

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 96

Press

~~Atis.~~

67-68

Dated

19 — 1 — 19-12-18

Not to be folded or roughly handled

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Fort St. George, Judicial Consultation, 19th January 1858.

No. 67. Read the following letter from the Honorable D. ARBUTHNOTT, Justice of the Peace, and Sub-Collector and Joint Magistrate; to the Secretary to Government in Revenue and Judicial Departments, dated Taudputry, 4th January 1858, No. 1.

SIR,

Original papers enclosed and requested to be returned. I have the honor to forward for the information of Government copy of record of a case of assault preferred before me by Lutchumana-sing, Cutwall of Paulasamoodrum, against Lieutenant Colonel L. Fyler, Commanding Her Majesty's 12th Royal Lancers.

2. Copy of record has been also forwarded to defendant Lieutenant Colonel L. Fyler, but the fine has not been paid, nor has any notice been taken of the communication by that Officer. I therefore request that if the sentence is approved, of I may be instructed how to recover the amount of fine from defendant who is now with his Regiment en route to Nagpore.

3. I beg to add that the result of this violence has been that the Camp followers have throughout the Division taken supplies either without payment or on any payment they chose to make. The Tahsildars and other Native Officers protested in vain against these proceedings. The butcher seized sheep paying 6, 8 or 12 Annas instead of the proper price and threatened to get the Tahsildars punished by the Colonel, as the Paulasamoodrum Cutwal had been, if they interfered, and in like manner Officers' servants and other Camp followers pretending to be Officers' servants took what they pleased and when asked for their master's names, gave false names.

4. I need scarcely add that in consequence of these occurrences, the difficulty of procuring supplies for the force (Her Majesty's 43rd Regiment) now passing through this Division has been greatly increased, and to prevent as far as possible the re-occurrence of such practices, I have written to the Officer Commanding Her Majesty's 43rd Regiment, requesting him to see that ready money payments are made for all supplies.

(Signed) D. ARBUTHNOTT,
Justice of the Peace and
Sub-Collector and Joint Magistrate.

Case No.	Names of the parties.	Abstract of the charge or crime.	Date of			Sentence.	Remarks.
			Apprehension.	Leaving the Talook.	Arrival.		
1	Colonel L. Fyler.	Assault. With having on the 10th December 1857, at Codoor, a village of Codecondah Talook, caused the complainant to receive 11 lashes on his back with a cat-o-nine tails under pretence that complainant had not furnished supplies to the Camp.				Complainant states as per tenor of charge and shows marks of lashes on his back. Defendant declined appearing personally or by Vakeel, but has forwarded a written statement (marked A) in which he acknowledges that he ordered complainant to receive 11 lashes and that they were inflicted, but justifies his proceedings on the ground that the Cutwall had neglected his duty in not furnishing supplies to the Regiment, to prove which statements Nos. 1 and 2 are forwarded.	

The neglect of duty on the part of the complainant who is Cutwal of Paulasamoodrum and a paid Police Officer should have been immediately reported to the Joint Magistrate, but this neglect could not justify the illegal punishment inflicted by the defendant. The complainant it appears left his own village Paulasamoodrum, in which alone he had any authority, to assist in distributing supplies for the Regiment at Codoor, distant about 7½ miles from Paulasamoodrum. He had no power to collect supplies of any sort. The only man who had any real power, the Tahsildar, was placed in custody by Colonel Fyler's orders and was of course useless for the only purpose for which he had gone to the Camp. It is thus clear that the defendant by his

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own act effectually prevented the only man who had the power to get supplies from doing so and then flogged the wrong man because the supplies were not ready.

The defendant Colonel L. Fyler has acknowledged the truth of the charge of assault preferred against him by Cutwall Lutchumanasing, he is therefore fined 100 Rupees and directed to forward this sum to this office in order that one-half thereof may be remitted to the Clerk of the Crown and the other moiety paid to complainant as compensation under Section II, Regulation II of 1820.

23rd December 1857.

(True Copy.)

