

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	934	Press ~~Mis.~~
Dated	6-6-1906	14/5

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
6th June 1867.*

Read the following papers :—

No. 75. From Mr. J. DUNCAN, late Jailer of the Chittoor Jail, to the Right Honorable the Governor in Council, Fort Saint George ; dated Madras, 24th April 1867.

I am an old public servant of upwards of 32 years standing, during the last 8½ years of which I have held the responsible situation of Jailer at the Chittoor Jail, without interruption, and to the satisfaction of my official superiors generally.

2. I have been summarily dismissed from office by the Inspector General of Jails, on certain charges preferred by Mr. Tagg, the Acting Superintendent of the Jail.

*10th February 1867.

Prior to dismissal, I was subjected by the Superintendent to suspension* from office

for 10 days, with loss of pay, &c., a punishment sufficient in itself, even if I really rendered myself blameable by imprudence or error of judgment ; and I thereupon appealed to the Inspector General on the matter of my suspension, explaining the particulars of my case, and requesting his attentive consideration to them, as coming from an injured servant of Government ; but I regret to state that, without properly going into my case, and without giving it such a fair and unbiassed consideration as

†2nd April 1867.

I expected, the Inspector General has condemned me to dismissal† from office,

and thus left me with a large family of motherless children, without any means of support. I venture, therefore, now to lay this humble address before your Lordship, in the earnest hope that my case—one of extreme severity—will meet with your Lordship's kind and impartial consideration.

3. The reasons assigned for my dismissal, as assigned by Mr. Tagg, the Acting Superintendent, are as follow :—

I. Neglect of duty and lax supervision, whereby rations and other articles were permitted to accumulate in the cook-rooms of the Jail.

II For assigning a false reason to account for those accumulations.

III. For falsehood to the Superintendent, in denying the existence of a disturbance in the Jail.

4. With regard to the first two charges, I admit that there were found certain articles (part of the rations of some 316 prisoners) accumulated in the cook-rooms on the day on which Mr. Tagg inspected the Jail, viz., the 8th February last, but I am not to blame, since it was the result of the permission granted by the Acting Surgeon of the Jail to the prisoners, on their application, to lay by, for Sunday's consumption, a portion of their Saturday's allowances.

5. The above permission, no doubt, has been abused, inasmuch as quantities of condiments and wood have also been stored up. Firewood might have been stored up for the purpose of having a hot bath, as prisoners afflicted with rheumatic pains generally desire it. As regards the cooked balls of rice and curry discovered, they were the shares of the cooks, and the prisoners under trial, who had not then eaten their food, the practice being that they take their food after the sentenced prisoners leave the Jail square. I would respectfully leave it to your Lordship to decide how far I am to blame in the matter of these circumstances, and whether the circumstance of these accumulations being found, does not prove the extent to which permission

accorded to the prisoners by the Acting Surgeon was liable to abuse, rather than any neglect of duty on my part.

6. In regard to the supervision of the Jail, I beg to state that, as a rule, I used to examine the cook-rooms thoroughly, once a week or so, in company with the Deputy Jailer, Head Warder, and Warder. On each such occasion, I used to make a diligent search, and never allowed, in any instance, a violation of any of the Jail rules. Irregularities, when discovered, it has been my practice to note down, and to bring them to notice. On other days of the week I could not possibly examine every corner of the Jail, having other important duties to attend to, and I, therefore, left it to my subordinates to look after the cook-rooms, &c., on such days; and, in expecting this much help from them, I only did what is reasonable, and what is done, I believe, in every other Jail in the country.

7. It is not improbable that, on the day of Mr. Tagg's visit to the Jail, some of the articles found, such as Tamil books, a bark of snuff, &c., might have been clandestinely brought in by Constables and men in the guard-room, who, according to the prevailing practice, find ingress and egress, without undergoing a search at the entrance gate of the Jail; and I suspect men of this class, who were, I believe, dissatisfied with me, for, by a conscientious and regular discharge of my duty, I never gave them opportunities for the exercise of any illicit practices. I may further state that I have always been under the impression that, if I only performed my duties faithfully, I would be sufficiently protected by my superiors from any injury which discontented parties might aim at doing me by such cowardly means; and it is, no doubt, known to your Lordship that persons in responsible situations in this country, however upright and conscientious they may be, are not exempt from such malevolence.

