (Sri Dewan Bahadur T. Anantachari) held a departmental enquiry and passed an order dated 17th April 1947 by which he recommended that I should be compulsorily be retired, and the deposit of Rs.7300 was ordered to be forfeited to Government. The ~~Special Officer~~ Special Officer practically reviewed the Judgment of the High Court and purported to find that the case put forward by the memorialist was not true. The memorialist submits that the Special Officer was not competent to reverse the findings of the High Court as if he was an appellate authority. He has neither found nor given reasons for holding that there was any neglect on the part of the memorialist regarding the aforesaid sum of Rs.7460/- and therefore his recommendations should have been rejected.

That the memorialist submits that the recommendations of the Special Officer were accepted by the Director in his Proceedings Rs, No. 261 C/44 dated 3rd August 1946 and ordered the retirement of the memorialist as from 29th January 1944 and the forfeiture of Rs.7300/-. Against the order of the Director the memorialist appealed to Government of Madras which appeal was rejected in G.O. No.1073 Edn dated 23rd May 1947 copy of which is appended.

That the memorialist states that the Government took the view that neither the Special Officer nor the Director was competent to order a forfeiture of Rs.7300/- but that there was an obligation on the part of the memorialist to make good the loss to the Government and that the High Court there was neither criminality

nor negligence on the memorialist's part and therefore there never was nor could there have been any obligation to make good any loss to Government. The memorialist further submits that neither the Special Officer nor the Director has been able to say either definitely or even vaguely from which circumstances they inferred negligence to make the memorialist responsible to make good the loss to Government. The fact negligence as such has not been definitely found against him.

The Memorialist ~~also~~ also submits that the order for retirement retrospectively from 29-1-1944 is not just or valid. By reason of this order the memorialist has been deprived of Rs.2400/- being the half salary from 29-1-1944 and the date of ~~my~~ superannuation ie. January 1947.

The memorialist therefore prays that His Excellency would cause an enquiry to be made into the above statements of facts, send ^{for} the records of the case and render Justice by directing the refund of Rs.7300/- and directing the order of retirement to take effect from the date of ^{his} ~~my~~ reaching the 55th year for which act of Justice the memorialist would **feel** grateful.

The Memorialist Remains

Your Excellency's

Most Obedient Servant,

P. G. Ramaniathan
9/9/47.

Proceedings of the Director of Public Instruction, Madras
R.C. No. 5486 C6/46 dated
29th May 1947

Sub- Appeal - Sri P. G. Ramanathan, former Head Clerk, Presidency
College, Madras- Rejected.
Read- Govtment Order Ms. No. 1073 Edn. dated 23rd May 1947.

O r d e r . -

The Director of Public Instruction is requested to inform
Sri P. G. Ramanathan, former Head Clerk, Presidency College, Madras
that his appeal against the order of compulsory retirement issued
by the Director is rejected.

2. In his Proceedings R.C. No. 261 C/44 dated 3-8-46, the
Director of Public Instruction has ordered that the entire amount
of Rs. 7300 (Rupees Seven thousand and three hundred only) which
Sri Ramanathan has replaced should be forfeited to Government. The
Government are advised that the Director had no authority to 'forfeit'
the amount. All that he could have ordered under the classification
rules was a recovery from pay of the amount of loss caused to
Government by the negligence or breach of orders of the delinquent
officer. Further, as explained below, there was no scope for the
passing of any order of forfeiture in this case, as the amount of
had already passed into the Government's ownership. The Director's
orders of forfeiture cannot therefore be sustained and is accordingly
set aside.

3. There was clearly an obligation resting on Sri Ramanathan
to make good the amount of the loss caused to Government by his
negligence and it was in fulfilment of this obligation that the
payment was made by him voluntarily. The fact that he was acquitted
in the criminal case launched against him, cannot absolve him from
this civil liability. When the amount was paid, it passed into the
ownership of Government and therefore there was nothing to be for-
feited. Sri Ramanathan's contention that the amount was deposited by
him on the understanding that it would be refunded after the investi-
gation of the case by the police is not borne out by facts. He has
therefore no right to recover the amount.

(By Order of His Excellency the Governor)

M. V. Subrahmanyam
Secretary to Government

(True copy)

P. G. Ramanathan

9/9/47

See pp. 4-8.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Monday, the sixteenth day of April, 1945. *Appendix A*
One thousand nine hundred and forty five.

Present:-

THE HONOURABLE MR. JUSTICE HAPPELL
Criminal Revision Case No. 1016 of 1944.
(Criminal Revision Petition No. 949 of 1944.)

P. G. Ramanatha Iyer

... Petitioner (Accused)

Petition under sections 435 and 439 of the code of criminal procedure, 1898, praying the High Court to revise the judgment of the Court of the Chief Presidency Magistrate Egmore, Madras in C.C. No. 1654 of 44 dated 11-12-44.

