

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	337	Press ~~Mis.~~
Dated	2.3	19 1867

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*Proceedings of the Madras Government, Judicial Department,
2nd March 1867.*

No. 24. Read the following papers:—

To

THE RIGHT HONORABLE THE GOVERNOR IN COUNCIL,
Fort Saint George, Madras.

The humble Petition of THOMAS BOBILY,
Discharged Drummer, No. 33, late of the
2nd Regiment, N. I.,

HUMBLY SHEWETH,

That your petitioner enlisted as a Drummer into the 2nd Regiment, N. I., on the 27th February 1849, and after completing 17 years and 6 months' service, 3 years and 6 months of which were passed on Foreign Service at Tonghoo, during the whole of which time he bore a "good character," he was discharged, on the 24th September last, under the following circumstances.—

2. On the 6th September last, a Drummer of the Regiment, named John Burrows, had an altercation in the Lines with a Jutkah Bandyman. While this was going on, a Police Peon came up and arrested the Drummer. The latter assaulted the Peon, threw him down, and bit him, and then made his escape into the Lines. Petitioner happened to be standing by, and looking on with others, when the Peon desired him to witness what had passed, and to point out Burrows' house. This happened at one end of the Lines of No. 6 Company, and the Peon's request was overheard by three Sepoys—one the Line Sentry, and the other two neighbours—as also by certain Bazaarmen, who were looking on. Petitioner answered that the Drummer Burrows had no house of his own in the Lines, and he did not know where he had escaped to. The Peon then searched all through the Drummers' Lines, but could not find Burrows, whereupon he went off and fetched a European Constable, named Crosbie. The latter approached petitioner, and asked him if he had witnessed Burrows' assault upon the Peon. He answered that *he had*; upon which, the Constable said that the Peon accused petitioner also of assaulting him. Petitioner then referred to the Peon's request beforementioned, that he should be a *witness* of Burrows' assault. Notwithstanding this, he was taken into custody and lodged in the Vepery Police, locked up from 1 o'clock in the afternoon till half past seven the same evening, when the Fife Major came and removed him to the Regimental Barrack-Guard. Eighteen days afterwards, viz., on the 24th September, petitioner and Burrows were taken to the Vepery Police, and tried by the Magistrate. Upon false evidence adduced by the Peon, petitioner was sentenced to 2 months, and Burrows to 4 months, imprisonment with hard labor. The Magistrate made no further investigation, but merely asked petitioner did he strike the Peon, and on being answered in the negative, forthwith sentenced him. His long service and good conduct can testify to the fact that he cannot have been guilty of the offence alluded to. Therefore, petitioner did not call any witnesses, as he was advised by the Office Inspector not to do so, and that he would thereby get off much easier.

3. Petitioner underwent the sentence, and on his release was informed that he had been dismissed the Service from the date of the Magistrate's award, a copy of the proceedings in the case having been forwarded to the Regimental Authorities.

4. Hereupon, petitioner respectfully submits that, having completed 17 years and 6 months' service, which is more than the prescribed period entitling him to

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pension by the Regulations, the Magistrate's award does not affect his claim to pension. Had this unfortunate circumstance happened prior to his fulfilling 15 years' service, most undoubtedly it would cut away his claim either to pension or restoration to the Service. All service after 15 years is *voluntary*, and does not affect *previous* claims.

5. Your petitioner begs to cite, as an instance out of many, the case of Apothecary King, who was convicted at the High Court Sessions, some three years and a half ago, of Criminal Breach of Trust, and who was sentenced to 17 months' rigorous imprisonment. On an appeal to the Home Government, on the ground that the offence was committed after the period of service entitling him to pension had elapsed, and as he had previously borne a good character, his pension was granted to him. When Government could act thus liberally in such a serious case, petitioner is convinced that they will be disposed to act leniently with him.

6. Further, petitioner's offence (even if he were really guilty) was not a Military or Regimental, but a purely Civil one, and he has suffered severely for it by the Magistrate's sentence. He solemnly avers that, beyond being an eye-witness, he had nothing whatever to do with the assault upon the Peon, as the fact of the latter calling upon him as a witness will sufficiently prove. The Peon was, perhaps, afraid that petitioner, being a comrade of Burrows, would testify in favor of the latter, and so made him a party to the crime. He was never before a Court of Justice in his life previously, and was, therefore, inclined to prefer the Inspector's advice, not to call any witnesses, as very good advice. Were it otherwise, he would most assuredly have called the three Sepoys and Bazaarmen before mentioned, and they would as assuredly have obtained his acquittal.