8. Next, with regard to the disturbance referred to in the third charge, I beg to submit that I never denied its occurrence, and that it originated, not from any laxity in the discipline of the Jail, but from Mr. Tagg's ordering men of low caste to touch and examine the cooking chatties and pots of the high caste prisoners, and thus offending their religious prejudices. If it had not been for my timely interference and conciliatory treatment of those most provoked, a greater mischief than the mere breaking of their eating vessels would perhaps have followed, and Mr. Tagg himself, seeing afterwards that provocation was caused, suggested that I should try and pacify those offended.

9. The unfortunate circumstance, then, which tended to bias my superiors against me is a misapprehension on their part that I had a motive in not reporting the matter then and there to Mr. Tagg, and that that motive was to conceal the fact of this disturbance altogether from that Officer. That I never denied the occurrence, and that I had not even the intention of so doing, I can solemnly affirm. I only allowed a short interval to pass over, so that I might watch the further movements of the offended prisoners, and represent the matter in a proper light, and word my report in such language as circumstances might require, and from a wish to avoid needless alarm, by writing my report hastily just in the hour of excitement. Finding that the prisoners were pacified, and that there was no room for further alarm, I did not think that the delay of a few hours was material in the matter of reporting this disturbance or breach of order. I beg respectfully to submit that it was

6th June 1867.

unreasonable to suppose that I thought of concealing such an affair from my superior—

1st.—Because I could not possibly gain in any way by the alleged omission to bring the occurrence to notice.

2nd.—Because I was fully aware, on the other hand, of the evil consequences that would ensue by the suppression of such a fact.

3rdly.—Because every servant of the Jail knew it, as also the Police Constables, and, therefore, the news was sure to get abroad, even if I did not wish it.

4thly.—Because there was the heap of broken chatties in the Jail yard to tell the tale. All these circumstances have been overlooked by my superiors, and, without any grounds on which to base a conviction of guilt, I have been removed from office, and deprived of my pension.

10. If any blame could be ascribed to me at all in the matter of this disturbance, it was perhaps my error of judgment in not reporting the occurrence at once; and I would leave it to your Lordship to decide whether such a slight irregularity of procedure, not intentional, as I have already shown, could constitute such a grave offence as to justify the singular severity with which I have been treated.

11. During the 32 years of my service, first in the Department of Public Works, and latterly in the Jail, I have always borne a good character, as the following testimonials will prove. I entered the office of the Inspector General of Jails, as Draftsman in July 1857. When, subsequently, a vacancy occurred at Chittoor Jail, I was nominated to the post of Jailer by Mr. Rhode, the late Inspector General, who, in recommending me to the Subordinate Judge of Chittoor, then in charge of the Jail, wrote thus:—

To

J. H. GOLDIE, Esq.,

Sub-Judge of Chittoor.

"In reply to your letter of the 27th instant, I have the honor to state that Mr. Duncan's character is unexceptionable, and that I do not at this moment know of any one to recommend as Jailer. My intention was to limit the office to Non-Commissioned Officers, but the supply is not equal to the demand, and I would sanction Mr. Duncan's appointment if made by you.

OOTACAMUND,
31st July 1858.

(Signed) J. RHODE,
Inspector of Prisons."

12. Since my appointment as Jailer, I have served under several Superintendents, who have severally recorded their official opinion of me, as follows:—

"Mr. J. Duncan has exerted himself much in maintaining proper discipline amongst the convicts and servants in the Jail, and his services were much appreciated by me. He is a very respectable and well conducted man, as far as I have been able to judge of him.

(Signed) J. H. GOLDIE,
Subordinate Judge."

10th February 1859.

"Has fully maintained the character given him by Mr. Goldie, and has discharged his duties with much efficiency. His former employment in the Public Works Department renders him also well qualified to see to the proper execution of works by the convicts.

