M.R.O. 1—38,000—16-10-29.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1712 Press ~~Mis.~~

46-47.

Dated 4-12-~~1928~~.

***Not to be folded or roughly handled***

No. 46. Read the following Extract Minutes Consultation in the Public Works Department, dated 24th November 1858, No. 2510.

Referring certain papers on the subject of the erection of the Barracks at Nursipatam in view to obtaining from Captain Owen, the Officer in charge of the Sebundy Corps at Nursipatam, and who was entrusted with the superintendence of the work, such explanation as he may wish to offer to shew cause why he cannot be held answerable for the entire amount of loss that may be incurred in consequence of the default of the Contractor C. Tummiah.

(Vide Public Works Consultation, 30th November 1858, Nos. 20 and 21.)

No. 47. ORDER THEREON, No. 1712; dated 4th December 1858.

Ordered to be communicated to the Magistrate of Ganjam, who will obtain from Captain Owen and submit to Government the information called for in para. 1 of the above Extract Minutes Consultation.

(Signed) W. H. BAYLEY,
*Acting Secretary to Govt.*

Exd. F. Cartledge.

PUBLIC WORKS DEPARTMENT.
*Public.*

No. 2510.

*Extract from the Minutes of Consultation under date the 24th November* 1858.

Read the following letter from Lieutenant Colonel E. LAWFORD, Officiating Chief Engineer; to W. H. BAYLEY, Esq., Acting Secretary to Government, dated 27th October 1858, No. 4896.

SIR,

1. Copies of correspondence viz.
Letter from the Acting District Engineer of Vizagapatam, No. 470 of 16th September 1858.
Do. Do. No. 585 of 5th October 1858.
1 Memo :

With reference to para. 3 of Extract Minutes Consultation of the 15th July 1858, No. 1375, ordering the Officer of the Public Works Department, to whose charge the erection of the Barracks at Nursipatam fell, to be personally responsible for the entire amount of loss that may be incurred in consequence of the default of the Contractor C. Tummiah, and requiring me to state who that Officer is, I have the honor to forward the accompanying copies of two letters, from the Acting District Engineer of Vizagapatam, giving all the explanation that appears to be obtainable regarding the circumstances under which the advances were respectively made to the Contractor, with a Memo: of the dates of each.

2. From these letters, and the previous correspondence which has already been before Government, I gather, that towards the end of 1856, Lieutenant Burn an Assistant Engineer in Vizagapatam, was deputed by Lieutenant F. Moberly, who was then in charge of the District, to commence the erection of the Barracks at Nursipatam, and that, after spending Rupees 328 himself, he entered, without orders, into a contract with C. Tummiah, giving him advances on two occasions to the amount of Rupees 400.

3. Lieutenant Burn appears shortly afterwards to have left the District, and Lieutenant Syme, who fell into temporary charge on the transfer of Lieutenant Moberly to Ganjam, having disapproved of the contract, had it annulled, and concluded a fresh one with the same man, by the terms of which the superintendence of the work was virtually handed over to Captain Owen, who Commanded the Sibbundy Corps and resided on the spot, and who assumed the duty at the request of Lieutenant Syme, and in consideration of a sum of Rupees 200 paid to him from the Estimate by the Contractor.

4. By Captain Owen, therefore were made all the subsequent advances, amounting to Rupees 2,822, and as he undertook to see that the work was properly executed, and that no bad materials were used, receiving in consideration of his trouble on actual payment of Rupees 200, I am decidedly of opinion that that Officer is responsible for whatever loss may be incurred in consequence of the failure of the contractor, or by the employment by him of bad materials.

5. It will be observed that the Acting District Engineer, estimates that the entire loss will be between Rupees 1,000 and Rupees 1,500.

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Letter from Lieutenant J. VERTUE, Acting District Engineer, Vizagapatam ; to the Chief Engineer, dated Camp Waltair, 16th September 1858, No. 470.