This case coming on for hearing on Friday the sixth day of April, 1945, upon perusing the petition and the judgment of the lower court and the record in the case and upon hearing the arguments of Mr. V. L. Ethiraj for Messrs. T. M. Kasturi and T. A. Sreenivasan, advocates for the petitioner (accused) and of Mr. C. D. Venkatramanan for the Crown Prosecutor on behalf of the Crown and the case having stood over for consideration till this day the court made the following

ORDER:- The petitioner has been convicted by the Chief Presidency Magistrate of Criminal breach of trust in respect of a sum of Rs. 7460/- and has been sentenced to undergo six months rigorous imprisonment.

The petitioner was the head clerk of the Presidency College. Students of the college, it appears have to pay their fees between the 10th and the 21st January and the petitioner, as head clerk, was responsible for receiving the fees, giving receipts, making the necessary entries in the appropriate registers, getting the chalan for remittance to the bank signed by the principal, and remitting the cash collections to the bank. The fees were paid sometimes by cheque, but mainly in cash. About 6.30 p.m. on the 21st January 1944, the petitioner went to the principal, Dr. Dey, P.W. 1 and told him that the whole of the collections made that day amounting to over Rs. 7000/- were missing. He said that he had had the money beside him while he was trying to work out some figures and that he could not account for the loss. He did not say that he suspected any one. In his statement at the trial, the petitioner said that he had gone out to spit for two or three minutes and that when he returned he found cash missing. According to P.W. 1 however, he did not tell him but had only said when asked whether he had left the room, that he had once gone out to spit. Principal sent for the police, they arrived at about 8 O' clock. They searched the petitioner's room the same evening and found there something over Rs. 300/- but it is not suggested that these are connected with the appropriation of the fees. The money, in fact, has never been recovered. The petitioner was arrested on the 29th January. In the evidence is that the petitioner was working in his office the whole day and that perhaps on the one occasion when he went out to spit, it was he who was working with him in the office of the principal. He was, however, in the office when the loss to the principal, and it is clear from the evidence of the day. P.W. 6 is

...of Rs. 7460/- of the fees collected on the 21st Jan. account. If there had been an previous defalcation, the sum misappropriated would have been largely than Rs. 7460/- Moreover, the Inspector of police who ~~inspected~~ investigated the case, P.W.5 states clearly that he had checked the accounts of the accused and found a shortage of Rs. 120/- on 7-11, after allowing for the amount alleged to have been stolen. The accused no doubt gave no very satisfactory explanation as to why there was this shortage, but it is a small sum which he was undoubtedly able to replace and intended to replace and has no connection with the charge against him.

The only evidence as far as I have been able to see, which, if accepted, might have tended to show that the petitioner had falsified the accounts in order to further his schemes of misappropriation is the evidence of the attender, P.W.6. It is the case that at the top of page 26 of the daily fee collection register the date "20-1-44" continued has been crossed out and replaced by "21-1-44" and P.W.6 says that the petitioner made this correction, although the fees on that page entered as received on 21-1-44 were really received on 20-1-44. The evidence of this witness has not been accepted by the Chief Presidency Magistrate and I refer to it only because it seems to me another illustration of the fact that the prosecution was not clear as to what its case against the accused really was. The suggestion seems to have been that the petitioner wished to show as large a total of fees as collected on the 21st as possible because he had already made up his mind to misappropriate them. Seeing, however, that the collections of 20-1-44 were in the safe and available for misappropriation, there seems very little in this contention even if the evidence of P.W.6 is accepted. Moreover the counter foil receipts show that the fees on page 26 under the corrected date of 21-1-44 were received on the 21st January. The dates in the counter foils have no doubt been entered by the petitioner, but if they did not correspond with the receipts given to the students, they could easily have been checked.

The result of what has been said ~~is~~ above is that no inference adverse to the petitioner can be drawn from the accounts or from anything that transpired before 21-1-44. But that it was the prosecution case that some such inference could be drawn and that the Chief Presidency Magistrate accepted this case appears again not only from his comment on the tabular statement, but from a reference to an argument of the Asst. Crown Prosecutor which appears at the end of the judgment. In dealing with the contention for the defence that the accused's failure to tally his accounts in the small matter of the sum of Rs. 120/- was really in his favour, he refers, apparently with approval, to the argument put forward by the Asst. Crown Prosecutor

"that the accused had managed to accumulate a large balance by that day which he had decided to misappropriate and the discrepancies were taken advantage of only to advance the accused's statement that he took the money out to recount it."

as has been seen, the petitioner had not accumulated a large balance at all. There were the collections of the 20th January, but they were not misappropriated. They were found in the safe and would, presumably, according to the ordinary routine have been remitted to the bank on the following day. The amount stolen or misappropriated was only the amount collected by way of fees on the 21st January.