(Signed) W. NESBITT,
Acting Subordinate Judge."

August 1859.

"Has been very attentive to his duties during the time I have had charge of the Jail.

(Signed) E. B. FOORD,
Acting Subordinate Judge."

25th April 1860.

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"I certify that Mr. Duncan thoroughly understands his duties, and has performed them efficiently.

(Signed) G. A. HARRIS,
Session Judge."

16th December 1861.

"Mr. J. Duncan was Jailer at Chittoor during 1862, when I was acting as Session Judge. I consider him to be a zealous public servant. I think he knows his duties well, and does them well.

VIZAGAPATAN,
14th June 1863.

(Signed) C. COLLETT,
Session Judge."

"On relinquishing the charge of the District Jail, I take the opportunity of according my general approval of the conduct of the subordinate officers and servants of the Jail Establishment. The discipline of the Jail has been well maintained, and the conduct of the prisoners has at no time occasioned the least anxiety during the time of my superintendence.

The behaviour of the several Jail servants has been uniformly creditable. The Jailer understands his duties thoroughly, and comprehends fully what the duties of the subordinates are. His habits have been at all times steady and active.

CHITTOOR,
22nd December 1866.

(Signed) W. F. DEFABECK."

13. I would here respectfully bring to your Lordship's notice how highly improbable it is that, having served faithfully for 32 years and upwards under Government, I could be so neglectful of my duty (only since Mr. Tagg's appointment as Superintendent) as to risk my character and position just at the close of my public career, and injure myself and the large family depending on me for support. It is, therefore, with the deepest sorrow and affliction that I find myself, all on a sudden, cut off at the end of my long services and thrown helpless on the wide world, without even the pension I am entitled to, upon a complaint forwarded, I believe, on Mr. Tagg's misapprehension of the circumstances, and which can, at best, amount only to error of judgment, or slight irregularity of procedure, on my part, which I now exceedingly regret.

14. I beg, therefore, to throw myself on the justice and liberality of your Lordship, for a consideration of the circumstances attending my dismissal; and I earnestly pray that, if that dismissal appears to be undeserved, I may be ordered to be reinstated in my office, or allowed to retire from the Service, on a superannuation pension, so that, after a long and faithful service, I may not be helplessly cast away, with my unfortunate children, at an age when I cannot recommence life, or seek employment in a new profession.

Transferred to the Chief Secretary to Government.
(By order),

25th April 1867.

(Signed) J. H. GARSTIN,
Private Secretary.

Referred to the Inspector General of Jails for report.
FORT SAINT GEORGE,
30th April 1867.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

No. 76. From the Inspector General of Jails, to the Chief Secretary to Government, Fort Saint George; dated Madras, 2nd May 1867, No. 21.

I have the honor to return the appeal of Mr. Duncan, late Jailer at Chittoor, dated 24th ultimo, and referred to me for report. The correspondence regarding

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the circumstances which led to his dismissal is herewith forwarded, and as the grounds upon which I acted are clearly set forth therein, and as the appeal contains little more than a repetition of the reasons given in Mr. Duncan's letter, of the 16th March, to my address, I shall merely recapitulate the facts briefly.

2. Certain articles, contrary to rule, having been discovered in the Jail, Mr. Duncan was called upon for explanation, and he accordingly stated that the convicts had received permission from the Surgeon to save a portion of their Saturday's rations for Sunday, and that the accumulation was principally due to an abuse of this indulgence. Supposing this to have been true, the Surgeon would have exceeded his powers, and the Jailer, in acting upon the permission, without taking the orders of the Superintendent in the first instance, would have been guilty of a gross breach of discipline. However, on inquiry, it appeared that the Surgeon never did give any such permission, and, even if he had done so, the accumulation of the extra rations on the morning of Friday the 8th February could not have been caused by the retention of a portion of the allowances of Saturday the 9th idem. The presence of these extra rations indicated, in my opinion, not only laxity of supervision, but positive malpractices on the part of some, if not of the whole, of the Jail Subordinates. The Superintendent of the Jail asserts, in the most unqualified manner, that Mr. Duncan positively denied the existence of any disturbance in the Jail, and I cannot doubt the truth of the Superintendent's statement.

