

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 711	Press Mis.
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Dated 1.6.1861	B

Not to be folded or roughly handled

M.S.

Proceedings of the Madras Government, Judicial Department,

1st June 1861.

No. 9. Read the following letter from M. ZAINUL ABDEEN, late District Moonsiff of Arialore, Trichinopoly; to the Chief Secretary to Government, Fort Saint George, dated 1st February 1861.

With every mark of respect and submission I beg to bring to your kind notice that I have been unjustly deprived of my situation of District Moonsiff, as will be seen by the perusal of the accompanying Memorial. I therefore respectfully beg your honor will be pleased to recommend me to Government to be re-instated in my post, or forward the enclosed triplicate Memorials to the Secretary of State for the affairs of India, and for which act of kindness I shall ever pray.

TO THE RIGHT HONORABLE THE SECRETARY OF STATE FOR INDIA IN COUNCIL,
East India House, London.

The humble Memorial of MAHOMED ZAINUL
ABDEEN, late District Munsiff of Arialore,
Trichinopoly.

MOST HUMBLY SHEWETH,

That being deeply aggrieved with his dismissal from his Office of District Munsiff of Arialore, and feeling that he has been unjustly and severely dealt with, Memorialist begs most humbly and with due deference to appeal to your Excellency in Council and to submit the following explanation in his defence with regard to the charges on which he was removed.

Before detailing the circumstances connected with his dismissal, Memorialist would humbly premise that no servant of Government who is faithful and honest in the discharge of his duties, has any chance of keeping his post, if in addition to the rancorous feelings entertained against him by the people, he should become a marked man of his immediate superior, who in consequence necessarily gives credit to the numerous complaints which are sure to be preferred against him.

This, Memorialist would submit, was just the position he was placed in. He had served Government twenty-six years, and during that period he was never in a single instance fined or reprimanded. On the contrary he had invariably secured the good-will and confidence of his superiors, under whom he had the honor and the happiness to serve. The Zamindar of Arialore, in whose district Memorialist was latterly Munsiff, presuming on his position, wealth and influence, treated the official proceedings of the Subordinate servants of Government with great contempt. Numerous instances of his misconduct in this respect are on the records of the local Courts of the Magistrates and Judges. In coming in contact with this Zamindar and in discharging his duties strictly and honestly, the Memorialist could not but incur his hatred, and it was on the charges brought forward by this party—charges emanating from malicious and vindictive motives,—backed by the intrigues of the ministerial Officers of the Civil Court, that Memorialist was summarily dismissed from Office and reduced to poverty and disgrace.

The two principal charges alleged against Memorialist were: 1. That he committed certain irregularities in the matter of a few Processes issued by him; and 2, that he had illegally issued an Istiyar or notification.

In answer to the first charge, Memorialist would humbly submit that having deputed two batta peons with three Processes of the Court over which he presided, they (the peons) reported to him in an official letter that the Processes were torn up and destroyed by the Agents of the Zamindar. Agreeably to the usual form in such cases, Memorialist issued a warrant for the apprehension of the eleven individuals against whom the complaint was lodged. The Return to the warrant was made twenty-five days after its issue, and Memorialist immediately commenced an inquiry and continued for six days, and in the course of the proceedings, he had necessarily to cross question the witnesses on both sides; but before he could pass judgment the case was taken out of his hands by the Civil Judge. This was both arbitrary and illegal. The immediate cause for the adoption of this improper measure on the part of the Civil Judge was that the Zamindar, in order to screen his dependants and vent his spleen, invented and preferred a series of complaints against Memorialist which the Civil Judge was induced to credit through the insinuations of the Native officials. The irregularities of which Memorialist was accused were that he omitted

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to take a statement on oath from the peons; that he issued a warrant and apprehended the Zamindar's Agents and kept them in custody; that he delayed in commencing the inquiry, giving time for the witnesses to be tampered with; that he cross examined the defendants; and that he recorded uncalled for reflections on the conduct of the Police Peshkar and Village Munsiff, evincing on the whole a degree of partiality incompatible with his position as a Judge.

In regard to the above accusations, Memorialist would respectfully beg to submit:—

I. That the circumstances of the case did not allow Memorialist the opportunity of taking a written statement on oath from the peons before issuing the warrant. The peons were forty miles distant from the Court, and to return that distance to report in person the destruction of the Processes would have given the accused a fair opportunity of absconding, as some of them did after all, notwithstanding the presence and alertness of the peons. These therefore forwarded an official written statement giving an account of the highly reprehensible conduct of the Zamindar's people, and Memorialist had no alternative but to issue a warrant, as is uniformly done in such cases, for the apprehension of the accused parties. Moreover, judging from the antecedents of the Zamindar, there was every reason to believe the report of the peons true; for on a former occasion he was fined in the sum of Rupees two hundred for resisting and destroying the Processes issued against him by the Principal Sudr Amin. He also escaped when placed in custody by that Officer in satisfaction of a Decree. Under these circumstances, Memorialist humbly submits that there was nothing irregular in his issuing a warrant on the official report of the peons.