7. That, on the 4th instant, your petitioner addressed a petition to the Adjutant General, Fort Saint George, praying for restoration to the Service, or for the grant of a pension, he having been discharged in consequence of a conviction of assault in the Vepery Police Court, upon which conviction he suffered two months' imprisonment with hard labor.

8. Your petitioner on the 14th instant received the following endorsement to the above Petition:—

"Adjutant General's Office, Fort Saint George, 14th December 1866.

"Petitioner having been discharged the Service under the provisions of paragraph 4, Section 10, page 89, General Regulations, on being convicted in the Vepery Police Court, on the 25th September last, of an aggravated assault on a Police Peon, and sentenced to 2 months' hard labor, nothing can be done for him,

"(By order).

"(Signed) T. C. LONGCROFT, Lieut.-Col.,

"Offg. Asst. Adj. General."

9. Your petitioner, since his dismissal from the Service, is undergoing the greatest hardships and trials from the want of food; to augment his misfortunes having a large family on hand to maintain makes his case deplorable. He is now thrown away on the wide world after 17 years and 6 months' service, in utter destitution, without any means or even the prospect of employment. He, therefore, humbly throws himself afore your Lordship's footstool, with a hope that this prayer will not be made in vain, but that you will be graciously pleased to order his

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restoration to the Service, for which act of goodness, many will be the prayers which will incessantly ascend for your protection in this world and felicity in the next.

And, as in duty bound, he will ever pray.

MADRAS, 15th January 1867. (Signed) THOMAS BOBILY.

Referred to the Commander-in-Chief (Adjutant General's Department).

FORT SAINT GEORGE, (Signed) H. MARSHALL, Major General,
25th January 1867. Secretary to Government, M. D.

No. 24A. From the Adjutant General, to the Secretary to Government, Military Department, Fort Saint George; dated Fort Saint George, 12th February 1867, No. 94.

With reference to the petition from Drummer Thomas Bobily, No. 33, late of the 2nd Regiment, N. I., referred to the Commander-in-Chief on the 25th ultimo, I have the honor, by order, to state, for the information of the Right Honorable the Governor in Council, that the petitioner, in December last, submitted a petition to this Department, appealing against his discharge, and praying that he might, in consideration of his services of 17 years and six months, be either restored to the Service or granted a pension, which was referred to the Officer Commanding 2nd Regiment, N. I., an extract from whose reply is herewith subjoined, from which it will be observed that, for the offence committed, and sentence inflicted on the petitioner by the Civil Power, he was, by the Regimental authorities, dealt with under the Regulations of the Service, which terminated in his discharge.

"Drummer Bobily, late of the Regiment under my Command, was discharged under the provisions of para-

"When the individual is convicted of disgraceful conduct, involving discharge, or is sentenced to imprisonment with hard labor by a Civil or Military Court, should such sentence be duly confirmed, or by other competent authority."

graph 4, Section 10, page 89, General Regulations, having been convicted in the Vepery Police, on the 25th September last; of an aggravated assault on a Police Peon, and sentenced to two months' hard labor, which sentence was inflicted in full."

2. On the receipt of the above report, the petitioner was granted an endorsement, on the 14th December 1866, to the above effect, and, further, informed that nothing could be done for him.

3. Should Government consider the punishment of dismissal of the petitioner after a service of 17 years and six months too severe for the offence committed, Sir Gaspard LeMarchant has no objections to authorize his restoration, with the benefit of former service, should Government be pleased to sanction it, and the Drummer enlisted in his room borne as a supernumerary until absorbed.

Referred, with petition No. 225 of 1867, to the Judicial Department, in view to a copy of the record of the Vepery Police Court in petitioner's case, and a summary of the evidence, being obtained, for consideration in the Military Department.

FORT SAINT GEORGE, (Signed) H. MARSHALL, Major General,
12th February 1867. Secretary to Government, M. D.

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The Magistrate of the Vepery Police Court is requested to furnish Government with a copy of the Record and of the evidence in the case referred to in the foregoing letter.

FORT SAINT GEORGE,
19th February 1867.

(Signed) F. BRANDT,
Ag. Under Secy. to Govt.

No. 25. From the Acting Magistrate of Police, Vepery, to the Chief Secretary to Government, Fort Saint George; dated Madras, 21st February 1867, No. 8.

