M.R.O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No.	600 Press ~~Mis.~~
	(79-181)
Dated	23. 4. ~~19~~ 1886

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Not to be folded or roughly handled

Read the following papers:—

No. 179. From Mr. P. MARTIN, late Cuddalore Jailer, to the Chief Secretary to Government, Fort Saint George; dated Cuddalore, 9th January 1866.

With all manner of respect, permit me to bring the following circumstances to your notice, in the humble hope that you will be graciously pleased to lay the same before His Excellency the Governor in Council, for their charitable and liberal consideration.

Enclosure one. Copies of testimonials.

2. My services as Jailer of the Cuddalore Zillah Jail extended over a period of upwards of ten years, during which time I am happy to say that I have, by zeal and unremitting attention to duty, secured the highest approbation of all the superiors under whom I had the honor of serving, as will be seen from copies of testimonials herewith submitted.

3. After this ten long years of faithful and laborious service, it grieves my heart to state that I now stand dismissed from my appointment for one single and first neglect of duty committed by me ever since my appointment as Jailer, and it behoves me here briefly to state, for your information, the grounds on which I was dismissed by order of Mr. Rohde, the Inspector General of Jails.

4. On the night of 19th October last, one of the convicts effected his escape from the Jail, and this was not discovered by me till after the several gangs were sent out for out-door works the next morning, when I found the numerical strength locked up in the evening previous fall short by one, and I immediately reported this deficiency to Mr. G. D. Irvine, the Officer then in charge of the Jail, and as the prisoners were not counted on the morning of the 20th October, while letting them out their cells, I must confess that there has been some delay as to the identification of the runaway convict, and this delay has not amounted to more than a couple of hours, for which omission of duty I now stand deprived of my appointment—a punishment, you will be pleased to observe, the most severe that a liberal Government could ever think of inflicting over one of their humble subordinates, whom God in his mercy hath committed to their care and protection.

5. I must admit that I should not go unpunished for the fault I have committed, but the hardship of being entirely deprived of the only means of support of myself and family is more than I could bear, and I, therefore, beg, most respectfully, to lay my deplorable case before His Excellency in Council, with the firm hope that my unfortunate case will meet with their humane consideration. For which act of humanity, my poor family and I will ever feel deeply grateful.

TESTIMONIALS.

I have much pleasure in bearing testimony to the conduct of Hospital Serjeant P. Martin, during the time he served under my orders for the last nine years, during which time he has always been steady and particularly attentive to his duty.

(Signed) J. B. PRESTON,
Depot Surgeon.

CUDDALORE, *26th January* 1849.

This is to certify that Staff Serjeant Patrick Martin served under my superintendence, as Depot Hospital Serjeant, during the period of nearly two years that I have held the appointment of Depot Surgeon here, and that he, invariably, conducted himself, to my entire satisfaction. He is a very intelligent, active, and steady man, and I can confidently assert that he is perfectly trust-

worthy. I feel also certain that he would do justice to any appointment of trust in which he might be placed, within his own sphere.

(Signed) G. V. CUMMING, M. D,
Garrison Surgeon of Vizagapatam.

As I am about to proceed to the Neilgherry Hills on sick Certificate, Staff Serjeant P. Martin has requested me to give him a Certificate of character, and I have much pleasure in doing so, as he is one of the best men belonging to the Depôt. His attention to any duty he has to perform can always be depended upon. He is most trustworthy, sober, intelligent; and during a long period of service, I have never had a man to serve under me in whom I placed greater confidence.

CUDDALORE, *9th February* 1853. (Signed) W. LEGGATT, Captain,
Commanding General Depot.

My Dear Bilderbeck,

I am really very very sorry about Martin. I did not see Young's report, and further than that the prisoner had escaped, I knew nothing, and cared less. Cannot some thing be done for Martin? I am certain we shall go a very long way before be get so honest and good a Jailer as Martin. I shall be most happy to do any thing I can for him.

4th December 1865.

Your's truly,
(Signed) W. O. SWANSTON.

From G. ELLIS, Esq., the Session Judge of Cuddalore, to the Inspector General of Jails; dated 11th December 1865.

Having been furnished with copies of your Order of the 29th ultimo, removing Mr. P. Martin from his situation of Jailer, and of Lieutenant J. H. B. Young's report to Major G. Hearn, in connection with the escape of a prisoner on the 19th October, I have the honor, as ex officio visitor of the Jail, to address you on the subject, in the hope that you may be induced to mitigate the severity of your orders in the matter.

2. I am not going to defend Mr. Martin's conduct in the particular instance of omission of duty brought to your notice, in connection with the escape of the prisoner referred to in Lieutenant Young's letter, but I consider that the charge of *habitual* carelessness brought against him has not been established, and that there is nothing really in Lieutenant Young's report to show that he was justified in making such a charge. I arrived here and took charge of the Jail in August 1857, and I can confidently assert that up to the time when I was relieved of it I had on no one occasion to find fault with Mr. Martin for carelessness; no instances of what Lieutenant Young terms *habitual carelessness* have ever been brought to my notice by any of the Superintendents or Assistant Superintendents of Police; no acts of carelessness have been reported to me by the Jail Inspector Mr. Cresswell, who has for two or three years, I believe, filled that situation; and if he was cognizant of such, he was grossly derelict in his duty in failing to report them. Captain Swanston has assured me that he has no such charge to bring against Mr. Martin, and, though I do not for one moment suppose that Lieutenant Young did not write what he believed to be the case, I cannot but characterize his report on the Jailer's conduct as hasty, and such as on calmer consideration he would not have made.