II. The Zamindar's people were not kept in custody after their apprehension. Those of the accused who were apprehended were allowed every liberty and were kept under surveillance by the peons to prevent their escaping. This is what the peons stated; but if their statement be false, they alone are accountable. No inquiry however was made by the Civil Judge as to who detained the Zamindar's people and kept them in custody. He simply took it for granted that Memorialist kept them in custody, which he certainly did not.

III. Nor was there any delay on his part in prosecuting the inquiry when the case came up before him, as the records of his Court will clearly show; for in reporting on certain petitions presented to the Civil Judge, Memorialist stated in Nos. 128 and 134 that the parties had not then as yet been brought before the Court. When however seven of the accused and four of the witnesses were produced before the Memorialist on the 8th July, he immediately commenced the inquiry and concluded the proceedings on the 13th of the same month. The 12th having been holiday, the inquiry took six days in all. On the 14th Memorialist would have passed judgment, but was prevented from doing so by the Civil Judge sending him an Order No. 129, to inquire and report immediately on the character and conduct of the Village Munsiff, one of the parties concerned in the inquiry; and in like manner on several subsequent occasions, reports were called for on matters connected with the case on petitions presented at different times by certain relatives of the accused, till at last the proceedings themselves were called for by Order No. 151, thereby taking the case out of Memorialist's hands and giving him no opportunity to pass a judgment. Thus it will be observed there was no delay on the part of Memorialist in prosecuting the inquiry. All the delay that occurred was in the peons making the Return twenty-five days after the issue of the warrant. This they accounted for by stating that they did not produce the accused on the instant of their apprehension, from their having taken only seven out of the eleven complained of, and four out of eight witnesses; and that they were unable to apprehend the others from their having been secreted by the son of the Zamindar.

IV. From the above explanation it will be apparent that the delay on the part of the peons was occasioned by necessity or at least that it did not arise through any neglect or intention of Memorialist, and that he could have had no motive in allowing the witnesses to be tampered with. All that he had to look to was that the orders of the Court were not treated with contempt, and this he attended to regularly and impartially, nor has any reason been shown why he should have allowed his feelings to become interested in a matter which did not concern him in any other way than in his official capacity. Further, the plain straight-forward testimony given by the witnesses is clear evidence that they were not in any way meddled with.

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V. As just stated Memorialist's object in conducting the inquiry was simply to elicit the truth, and to this end he did cross question the accused; nor was there any irregularity in his having done so, inasmuch as they were not parties to the suit with regard to which the Processes were issued.

VI. Whilst the inquiry was pending, Memorialist was directed by Order, No. 129, to inquire into the character and conduct of the Village Munsiff, which he did, and recorded his opinion thereon as well as on the character and conduct of the Peshkar, both of whose efficiency as Government servants were affected from the former enjoying a Maunim of 30 Cawnies from the Zamindar, and the latter having pecuniary dealings with him. These observations Memorialist felt it his duty to bring to the notice of the Collector and submitted them with that object as well as in reply to his own order to the Civil Judge. In reference to this matter it is again taken for granted that Memorialist's feelings were enlisted in the case, and that without showing why and wherefore it should have been so.

Subsequent to the disposal of the above case, other instances of alleged misconduct were brought forward against Memorialist, and it was with regard to these especially that he was dismissed. Memorialist would therefore most humbly solicit the gracious consideration of your Honor in Council of the following brief explanation which, he humbly trusts will prove that if he has been guilty of any thing, it has been that of indiscretion, and not that of any serious misconduct as should lead to the infliction of so severe a punishment as has been dealt out to him. The main points of the charge are—that on being called upon to report on a Mahazar presented to the Civil Judge accusing Memorialist of sanctioning the practice of bribery in four of his peons, he instead of replying to the accusations directly, charged other peons in getting up the Mahazar, and also got up counter Mahazars in favor of himself and against his accusers, and at the same time published a notification threatening to impose a fine on all who should sign the Mahazar of the accusing parties. With respect to these points Memorialist would humbly submit, that during the investigation held on the subject, it had transpired that the Mahazar was not a genuine one, as many of the parties whose names were attached to the Mahazar denied in their depositions having signed it, whilst others stated the same thing in petitions presented by them. The Mahazar being fictitious, Memorialist submitted a report to that effect to the Civil Judge, and at the same time mentioned the names of the peons who had forged the signatures. There was no other course which he could have pursued. That the Mahazar was unworthy of credit was clear, since the Civil Judge did not deem it necessary to institute an inquiry himself, and as the Sudr Court restored the four peons who were summarily dismissed on the strength of the mere allegations contained in it.