I have the honor to acknowledge the receipt of Order of Government, under date the 19th instant, calling for a copy of the Record and of the evidence in the case of Drummer Bobily, who was convicted by this Court of assaulting a Police Officer, while in the execution of his duty, and sentenced to 2 months' imprisonment with hard labor.

2. The case was one summarily disposed of under the amended Police Act (XLVIII of 1860), and a copy of the minutes of evidence taken is herewith submitted.

3. The papers which accompanied the Order of Government are also subjoined.

EXTRACT from the Proceedings of the Vepery Police Court, under date the 24th September 1866
Shaik Mohammed.....John Burrows.....Assault on the person of the
and
Thomas Bobily Prosecutor, Police Peon, No. 396,
while in the execution of his duty.

Shaik Mohammed, on solemn affirmation, states as follows:—

I am a Peon, No. 396, of the Madras Police, stationed at Jemadar's Tannah, 6th Division. On the 6th instant, at $\frac{1}{2}$ past 12 noon, I was going, wearing my uniform, to my house. Whilst on the Vepery road, I saw 1st Defendant give two or three kicks to one Mooneappen (Prosecutor in the previous case), also some blows. Mooneappen was bleeding. I asked 1st Defendant to follow me to the Tannah; he gave me a blow on the lips and another on the forehead, which knocked my Turband off; he afterwards tore my jacket, which I produce. He seized my legs, bit my private parts, where I still bear marks of violence. 2nd Defendant then came up, gave me one blow and two kicks, and told me to release the 1st Defendant. In the meantime, a Police Peon and Constable came up. 1st Defendant ran away, and 2nd Defendant was arrested. I was in the Hospital for about fourteen days. I produce a certificate from the Doctor.

Shaik Ismail, on solemn affirmation, states—I am a Peon, No. 397, of the Madras Police, and belong to the 6th Division. On the 6th instant, I was going from the Vepery Court with other Police Officers. On information received, I went to the Vepery Lines, and saw 2nd Defendant give a blow to the Prosecutor. I was not there from the commencement of the affray.

Thomas Crosbie, on oath, states—I am a Police Constable. On Thursday, the 6th instant, I was going from the Vepery Court. I received certain information which led me to go to the Vepery Lines. I saw one Mooneappen there; he was bleeding in the legs. Police Peon Shaik Mohammed (Prosecutor) was also assaulted. He had wounds on his person, and his jacket was torn. I arrested the 2nd Defendant. I did not then see the 1st Defendant. He was afterwards apprehended.

Mooneappen*, on solemn affirmation, states—When I was assaulted by the 1st Defendant, the Prosecutor came to my assistance. 1st Defendant struck him, and bit his privates. 2nd Defendant came to the assistance of the

* Prosecutor in previous case.

1st, and also assaulted the Prosecutor.

First Defendant, John Burrows states—I was so drunk that I did not know what I was doing.

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Second Defendant, Thomas Bobily, states—I deny the charge.

Sentence. { 1st Defendant, 4 months' hard labor.
2nd Defendant, 2 months' hard labor.

(True Extract).

(Signed) S. R. DAWES,
Acting Magistrate of Police.

No. 26. ORDER THEREON, 2nd March 1867, No. 337.

Ordered that a copy of the letter and its enclosure from the Magistrate of the Vepery Police Court be furnished to the Military Department, with reference to the Docket in that Department, dated the 12th ultimo.

(True Extract).

Chief Secretary.

To the Military Department.

Exd. J. H. Burns.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

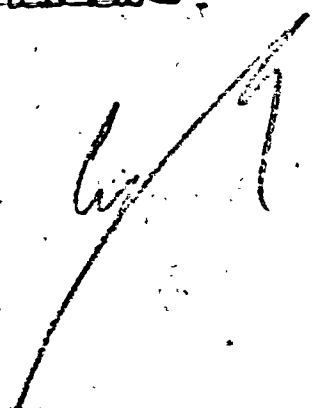
Read the following
papers.

From Secy to Govt. Children's
Department / Dated 12th Feb. 1867 N° /

From Magistrate of the
Vepery Police Court / 21st March 1867 /

Order N° 337 dated 2nd March 1867.

Ordered that a copy
of the letter & its enclosure
from the Magistrate of
the Vepery Police Court
be furnished to the Child-
ren's Department with
reference to the letter
in that Department dated
the 12th instant.



To Child's Department - disp'd 12/3.

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Judicial 1864. Department.

No. 3334

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PROCEEDINGS OF GOVERNMENT.

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Dated 2 March 1864

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