3. I have now known Mr. Martin since the year 1812. He has always borne an excellent character for steadiness and sobriety, to which Colonel Leggatt, under whom he served as Staff Depôt Serjeant for many years, can testify, and it was chiefly on these grounds that, though otherwise not coming up to the standard required by you, he was allowed to retain his post. During the nine years that I was in charge of the Jail, I have never had reason to complain of Mr. P. Martin's performance of his duties.

It is on these grounds, therefore, that I respectfully beg to intercede on his behalf. The punishment of dismissal to a man in Mr. Martin's position, for that very reason, is more than ordinarily severe, and apart from the degradation it entails, takes from him a respectable competency, and reduces him to a bare pittance, upon which it will be impossible to support himself and family.

That his fault is not deserving of censure and punishment, I do not for one moment contend; but previous good character and length of service may always in such instances be pleaded in mitigation, and I venture to hope that, in the present case, they will not be pleaded in vain.

I may here remark in regard to the discovery of the cards and tobacco alluded to by Mr. Young, that such could never have occurred had proper vigilance been exercised by the Police, whose special duty it is to guard against the introduction of such articles.

I am not aware that you ever thought it necessary to notice the insufficiency of the punishments awarded by me to the Warders or Peons for neglect of duty, and I do not therefore consider that I am called upon to do more than remark that the concluding portion of Mr. Young's letter would propose for every fault, trivial or grave, the same punishment—a mode of procedure which I am confident is not carried out in his own Department.

(True Copy).

(Signed) G. ELLIS,
Session Judge.

No. 134 of 1866.

Referred to the Inspector General of Jails, for early report.

(By Order.)
(Signed) J. GROSE,
Acting Under Secretary to Government.

FORT SAINT GEORGE,
27th February 1866.

No. 180. From the Inspector General of Jails, to the Chief Secretary to Government, Fort Saint George; dated Ootacamund, 9th March 1866, No. 869.

I have the honor to return the appeal of Mr. P. Martin, late Jailer at Cuddalore, referred to me for report on the 27th ultimo.

2. On the night of the 19th October 1865, a convict, named Soobaroyen, escaped from the Jail at Cuddalore. This escape was reported to the Inspector General of Jails, on the 28th idem, by the Officer then in charge, but nothing was said regarding the circumstances of the case, nor was there any allusion to any misconduct or neglect of duty on the part of the Jailer. It appears, however, that Lieutenant Young, the Acting Superintendent of Police, went into the matter at once, and made a full report to his immediate superior on the 21st October, which report was forwarded to the Inspector General of Jails, by the Inspector General of Police, on the 1st November. In this report, it is stated that the Jailer was not present when the cells were opened on the morning of the 20th, which he was bound to be, and that the fact of the escape did not become known until after the gangs had gone out to work. It would also seem that the name of the fugitive was not discovered until after 12 o'clock. Lieutenant Young goes on to say that the Jailer is habitually careless, and that he believes he had not searched the Jail thoroughly for the last six months. He does not however instance any grounds for his belief beyond the fact that he found bundles of tobacco and playing cards in different parts of the Jail, when he visited it on the 20th. He adds that he had understood from Mr. Irvine that the Jailer was irregular in his attendance.

3. On the 29th November, Mr. Rohde held Proceedings reviewing the circumstances, and directed that the Jailer should be dismissed, but that the vacancy should not be filled up until Mr. Martin had an opportunity of explaining his conduct. Mr. Rohde, besides animadverting upon the breach of Jail rules of which the Jailer had been guilty, stated that he was wanting in certain necessary qualifications, which, from the tenor of a subsequent letter, I believe alludes to his inability to read or

write. Mr. Rohde also assumes that Lieutenant Young's accusation of habitual carelessness was well founded.

4. On receipt of these Proceedings, the Superintendent of the Jail dismissed Martin as directed, and reported that he had scarcely any explanation to offer for his neglect of duty on the 20th October, but that in his, the Superintendent's opinion, the escape was attributable in a great measure to the insecure state of the upper wards, and he recommends Martin to favorable consideration, on the score of his long service and general good conduct, at the same time stating that he did not agree with Lieutenant Young in his estimate of the Jailer's character.

5. Mr. Rohde replied to this letter on the 13th December, repeating that Martin was unable to read or write, and that, as he believed him to be inefficient, he declined to reconsider his decision.

6. The next paper on record is the letter from Mr. George Ellis, dated 11th December 1865, an attested copy of which has been sent to me with the order under reply. Mr. Ellis speaks from the personal experience of several years to the good conduct of Martin, and intercedes in his behalf. In the penultimate paragraph of his letter, he remarks that, had the Police done their duty, the cards and tobacco could not have been introduced into Jail, but I am not of opinion that any such neglect on the part of the Police diminishes the responsibility of the Jailer or Warde...