(Signed) D. ARBUTHNOTT,

Justice of the Peace.

No. 1. *Statement of Quarter Master Blake.*

On my arrival at Coodoor on the 9th Instant, I inspected the Camp ground and found a deep nullah at the bottom of it, which the bandies would have to cross, I considered it was absolutely necessary that 50 coolies should be employed to assist the bandies to cross during the night, I also considered it necessary that lights should be placed on both sides for guides for the bandymen to prevent accidents, I immediately sent for the Cutwall of the Village and had it fully interpreted to him, that he should immediately provide coolies and lights for above purpose, and further gave him orders to have the supplies ready for the Regiment at 7 o'clock the following morning, but none of my orders were obeyed, and in consequence several of the bandies with stores were upset, and part of the supplies that should be furnished by the Commissariat Department were not received until the following day, I reported the Cutwall of the Village to Lieutenant Colonel Fyler, the Officer Commanding the Regiment, for not attending to my orders given him the night previous.

Camp Hundy Anantapoor, }
19th December 1857. }

(Signed) M. BLAKE, Quarter Master,
H. M. 12th Royal Lancers.

No. 2. *Statement.*

On the evening of the 9th Instant, I arrived at the Village of Coodoor, about 6 o'clock I sent one of my Peons to fetch the Cutwall of the Village to me, on his doing so, I told the Cutwall that the 12th Lancers were coming to the place in the morning, and the articles required by the men of the Regiment, as part of the Rations allowed by Government, would be required by me that evening; I then enumerated the different articles together with the probable quantity required, and requested he would have them sent at once to my stores where I would place them under charge of my guard, as they were required for issue very early next morning, (this being the custom daily on the march, I told him so at the time) he then went away to the Village, I saw him no more that night; on my going to my stores the next morning to issue the Rations, I found that only a portion of the articles I had ordered were brought, I questioned my Peon and he stated it was with the greatest difficulty he could collect the quantity which was then present, and that he was engaged in doing so up to 12 o'clock that night, he said there was no one in the Village to give me any information on the subject, and that he had lost sight of the Cutwall when they arrived at the "Jamdahnee," through the inattention of the Cutwall the Regiment was put on short Rations that day (the short issue being made up the following day at Palasamoodrum,) about 8 A. M. the same day, on returning from the Hospital, I observed the Quarter Master asking the Cutwall some questions regarding the non-appearance of the supplies he had ordered in his own Department for the Regiment, I went over and reported the circumstance of the men having received only part of their Rations that morning, through the inattention of the Cutwall; on my questioning the Cutwall repeatedly in Hindoostanee as to the non-arrival of the supplies, his answers were, "they are coming, they are coming," the quantity short was never brought that day, and the Toddy for the Baker was procured after great exertion on my part, from the Thasildar at 2 o'clock, I left for Palasamoodrum at 3 the same evening.

(Signed) J. PORTER,

In charge Commissariat, with
H. M. 12th Royal Lancers.

Camp Anantapoor. }
19th December 1857. }

Fort St. George, Judicial Consultation, 19th January 1858.

Camp Nardy, Anantapoor.
20th December 1857.

SIR,

I have the honor to acknowledge the receipt of your letter of the 17th December and to observe that it is impossible for me to return to answer the charge of the Cutwall of Palasamoodrum as I am proceeding with my Regiment on service, he might have made his complaint when I was there which I could have replied to on the spot, nor do I know any one there European or Native who can appear for me, I therefore request this letter may be my substitute.

No. 1 Statement of Qr. Mr.
Mr. Blake, 12th Royal Lancers.

No. 2 Statement of person in
charge of Commissariat
12th Royal Lancers.

I forward with this, two statements, noted as per margin, which will prove to you that the deposition of the Cutwall is a tissue of false exaggerations, I told him I would report him, he has therefore thought to be beforehand with me.

When I marched into the Camp at Coodoor, no supplies were ready, my Quarter Master reported to me that the night before he could get from the Cutwall neither lights or coolies, tho' he had asked him for them to assist the bandies across the nullah, in consequence there were many upsets and much delay in the bandies getting into Camp.