3. The general aim of old Jailers is to keep the Superintendents in ignorance of all details, as far as they can, and to manage the Jail themselves. This tendency evinced itself in this case, for Mr. Duncan shows that he would not have hesitated to introduce a new practice into the Jail, without the knowledge of the Superintendent, although the practice was of such a nature as to facilitate the commission of irregularities. Instead of reporting the disturbance to the Superintendent forthwith, as he was bound to do, he denied that there had been any, and he now excuses himself by saying that he intended to watch further movements in order to represent the matter in a proper light, and that he might word his report in such language as circumstances required. This excuse appears to me wholly inadmissible.

4. In the month of July last, a reference was made to me from Chittoor, and, in the course of the correspondence which ensued, I became aware that Mr. Roberts, the Judge, who had formerly been in charge of the Jail, believed Mr. Duncan to be untrustworthy and unscrupulous, and that he had placed his opinion to that effect on the records of the Jail, but, although the perusal of the papers left an unfavorable impression on my mind with regard to Mr. Duncan, there was no proof that he had committed any specific offence sufficient to justify his removal. I am now satisfied that the estimate formed by Mr. Roberts of Mr. Duncan's character was correct. An extract of a letter from Mr. Roberts, with copies of the Jail Record above specified, are enclosed.

5. The cooking utensils have now been arranged in such a manner that they can be inspected without being touched, and Mr. Tagg has been instructed to see that, when it is necessary to meddle with such vessels, it is done by persons of suitable caste.

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6th June 1867.

No. 77.

ORDER THEREON, 6th June 1867, No. 934.

The Governor in Council declines to interfere with the order passed by the Inspector General of Jails, directing the removal of Mr. J. Duncan from his appointment as Jailer of the District Jail at Chittoor. It is clear, from the papers which have been laid before Government by the Inspector General, that Mr. Duncan has permitted, either by connivance, or through laxity of supervision, serious irregularities in the Jail under his charge. The Session Judge, when in charge of the Jail, formed a very unfavorable opinion of Mr. Duncan's conduct in the discharge of his duties, and the correctness of this opinion is confirmed by the circumstances which have led the Inspector General to order Mr. Duncan's removal.

(True Extract).

Chief Secretary.

To the Inspector General of Jails, with eight original enclosures, returned.
To Mr. J. Duncan.

Exd. J. H. Burns.

Memorandum.

Enclosure - No 1.

Under date the 12th May 1865, Mr. Duncan, the Jailer of Chittoor, reported that a Prisoner who was sent out for work was brought back because he was unable to continue his work that he was sent to the Hospital but ordered back; that he was sent a second time to the Hospital and discharged in the evening. The Jailer added that it was "a hard task" if the Head and Deputy Serjeants interfered with him and his duties.

Enclosure - No 1.

2. Mr. C. A. Roberts the Adj. Session Judge recorded his opinion, that the Jailer's explanation was most unsatisfactory.

unsatisfactory and that he could not have acted in the manner stated without some improper consideration, as the Sailor had been previously warned in respect to the indulgences conceded to the same prisoner. He observed that there were three other complaints brought forward on the same date against the Sailor.

1st That in view of those prisoners allowed to work in the garden, 12 men were habitually employed.

2nd That a Brahmini Prisoner was habitually relieved from work. That the Sailor stated that for ten days she had been employed for cooking for two Brahmins, while the accounts proved that the woman

woman did no work from 26th March to the 2nd May 1865; and that the Sailor was detected some ~~some~~ months since with gross falsehood with reference to the same woman.

3rd That various discrepancies had been pointed out in the Duffadar's rough book of grain hushed, surplus &c, and the surplus entered in the regular Jail grain Accounts. That the two Wardens appointed by the Session Judge to superintend the measuring of the paddy &c, purposely as a check upon the malpractices suspected had been removed by the Sailor without reference to him.

Mr. Roberts added that if he were not leaving the station he would have suspected the Sailor and recommended

recommended his dismissal
"on strong suspicion of
corrupt practices and
systematic defiance of
orders."

