

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	302	Press ~~Mis.~~
	18-19	
Dated	17-3-1857.	

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 17th March 1857.

No. 18. Read the following letter from E. STORY, Esq., Civil and Sessions Judge of Tinnevelly; to T. PYCROFT, Esq., Chief Secretary to Government, dated 14th February 1857, No. 218.

SIR,

1. I have the honor to request that you will be so good as to lay the following statement and copies of correspondence before the Right Honorable the Governor in Council.

2. Shortly after taking charge of this Court, I found that the Nazir was mentally and physically unfit for his duties, which require a person possessing both these faculties in all their vigor.

† No. I. 3. I therefore addressed† the Zillah Surgeon on the subject, his answer is No. II, I then wrote to him No. III to which No. IV is his reply.

‡ No. V. 4. After this I asked the late Acting Civil Judge for his opinion; No. VI‡ is his answer in which he fully confirms my opinion of the Nazir.

5. The opinion of the Zillah Surgeon is to me inexplicable, unless it has been hastily formed or from not having had experience of the Nazir's inefficiency.

6. The Nazir is in the 68th year of his age and has faithfully and satisfactorily served Government for a period of 35 years and 4 months.

7. The duties of this Court are very heavy and business is seriously retarded by the Nazir's dilatoriness and forgetfulness.

8. I therefore trust that Government without reference to the opinion of the Zillah Surgeon will permit me to send in an application for a pension for the Nazir.

(Signed) E. STORY,
Civil and Sessions Judge.

No. I.

From E. STORY, Esq., Civil and Sessions Judge; to F. L. CLEMENTSON, Esq., Zillah Surgeon, Tinnevelly, dated 21st January 1857, No. 79.

SIR,

I have the honor to request you will be good enough to examine the bearer Mohamed Booran Saib, Nazir of this Court, and inform me whether he is fitted for the efficient discharge of his duties, and if not to furnish me with a Certificate to that effect as required by the Pension rules. The Nazir is 68 years of age.

(Signed) E. STORY,
Civil and Sessions Judge.

No. II.

From F. L. CLEMENTSON, Esq., Zillah Surgeon, Tinnevelly, to E. STORY, Esq., Civil and Sessions Judge of Tinnevelly, dated 22nd January 1857, No. 5.

SIR,

I have the honor to acknowledge the receipt of your letter No. 79, dated 21st January 1857, and to inform you that I have examined Mohamed Booran Saib, Nazir of the Zillah Court of Tinnevelly, and that I am of opinion that he is capable of the efficient discharge of his duties.

(Signed) F. L. CLEMENTSON,
Zillah Surgeon.

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No. III.

From E. STORY, Esq., Civil and Sessions Judge of Tinnevely; to F. L. CLEMENTSON, Esq., Zillah Surgeon, Tinnevely, dated 6th February 1857, No. 177.

SIR,

I have the honor to request you will be good enough to examine the bearer Mahomed Booran Saib, the Nazir of this Court, and give me your opinion as to whether you consider him mentally fit for the efficient discharge of his duties.

(Signed) E. STORY,
Civil and Sessions Judge.

No. IV.

From F. L. CLEMENTSON, Esq., Zillah Surgeon, Tinnevely; to E. STORY, Esq., Sessions Judge of Tinnevely, dated Palamcottah, 11th February 1857, No. 17.

SIR,

I have the honor to acknowledge the receipt of your letter No. 177, dated 6th February 1857, and to inform you that from the result of several examinations Mahomed Booran Saib, Nazir of the Sessions Court of Tinnevely, does not appear to me mentally disqualified for the efficient discharge of his duties.

(Signed) F. L. CLEMENTSON,
Zillah Surgeon.

No. V.

From E. STORY, Esq., Civil Judge of Tinnevely; to V. H. LEVINGE, Esq., Sub-Collector of Tinnevely, dated 11th February 1857, No. 196.

SIR,

I have the honor to request you will be good enough to inform me whether from the experience you have had of the Nazir Mahomed Booran Saib, during the time you presided over this Court, you consider him fitted for the efficient discharge of his duties.

(Signed) E. STORY,
Civil Judge.

No. VI.

From V. H. LEVINGE, Esq., Sub-Collector; to E. STORY, Esq., Civil Judge of Tinnevely, dated 12th February 1857, No. 10.

SIR

In reply to your letter of the 11th Instant, I have the honor to inform you that during the time I was Acting Civil and Sessions Judge, I came to the conclusion that the Nazir Mahomed Booran Saib, was inefficient and too infirm for the active duties required in his Department.

(Signed) V. H. LEVINGE,
Sub. Collector.

(True Copies.)

(Signed) E. STORY,
Civil and Sessions Judge.

No. 19.

ORDER THEREON, No. 302; dated 12th March 1857.

Mr. Story, Judge of Tinnevely, reports that, soon after assuming charge of the Court, he found that the Court Nazir, an old servant of 35 years standing and sixty-eight years of age, was mentally and physically incompetent to the discharge of the very onerous and important duties

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of his post. He therefore sent him for examination to Mr. Clementson, the Zillah Surgeon, for the usual Certificate, which, however, the latter declined to supply.