7. ...r. Rohde, in his reply to Mr. Ellis, dated 20th December 1865, adheres to his decision. He states he has no reason to suppose that the present instance of neglect of duty is a solitary one. He also points out that when the Judges had charge of Jails, much of the office work was done by the Court servants, but that in the present state of things, it is requisite that a Jailer should be able to read and write, so as to perform his duties without being dependent upon others, and for these reasons he declines to restore Martin to his situation.

8. The last letter on the subject in this office is one from the present Superintendent, forwarding one from Mr. Irvine, in which that gentleman says he does not remember ever to have found Mr. Martin absent from his post, but this statement is somewhat modified by the 2nd paragraph of the same letter.

9. The above contains a precis of the whole case. It is possible that Lieutenant Young may have been hasty and over zealous, but he did his duty. On being informed of the escape, he at once proceeded to the spot, and discovered the neglect of the Jail Rules on the part of the Jailer, and also the presence of certain forbidden articles within the Jail, which circumstances he immediately reported to the Deputy Inspector General of Police. What, on the other hand, was the course of action taken by the Officer in charge of the Jail? He reports the escape nine days after it happened, and makes no mention either of the neglect of duty, on the part of the Jailer, or of the discovery of the cards and tobacco. Surely these irregularities ought not to have reached the Inspector General of Jails, for the first time, through the Inspector General of Police. If the Jailer's misconduct was, in the opinion of the Officer in charge of the Jail, such as to call for a slighter punishment than dismissal, he was quite at liberty to say so in making his report, but the neglect of duty was not brought to notice at all, as far as I can discover; the first allusion thereto being contained in the reply to Mr. Rohde's Proceedings of the 29th November, more than a month after the escape. I am, therefore, constrained to infer

that the Jailer's misconduct was, in the opinion of the Officer in charge, so trivial as not to call either for report or punishment; consequently his recommendation, based upon Martin's former good conduct, does not carry that weight which it otherwise would have done.

10. Knowing nothing of the Jailer, I can only Judge by what is before me, and I am of opinion that, if the Jail Rules had been strictly observed, the warders to whom the keys were entrusted on the morning in question, would have counted the convicts, as a matter of course, instead of allowing them to stream out as described by Lieutenant Young, and which is not denied. Had the Officer in charge of the Jail made a full report on the first instance, and recommended some punishment of a secondary description, it is very probable that, had I been in office, I should have acquiesced in the recommendation; but considering the turn that matters have taken, and bearing in mind that the Jailer can neither read nor write, I do not think it would be expedient to re-appoint him to the Jail at Cuddalore.

11. In conclusion, I beg to draw attention to a peculiar feature in these Proceedings. Mr. Ellis has been furnished with a copy of Mr. Rohde's official letter to the Officer in charge of the Jail, and also of Lieutenant Young's report. Moreever, the Jailer seems to have received an attested copy of the official letter addressed in his behalf to Mr. Rohde by Mr. Ellis. I do not find anything in the Jail Rules which entitles an official visitor to copies of letters addressed to the Officer in charge of the Jail, and the granting of copies of official correspondence to third parties appears to me to be opposed to established usage, and to be generally objectionable. If Mr. Ellis had contented himself with giving the Jailer a certificate of general good conduct, nothing could have been said, but a letter containing comments upon the report of an Officer of another Department ought scarcely to have been put in the hands of a subordinate.

12. The papers mentioned above are forwarded herewith, numbered consecutively from 1 to 8, and the two enclosures referred with the petition are also returned.

13. Since assuming charge of the Department I have passed an estimate for securing the upper wards of the Jail with iron bars.

No. 181. ORDER THEREON, 23rd April 1866, No. 600.

Under the circumstances stated in the foregoing letter, the Governor in Council directs that the following endorsement be passed on Petition No. 134 of 1866.

"The Government, having received a full report from the Inspector General of Jails of the circumstances which led to petitioner's dismissal, see no reason to interfere on his behalf."

2. Adverting to the remark made in the 11th paragraph of the Inspector General's letter, the Governor in Council deems it proper to observe that Mr. Ellis was not warranted in furnishing to Mr. Martin a copy of the letter addressed by him, in his capacity of official visitor, to the Inspector General of Jails.

(True Extract).

Chief Secretary.

To the Inspector General of Jails, with original enclosures returned.
Endorsement to the Petitioner.

Exd. J. H. Burns.

Judicial Department

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letters -

From Mr P. Martin Jailor at Cuddalore } Here enter 9th January 1866

— " — the Inspector Genl of Jails — " — 9 March 1866 No 869.

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To the Insp.r Genl of Jails
Endorsement of the Petitioner
with Such Ltr.
dd 27/4/66

Judicial 1866. Department.

No. 600

PROCEEDINGS OF GOVERNMENT.

Dated 23rd April 1866

Press No. 4266, G. M.—12-4-66—500.

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