As I had no other means of getting supplies except thro' the Cutwall, I gave him until mid-day, and told him if they were not in by that time he would be punished, he had five hours more time after that before I acted, at 5 P. M. the things had not arrived, he then got one dozen lashes (or rather eleven) inflicted by a native who hardly touched him, he was more frightened than hurt, he neither fainted or pretended to do so, but walked away with a promise from me, that if by dark he did not send what was most absolutely required he would receive another dozen, this had the desired effect, about 8 P. M. more supplies were brought into Camp.

It was necessary to get without further delay what ought to have been in that morning, I therefore took upon myself that responsibility, which cramps so many, to act contrary to rule for the benefit of the public service. Trusting to the above facts to bear me out, this is the assault he complains of, which I hope you will think fully justifiable, and that I shall get that support so necessary at the present time in India.

The summary way I have dealt with this man has had an excellent effect upon the road, I have had no more difficulties of this nature to contend with and have little doubt that other Troops coming up will benefit by this.

This man in his statement goes out of his way to enter on another subject and to tell a most deliberate falsehood, he brings to my recollection that when I marched down in November last, he pointed out to my Beaslee a small dirty bowl where natives at the time were washing their clothes, the water full of soapsuds, no water fit for me to drink, within two hundred yards I found out a well of good water. I had no idea at the time the Cutwall of Coodoor was reported to me that he was one and the same person as the Cutwall of Palasamoodrum (calling himself a Bramin,) who had behaved so ill on that occasion.

(Signed) L. FYLER Lieut. Col.,
Commanding 12th Royal Lancers.

To Honorable D. Arbuthnot, Justice of the Peace, Bellary.

No. 68. ORDER THEREON, No. 96; dated 19th January 1858.

The Joint Magistrate of Bellary forwards his proceedings as Justice of the Peace in a case of assault wherein Colonel Fyler, 12th Lancers, is defendant.

2. The assault consists in the Colonel having caused the Cutwall of Paulasamoodrum to be flogged for not bringing the necessary supplies into his camp.

3. The defendant has been convicted and sentenced to pay a fine of Rupees 100 under Act 53, Geo. III, Caput 155, embodied in Regulation II, 1820, para. 2. The fine has not been paid.

4. Mr. Arbuthnot will apply to Major General Coffin, Commanding the Hyderabad Subsidiary Force to recover the amount of the fine from Lieutenant Colonel Fyler forthwith and remit it to him.

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5. It appears from the sentence of the Justice of the Peace in this case, that "the complainant left his own village Paulasamoodrum, in which alone he had any authority, to assist in distributing supplies for the Regiment at Coodoor, distant about 7½ miles from Paulasamoodrum. He had no power to collect supplies of any sort. The only man who had any real power, the Tahsildar, was placed in custody by Colonel Fyler's orders and was of course useless for the only purpose for which he had gone to the camp."

6. The Government resolve to call upon the Collector of Bellary for a full report of the arrangements made for providing supplies to the Regiment in its march through the District and especially at Coodoor, and if the supplies were defective, to what cause their insufficiency is to be attributed. They also desire to know under what circumstances the Tahsildar was placed in confinement, and how long he was so detained.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Memo

The Joint Magistrate of Bellary presents his
proceedings as Justice of the Peace in a case
of assault wherein Col Fyler 12 Lancers is
Def -

The assault consists in the Col having
caused the cutwall - bit out of the village
where he was halting bit of one 7½ miles off -
to be flogged for not bringing the necessary
supplies into his camp -

The Def has been convicted and
sentenced to pay a fine of Rs 100 under
Act 53 Geo III. Capul 153. embodied in Reg
11. 1820 Part 2 - The fine has not been
paid.