4. Mr. Roberts in reporting on the Chittoor Jail on the 3rd May 1868, remarked that the conduct of the Jailor had been under enquiry on charges of receiving bribes from convicts and not correctly accounting for surplus grain, that the result of the enquiry was not satisfactory, but that "nothing was proved against him".

5. In a letter dated
the 25th July 1866 to the
Inspector General of Jails,
Mr. Roberts states that
he knows Duncan the
Sailor

Enclosure No. 1.

Enclosure No. 3.

Encls. n. 4

Sailor "from personal
"experience to be untrusting
"and unsuspicious."

6. Seven months afterwards Mr. Taggart, the Asst. Superintendent of the Jail reported that he had suspended Mr. Duncan the Jailor for ten days, because he found on visiting the Jail and examining the cookroom on the 8th February last that in all the common rooms, with one exception, various articles, chiefly food, and firewood were discovered in the corners and in the Chatteries. That not long after his departure from the Jail he received a note from the Asst. Superintendent of Police saying that the Inspector had reported some disturbances in the Jail, but that on his (Mr. Taggart's) arrival again

again at the Jail, the Sailor
informed him that there
~~was~~ ^{had been} no disturbance. Mr.
Tagg accused the Sailor
of concealing from him
what did take place,
and of giving "untruth-
-ful replies."

7. In reference to the
above Mr. Duncan addressed
the Inspector General
of Jails direct and
submitted the following
explanation.

That he does not deny
that certain articles were dis-
covered in the cookroom
contrary to Jail rules.

That under the per-
-mission of the Agt. Surgeon
of the Jail, ^{isoners} ~~prisoners~~
were allowed to lay by for
Sunday, a portion of the
rationes which they received
for Saturday, and that
the

Enclosure No. 5.

the permission was abused.

That he examined the
Jail premises on a fixed
day in each week, and
that on the detection of
irregularities he brought
them to notice.

That it was not
improbable that some of
the articles discovered had
been brought in clandestinely
by persons who had facilities
for so doing, as the prevail-
ing practice was not to
search the Constables and
men of the guard, and
that some of these sought
to ruin him in consequence
of his conscientious and
faithful discharge of
his duties.

That the disturbance
on the 8th February originated
from Mr. Tagg ordering
men of inferior caste.

examine and touch the
Chatties and pots of the
high caste prisoners. That
the latter broke 55 vessels,
and would have done
more mischief but for
his timely and concilia-
tory measures.

That he had no
intention or reason to
conceal the occurrence
of the disturbance, but
that he only wanted to
see if any thing further
would transpire before
he reported the matter.

Finally the Sailor
submitted that he might
have erred in judgment,
but to be censured, sus-
pended from office, and
disgraced was more
than he merited.

8. Colonel Wilson sub-
mitted the foregoing explanation
to

Enclosure no 6

Enclosure no 7.

to Mr. Tagg for his remarks.

9 Mr. Tagg in his reply
states that although Mr. Dun-
can's conduct on the occasion
referred to seemed to him
most reprehensible, he should
be sorry to see it punished
by his dismissal from his
post without giving him an
opportunity to mend. That
the practice of retaining the
ration was not introduced
with his knowledge, nor of
that of the Medical Officer,
but he supposed the Sailor
had misunderstood the
Order passed some time
ago, that prisoners ^{should} have ^{the} the
whole of the raggy issued for
Sunday cooked for our meal,
and the whole of the rice
for the other, instead of
having both the raggy and
rice together at each meal.

That Mr. Duncan had
informed

informed him that he had
never examined the cook
rooms as they were examined
on the 8th February. That
after his return home
Mr. Duncan had reported
to him that the convict
cooks considered the cook rooms
and chatties defiled, and
that they required the former
to be purified and the
latter to be exchanged.
That Mr. Duncan did
deny the disturbance when
he (Mr. Tagg) went to the
Jail on the receipt of
the note from the Super-
intendent of Police, but
stated the next day that
it occurred shortly after
he had left.