Further, Memorialist neither got up a Mahazar in support of his own character nor another against his accusers, and he is at a loss to conceive on what grounds the Civil Judge made this statement. The Mahazar alleged to have been obtained by him in favor of himself, is one given to him by people on the occasion of his application to the Civil Judge of Combaconum for promotion in 1857; and the other Mahazar, said to have been got up against the accusing parties, was presented to Memorialist in open Court whilst prosecuting the inquiry regarding the Mahazar sent to him by the Civil Judge and which he necessarily forwarded together with his report. Moreover, the Mullah and eight merchants of Woodiarpolliem deposed that the accusing peons were making use of Memorialist's name in getting up a Mahazar in favor of one Kastien, a notoriously bad character. In order to put a stop to so unwarrantable a use of his name as District Munsiff, Memorialist judged it proper to publish a notification to the community, pointing out the gross imposition practised on them and the fraudulent conduct of the parties concerned, and threatening to impose a fine of Rupees 200 on all who should aid and abet the said peons in their clandestine proceedings. The motive it will be observed which induced Memorialist to publish the Istiyar was simply to prevent his name in his official capacity from being improperly made use of, though by his having done so, he became guilty of a serious act of indiscretion.

But whilst Memorialist confesses that he is guilty of misconduct in this single instance, and though he may have committed in the course of his official career other unimportant irregularities

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rities, yet he humbly presumes to submit that from the foregoing explanation, it will be seen he has committed none of so gross a nature as to render it necessary to punish him so severely as has been done.

With regard to the charges of irregularity and misconduct preferred against Memorialist, nothing has been proved, for no inquiry was instituted, nor was he called upon for his defence. It was assumed that he was guilty and he was dismissed and utterly ruined. Agreeably to the Order of Government, (Extract Minutes Consultation, 5th May 1854,) no person can be dismissed "but for fraud and dishonesty, continued and wilful negligence, offences involving moral disgrace and proved incompetency." Agreeably to paragraph 9 of the above Order, the specific grounds on which Petitioner was dismissed should have been furnished to Petitioner; but this was not done, nor was his defence taken in writing from him. One of the Judges of the Sadr Adalat, T. L. Strange, Esq., was pleased to express an opinion, that Memorialist has been hardly dealt with. His summary ejection from office not only involved disgrace and the loss of a high position and salary, but also the benefits of promotion and a superannuation pension to which he was entitled from the lengthy period, twenty-six years, he had faithfully and assiduously served Government.

Ever since Memorialist's appointment to the office of Munsiff, the file of his Court was never less than 100 suits a month, and the arrears on his file were only suits filed two months previously. Appeals against his Decrees were twenty or thirty a year, and the final reversal of his Decrees in Appeal were no more than six or seven during the same period. The efficiency and activity of Memorialist have been repeatedly taken honourable notice of by the Civil Judge and Sadr Court in reviewing his quarterly reports.

From the decision of the Sadr Court, Memorialist preferred an appeal to Government, who in their merciful consideration of his case took a more lenient view of it, and passed an order directing Memorialist's re-employment in a lower grade, i. e. in the capacity he held before he was promoted to Munsiff, the salary of which is but 30 Rupees; whereas, his salary as Munsiff was Rupees 100 per mensem. For the partial redress done him, Memorialist is humbly and sincerely grateful, still as his position and pay will be far below that formerly enjoyed by him, as he feels conscious of his innocence and altogether undeserving of the heavy punishment inflicted on him, he most humbly and respectfully appeals to your Excellency in Council to render him justice. Others who have been convicted of far greater crimes and dismissed, have been restored to their appointments from which they had been removed. For instance, in 1858 Ponusamipillai, District Munsiff of Villapuram, South Arcot, was convicted of gross corruption and dismissed; but he was re-instated. In the same manner in 1859, Kishnarow, District Munsiff of Tirutapurundi, Combaconum, was dismissed on account of heavy defalcations, and he also was restored; and why should not Petitioner who is guiltless even of the irregularities charged against him, be re-instated in his post.

In view, therefore, of the foregoing explanation of his innocence of the charges alleged against him; of his long service of twenty-six years; of the unimpeachable character always borne by him; of the satisfaction he has invariably rendered to his superiors, as may be seen from the numerous testimonials granted him; of the degree of punishment he has already undergone in being kept out of rank and pay for more than two years,—Memorialist humbly solicits your Honor in Council to take his case into gracious and merciful consideration and pass an order directing his re-instatement in office as a District Munsiff and the disbursement of his salary for the time he has unjustly suffered suspension, for which act of justice and mercy Memorialist as in duty bound shall ever pray.

(Signed) ZAINUL ABDEEN,
Late District Munsiff

1st February 1861.

No. 10.

ORDER THEREON, 1st June 1861, No. 711.

The Memorial received with this letter will be forwarded to the Secretary of State.

(Signed) T. PYCROFT,
Chief Secretary

Exd. T. O'Connor.

Petitioner's No. 552 of 1859.
at 10th of 1860 - not done
Jud. Com. 5th July 1860 at 1859.
Jud. Com. 12th June
22nd of 1861.
Ref. No. 422 of 1860

Received 1st June 1861. by Mr.
The Memorial received with
this letter will be forwarded to
the Secretary of State
Abdeen - 3/1/61

Proof Copy
Judicial 1861 Dept

From

M. Zaimulabean.
Late District Munsiff

of 1st Feb 2 1861.
of 29th May 3

Means: in
simplified.

No. 848

Brings to notice the
fact of his having been
deprived of his situation
of District Munsiff
& requests that he will
either be reinstated in his
post or that the enclosed
memorial to the Secy of State
will be forwarded to him.

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