SIR,

With reference to Extract Minutes Consultation No. 1375, of 15th July 1858, I have the honor to furnish the information required by your Resolution appended thereto.

1. The work was taken out of the hands of the Contractor so soon as the orders of Government were received, but a more unfortunate time for recommencing operations could not be, as owing to the state of the weather, the utter absence of roads, and the extreme difficulty of procuring labour [always with difficulty procured in the Golgondah Talook, and about Nursipatam in particular] it will be almost impossible to cart in the materials, the greater part of which must

be brought at least 10 miles. All therefore that can be done until the close of the monsoon is to cut the timber, allow it to season, and if practicable prepare it where felled. So soon as the monsoon has passed over, operations shall be carried on with the utmost possible vigour.

2. The deficiency will be very considerable, probably from 1,000 to 1,500 Rupees, but as the building has of course sustained some damage by remaining so long in an unfinished state, and as the difficulty of procuring labour, the uncertainty of rates, and a number of other circumstances have much increased the calculated cost, I trust Government will partially reconsider the matter, and consent to bear at least a portion of the increased expense.

3. The first contract was made by Lieutenant Burn, late Assistant Civil Engineer attached to this District, but for reasons unknown to me, I am given to understand that this contract was cancelled by Lieutenant Syme then in charge of the District, and a fresh contract was drawn up, in which it was stipulated that the building be superintended by Captain Owen, to whom the Contractor agreed to give 200 Rupees for his trouble. Not being aware of the reasons which induced the cancelling the 1st contract, I can offer no remarks upon this step, but I would suppose that the Contractor refused to give up his contract, otherwise, the first contract being cancelled, another would not have been made with a man of so notoriously bad a character.

4. I beg to annex a Memo, of the sums at different times advanced to the Contractor, with the name of the Officers by whom made, and showing the date of each advance.

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Memorandum of sums advanced to the Nursipatam Sebundy Barracks Contractor C. Tummiah, with the Names of Officers by whom made, and shewing the date of each advance the same prepared from Captain Owen's Accounts.

| | Amount expended when the work was under Lieut. A. G. W. Burn, late Asstt. Engineer. | | | Amount expended when the work was under Captain W. G. Owen Commanding S. L. Corps. | | | Total. | | |
|---|---|---|---|---|---|---|---|---|---|
| | Rs. | A. | P. | Rs. | A. | P. | Rs. | A. | P. |
| Expended by Maistry Veerasawmy between August 1856, and January 1857 | 328 | „ | 1 | „ | „ | „ | | | |
| 26th January 1857, advanced to Contractor C. Tummiah | 200 | „ | „ | „ | „ | „ | | | |
| 29th do. „ do. to do. for door Contractor. | 200 | „ | „ | „ | „ | „ | | | |
| 17th February „ do. to do | „ | „ | „ | 200 | „ | „ | | | |
| 9th March „ do. to do | „ | „ | „ | 71 | 15 | 11 | | | |
| 20th do. „ do. to do | „ | „ | „ | 200 | „ | „ | | | |
| 3rd April „ do. to do | „ | „ | „ | 300 | „ | „ | | | |
| 15th do. „ do. to do | „ | „ | „ | 200 | „ | „ | | | |
| 18th do. „ do. to do | „ | „ | „ | 200 | „ | „ | | | |
| 15th May „ do. to do | „ | „ | „ | 300 | „ | „ | | | |
| 17th June „ do. to do for doors | „ | „ | „ | 150 | „ | „ | | | |
| 20th do. „ do. to do | „ | „ | „ | 200 | „ | „ | | | |
| 6th July „ do. to do | „ | „ | „ | 200 | „ | „ | | | |
| 23rd do. „ do. to do | „ | „ | „ | 200 | „ | „ | | | |
| 8th August „ do. to do | „ | „ | „ | 200 | „ | „ | | | |
| 24th do. „ do. to do | „ | „ | „ | 200 | „ | „ | | | |
| 5th Septr. „ do. to do | „ | „ | „ | 200 | „ | „ | | | |
| Total | 728 | „ | 1 | 2,821 | 15 | 11 | 3,550 | „ | „ |

District Engineer's Office,
Vizagapatam,
Camp Waltair, 16th September 1858.