2. The Civil and Sessions Judge then applied to Mr Levinge, who, subsequently to the departure from Tinnevely of the late Mr. Woodgate, has for some months presided in the Court, for his opinion of the Nazir's efficiency. By his reply it will be seen that he is of the same opinion as Mr. Story.

3. Mr. Story now asks permission to send in an application for a Pension to the Nazir without reference to the absence of the Zillah Surgeon's Certificate. The duties of the Court, he states, are extremely heavy and business is seriously retarded by the Nazir's dilatoriness and forgetfulness.

4. The course proposed is agreeable to the rule laid down by the Government of India under date 17th September 1855. "His Honor the President in Council observes that the Pension Rules do not require a Medical Certificate in the case of a Public Servant incapacitated for further employment from old age; and he is of opinion that the question of incapacity should be left in such cases to be decided by the Head of the Office, subject to appeal, if necessary, to the next higher executive authority, rather than that it should be referred to the judgment of medical men on professional grounds." These proceedings, however, having come under the notice of the Honorable Court, it was ruled by them (para: 34, Despatch No. 11 of 1856) that the safer practice is "to insist on medical testimony being given, whenever an Uncovenanted Servant applies for permission to retire in consequence of infirmity of body or mind, and we desire" they add—"that this practice be continued."

5. Unless therefore the Nazir, can procure a Medical Certificate he cannot be admitted to Pension. Under all these circumstances, however, the Government resolve to forward these papers to the Medical Board and to request them to instruct the Superintending Surgeon Southern Division on his next visit to Tinnevely to examine the Nazir in communication with the Zillah Surgeon and the Surgeon in charge of the Regiment at Palamcottah and to report upon his case and on his physical and mental fitness for the public service.

(Signed) T. PYCROFT,
Chief Secretary.

Memo

Judicial Sept 3

N^o 302

Extract from: Copy: dated 12th March 1857
Read the following letter from the Ch. Judge of Tinnivelly.
(Here enter the Copy 1857 N^o 218)

Mr. Stong, Judge of Tinnivelly reports
that, soon after assuming charge of the
Court, he found that the Court Nairi,
an old servant of 35 years standing &
sixty eight years of age, was mentally
& physically incompetent to be discharge
of the very onerous & important duties
of his post. He therefore sent him for
examination to Mr. Clementson, the
District Surgeon, for the usual certifi-
cate, which, however, he later de-
clined to supply.

2. The C. & S. Judge has applied to Mr.
Loring, who, subsequently to his departure
from Tinnivelly & the late Mr. Woodgate,
has for some months presided in the
Court, for his opinion of the Nairi's
efficiency. By his reply it will be
seen that he is of the same opinion
as Mr. Stong.

3. Mr. Stong now asks permission to
send in an application for a Pension to
the Nairi, without reference to the ab-
sence of the District Surgeon's certificate.
The duties of the Court, he states, are
extremely heavy & business is seriously
retarded by the Nairi's dilatoriness
& forgetfulness.

4. The course proposed is agreeable to the rule
laid down by the Govt of India under date 17th
Sept 1855. "His Honor the President, in

H. J.

It is unnecessary

to enter into

the long and

tedious

discussion of

the merits of

the case

as the decision

is clear

I think to be

Committee states that the Pension
'Rules do not require a Medical
Certificate in the case of a Public
Servant incapacitated for further
employment from old age; and he
is of opinion that the question of in-
capacity should be left in such cases
to be decided by the head of the office,
subject to appeal, if necessary, to the
next higher Executive Authority, rather
than that it should be referred to the
judgment of medical men on profes-
sional grounds." These proceedings,

however, having come under the notice of the
Honble Council, it was ruled by them
(Para 34 - Despatch No 11 of 1856)
~~regarding~~ that the proper course
is "to insist on Medical Testimony being
given, whenever an Unemployment Ser-
vant applies for permission to retire
in consequence of infirmity of body or
mind - and we desire" they add-
ed "that his practice be continued."

5. Unless therefore the Waris could
procure a Medical Certificate from
a doctor qualified to examine him - he cannot be trans-
ferred to the Pension list, but must
be allowed by the authorities to forget-
fulness' incident to his advanced
age of life, to impede the despatch
of public business - to the annoyance of
his superiors & detriment of Govt.

27/4-57.

he cannot be admitted to Pension - Under
all the circumstances in honor the Govt resolves
to forward these papers to the Medical
Sup^y & Surgeon Southern Division to instruct the
next visit to Timor to interview him on his
the Waris in communication with the
Jillat Surgeon & K Surgeon in charge
of K Res^t at Palan cotton & on his
port upon his case & on his
physical & mental fitness
for service - for the public
service of the Govt.
must be with a view to the
service of the Govt.
must be with a view to the
service of the Govt.

Annals of the County of ...

County of ...

1849

7 p. 621.

8/12. March 1857.

Extracts from the ...

APR 30 1857

For ... to ... 19th March
Audited by ...

[Faint, mostly illegible handwritten text, possibly a list or account, covering the bottom half of the page.]