Now if no adverse inference can be drawn from the way in which the accounts were maintained, or the monies received for the college dealt with, prior to the 21st January or from anything that transpired before that date, what is the evidence against the petitioner? It is simply that all the fees collected on the 21st January are missing, that the petitioner was responsible for their collection and in charge of them and that he does not appear that any one could have stolen the money except the petitioner and / or the two persons working in the room with him, P.W.2 and 6. In my opinion, once the case is confined to the evidence and circumstances connected with what happened on the 21st of January, it is clear that it cannot be held to have been proved beyond reasonable doubts that the petitioner misappropriated the money.

The charges were collected at 5.30 p.m. on 21st Jan. 1944

It is an extraordinary case and it was natural that grave suspicion should be aroused. On the other hand the money has never been traced, and there is no indication of how the accused, if he did misappropriate, either secreted it or managed to pass it out of the college. The evidence is clear that he did not leave the college that day or indeed except for a minute or two his office before he reported to the Principal that the money had been lost. Both the prosecution and the Chief Presidency Magistrate were evidently conscious that the evidence with regard to what happened on the 21st January by itself did not prove the charge against the accused; but as it seems to me and as I have shown above they were wrong in thinking that there was any other evidence. In my judgment for the reasons given, the conviction cannot be sustained. The conviction of the petitioner is therefore set aside and his petition is allowed. The bail bond of the petitioner will be cancelled.

(sd) K.N.Ganapathy
Depty. Registrar A. S.

(True copy)

P. G. Renukavathian
9/9/67

Cl

79368 A/47

57
18/7

87-88 CF (2)

To The D.P.D.
M/20/3/48

Memorial to H.E. the Governor. Sri P. G. Ramanaidu,
Retired Head Clerk Presidency College, Madras - Rejected
From the D.P.D., No 54866/46 d 3.10.47.

Order/H.S. 561 bdy d. 18.3.48

The D.P.D. is requested to inform the
memorialists that H.E. the Governor declines to
interfere with the orders already passed in Gov. No.
1073 bdy d 23.5.1947.

16.3.48
16/3/48

MM
17/3/48

Cl

14th Sept

79368 A/47

57
18/7

27-88CF@

To The D.P.D.
18/7/48
20/3/48

Memorial to H.E. the Governor. Sri P. G. Ramana than,
Retired Head clerk Presidency College, Madras - Rejected
From the D.P.D. No 54866/46 d 3.10.47.

Order/HIS 561 bdy d. 18.3.48

The D.P.D. is requested to inform the
memorialists that H.E. the Governor declines to inter-
fere with the orders already passed in G.O. No
1073 bdy d 23.5.1947.

16.3.48
16/3/48

17/3/48

MEMORIAL TO H.E. THE GOVERNOR - Sri P.G. Ramanathan -
retired Head-Clerk - Presidency College, Madras.

From the D.P.I. No. 5486 C6/46 dated 3-10-47.

The current file contains a memorial from Sri P.G. Ramanathan, retired head-clerk, Presidency College, Madras who was ordered by the D.P.I. to be compulsorily retired from service from 29-1-44 (the date of his suspension) for committing certain serious irregularities while in service. For a brief history of the case, attention is invited to the note on pp 1-2 n.f. of G.O.No. 1073 Ean. dated 23-5-47.

2. In September 1946, Sri Ramanathan submitted an appeal to Government, against the orders of the D.P.I. requesting that he might be reinstated in service and that the sum of Rs. 7300/- paid by him to the Government might be refunded. The appeal was referred to the M.P.S.C. for remarks. The Commissioner was of opinion that the punishment of compulsory retirement imposed by the D.P.I. on him was proper and advised that the Advocate-General might be consulted as to the legality of the forfeiture of the amount to Government. The Legal Department considered that it was not necessary to consult the Advocate-General in this matter. That Department was of opinion that there was nothing to be forfeited to Government in this case, as the amount had already passed into the legal ownership of Government and at the delinquent officer had no right of recovery of the amount, as it was paid ^{by him} to make good the loss caused to Govt. by his negligence. Orders were accordingly issued in G.O.No. 1073 Ean. dated 23-5-47, rejecting his appeal and also informing him the correct position as regards the money "forfeited" to Government. He has now submitted a memorial to H.E. the Governor praying that the amount of Rs. 7300/- paid by him to Government may be refunded to him and that the order of his retirement may be made to take effect from the date of attaining his 55th year of age.

1 CF

3-7 CF

(e)

pp 7-15 CF (e)

pp 27-28 CF (e)
33 CF - de

pp 5-6 (e)

pp 87-88 CF (e)

pp 3-7 CF

10.1.9.3
P.S.G H.F. agrees
M/13/3/48

Instructions:-

(1) The man

(1) The man

(1) The man