The Joint Mag. says in his sentence that
the man flogged had no power to collect
supplies of any sort - His own village was
7½ miles distant & he attended only to
aid in distribution of supplies in his own

he collected - The Thumblen who had the power to collect was placed in custody by the Dept & prevented from collecting - Thus the Col^d prevented the right man from acting & flogged the wrong man for not acting -

Col Fyke states that the examination made of the Lintwall has had an excellent effect in procuring him supplies - but the Joint Magistrate in his letter throws some light on the account to which the so called extra supply has been turned -

It is clear however that supposing the Lintwall to have been in fault the only thing which Col Fyke was justified in doing was to report him to the Joint Mag^{ist} his official superior - He was not subject to the Col's authority - When proceedings were consequent of illegal & conviction proper -

By the regulation, if the firm be not paid the debt properly might be distrained or he might himself be taken into custody -

Continuing his march he has of course had it out of the power of the Joint Mag^{ist} to adopt either of those alternatives - The order of the Jt Mag^{ist} is therefore solicited - Perhaps the papers might be referred for consideration to the Civil Dept -

9/1/50

Committee forwarded by Col Fyke to the Joint Mag^{ist} that there was some irregularity in the part of this man - Specimens being sent & the supplying is not sufficient - It is clear that a complaint should be made which has probably been done already by the Joint Mag^{ist} after the first trial - the key -

It is not known what the result was the person responsible for the supply has been in a different position - The matter has been referred to the Civil Dept for consideration -

67-68

There can be no doubt that the Chaplain was a
an eloquent & most successful preacher. Presumably
the sentence passed on him as far as the
goes - but I am inclined to think he would
perhaps the more discreet course would
have been to report the matter to the
to forest. The sentence must be expressed
date.

The sentence is I think a most proper one. Well.
I ought to be informed early of the case & let to make any
representation to be made on the subject afterwards
Lg

In favor 19th January

Judicial Department

No 96

Extract from the Minutes of Consultation

Dated 19 January 1858.

Read the following letter
from the Hon. D. Arbuthnot
Justice of the Peace and Sub-
Collector and Joint Magistrate
Bellary.

(Here entered 19th Jan 1858.)

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trial

The Joint Magistrate
of Bellary forwards his pro-
ceedings as Justice of the
Peace in a case of assault
wherein Col. Tyler 12th Lan-
cers is Defendant.

2. The assault consists
in the Col. having caused
the Custodian of Pandura
madrass to be flogged for
not bringing the necessary
supplies into his camp.

3. The Defendant has
been convicted and reman-
ded to pay a fine of Rs.
100 under Act 53 Sec.
III Caput 155 embodied in

Regs

67-68

Regulation II 1820 Para 2—
The fine has not been paid.

4.— Mr. Arbuthnot
will apply to Major General
Coffin, Commanding the
Hyderabad Subsidiary Force
to recover the amount of the
fine from Lieut. Colonel
Tyler of the 10th and remit
it to him. —

5.— It appears from the
sentence of the Justice of
the Peace in this case, that
the Complainant left his
own village Paulasamoodrum,
in which alone he had any
authority, to assist in dis-
tributing supplies for the
Regiment at Godoor dis-
tant about $7\frac{1}{2}$ miles from
Paulasamoodrum. He had
no power to collect supplies
of any sort. The only man
who had any real power,
the Tahsildar, was placed
in custody by Colonel Tyler's
orders and was of course
useless for the only pur-
poses for which he had
gone to the Camp. —

The

6.— The Government re-
solve to call upon the
Collector of Bellary for a
full report of the arrange-
ments made for providing
supplies to the Regiment
in its march thro' the
District and especially
at Godoor — and if the
supplies ^{were} ~~are~~ defective to
what cause their inef-
ficiency is to be attrib-
uted — They also desire to
know under what cir-
cumstances the Thasildar
was placed in confine-
ment, and how long he
was so detained. —

JF

Collector of Bellary —

Honble. D. Arbuthnot
Justice of the Peace — Bellary.
Milt. Dept. — for communication
to Genl. Coffin. —

Diop. 26

The Honble.

In June 19th January 1855
Medical 8058 at hand

2896

Extract Meridians

2/19 January 1858

7th: 490
n-550
n-581

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