10. Mr. Tagg concluded
by expressing his hope that
Colonel Wilson ^{would} not
think it necessary to direct
Mr.

Mr. Duncan's dismissal ⁹ B.

That he had been many
years in the public service -
that he understands the
routine of his business -
and that he is perfectly
aware that on his return
to duty, a comparatively
small offence, would cause
his dismissal.

Enclosure No. 8.

11. Colonel Wilson after
fully considering the circum-
stances detailed in Mr.
Tagg's letter and also Mr.
Duncan's explanation found
himself unable to continue
him in his present position
of responsibility and trust
and requested that Mr.
Duncan's service ^{should} be
discontinued with from the
31st of March last.

Enclosure No. 9.

12. Mr. Duncan appeals
against his dismissal
to

to the Right Honorable
the Governor. His explana-
tion of the articles discovered
by Mr. Tagg, and of what
had transpired on the 8th
February, is much the same
as that which he offered
to the Inspector General
of Jails. With regard to
the disturbance he sub-
mits that he never denied
its occurrence, and that
he could not have thought
of concealing it.

1st Because he could
not possibly gain by
omitting to do so.

2nd Because he was
fully aware of the consequences
had he suppressed the
fact.

3rd Because every
servant of the Jail knew
of it, as well as the Police
Constables.

Lastly

10
Lastly - Because the broken
chatties in the Jail
would have told the tale.

He pleads error of
judgment in not having
reported the disturbance
at once, and brings to
notice that during the
32 years of his service he
has invariably borne a
good character, and which
is proved by the testi-
monials embodied in
his Petition.

Enclosure No. 10.

With reference to this
appeal the Inspector General
of Jails submits the cor-
respondence above epitomized,
and recapitulates the
facts. He shows that
the accumulation of
the extra Rations on
the morning of the 8th February
could not have been
caused

caused by the retention
of a portion of the allow-
ances of Saturday the
9th idem. That the pre-
sence of the extra Rations
indicated not only laxity
of supervision but posi-
tive malpractices on
the part of some, if not
of the whole of the Jail
Subordinates.

He considers the
Sailor's excuse for not
reporting the disturbance
to be wholly inadmissible.
That in the course of a
correspondence which
took place in July 1866
he became aware that
Mr. Roberts believed
Mr. Duncan to be "un-
trustworthy and unscrupu-
lous". That the removal
of

of the papers left an
unfavorable impression
on his mind regarding
Mr. Duncan, but that
there was no proof that
"he had committed any
specific offence suffi-
cient to justify his
removal."

Colonel Wilson adds
that Mr. Tagg has been
instructed to see that
when it is necessary to
meddle with cooking
utensils, it is done by
persons of suitable caste.

W. H.

May 4/67. 8R

Appeal of
Mr Duncan
the late Jailer
of the Chittoor
Jail

4712
Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter

From Mr J. Duncan, late
Jailer of Chittoor Jail. } Dtd 21 April 1867
Madras.

— Super Genl of Jails. — 2 May 1867.

Order thereon 6 June 1867 No 934.

N.
The Governor in
Council declines to interfere
with the order passed
by the Inspector General
of Jails, directing the
removal of Mr J. Duncan
from his appointment
as Jailer of the District
Jail at Chittoor. It is
clear from the papers
which have been laid
before

before Government by the
Inspector General that
Mr. Duncan has permitted
either by connivance,
or through laxity of
supervision, serious ir-
regularities in the jail
under his charge. The
Sipson Judge when in
charge of the jail formed
a very unfavorable opinion
of Mr. Duncan's conduct
in the discharge of his
duties, and the correctness
of this opinion is confirmed
by the circumstances
which have led the
Inspector General to order
Mr. Duncan's removal.

[Signature]

To Mr. Duncan.

- Super Genl of Jail.

with 8 only Encls, ut P.

[Handwritten mark]

Report of the
Intelligence

(2)

Charcoal 1867. Department.

No. 124

PROCEEDINGS OF GOVERNMENT.

Dated, 6 June 1867.

75277

C. S. May.
R. S. Jones

75277