J. VERTUE, Lieut.,
*Ag. District. Engineer,*
*Vizagapatam.*



Letter from Lieutenant J. VERTUE, Acting District Engineer, Vizagapatam; to the Chief Engineer, dated Camp Waltair, 5th October 1858, No. 585.

Sir,

I have the honor to acknowledge receipt of your letter, No. 4020, of 25th Ultimo, and to supply, to the best of my power, the information therein called for.

Captain F. J. Moberly, while District Engineer, placed at Lieutenant Burn's disposal the sum of 1,000 Rupees out of which, by his authority, the 1st amount in the Memorandum [herewith returned] was, I believe, expended by the latter, while the next two sums, of 200 Rupees each, were subsequently advanced by Lieutenant Burn himself. An arrangement was then made by Lieutenant W. Syme, in virtue of which Captain Owen was to superintend the work and advance money, and by him therefore were the remaining sums advanced from the entire balance of the estimate [viz., Rupees 3,940] placed at his disposal by Lieutenant Syme, by whom also the actual bill of the work was sent in May 1857. On taking charge of the District, I saw no reason for altering this arrangement, and therefore continued it. I could not have found a better Superintendent than Captain Owen and moreover, I had then no Officer under me, nor indeed any one, whom I could spare to superintend the work.

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Before passing orders on the Officiating Chief Engineer's communication above recorded, the Governor in Council resolves to refer the papers to the Judicial Department in view to obtaining from Captain Owen the Officer in charge of the Sibbundy Corps at Nursipatam such explanation as he may wish to offer to shew cause why he cannot be held answerable for the entire amount of loss that may be incurred in consequence of the default of the Contractor, Chintacayla Tummiah.

2. The Officiating Chief Engineer will in the meanwhile desire the District Engineer to inspect the unfinished Barracks and to report the total value of the work performed shewing separately, if possible, the portions thereof executed previous to and after Captain Owen's undertaking the supervision and paying the advances.

3. A copy of Extract Minutes Consultation dated 15th July 1858, No. 1375, will be furnished to Captain Owen through the Judicial Department

(A true Extract.)

(Signed) W. H. BAYLEY,
*Acting Secretary to Government.*

To the Officiating Chief Engineer.
„ Judicial Department, with E. M. C. No. 1375.

Exd. Geo. Fonceca.

Judicial Department

No 1712

Extract from the Minutes of Consultation
Dated 4th December 1858.

Read the following Ext.
Mins. Cons. Public Works Dept.
(Here enter 24th Nov/58 No 2510.)

Ordered to be communi-
-cated to the Magistrate of
Gangain, who will obtain
from Capt. Owen and submit
to Govt. the information called
for in para 1 of the above Ext.
Mins. Cons.

W.H.13

Copy to Agent at Gangain with BMC
with C.W.D. Nos 1375 & 2510 } Dispd. 10th
P.C. Dept.

In Dy. to Corr: & Dept
Judicial 1858 Dept

P.W.D.C. No. 69-70
2-3-58
20 July Ltr No. 1375

No 1712.

Extract Mins. of Corr

3/4 December 1858

Directing the Magistrate of Kanyan to obtain from Captain Owen the Officer in charge of the Tebbenoy Corps at Nuwaiputaun and submit to Govt the information called for in para 1 of the Secy of Ans in the Pub W. Dept as to why he cannot be held answerable for the entire amount of loss that may be incurred in consequence of the default of the Contractor Chintaraylu Limmiah.

E.C. 3/104/59

40047

(30 Jan
R.A. Dass