

MADRAS RECORD OFFICE.

Government of Madras.

Indian DEPARTMENT.

G.O. No.	61	Press ~~Mis~~
Dated	17-1-19 1868	

Not to be folded or roughly handled

61

Proceedings of the Madras Government, Judicial Department,
17th January 1863.

No. 96. Read the following letter from the Magistrate of Coimbatore, to the Chief Secretary to Government, Fort Saint George; dated Coimbatore, 2nd January 1863, No. 1.

I have the honor to forward an original letter, with its enclosures, from the Joint Magistrate of Ootacamund, dated 13th December 1867, No. 118; regarding a claim for travelling expenses and subsistence made by one John Manikum, a witness in a case of adultery ("Joseph *versus* Augustin Appavu"), committed to the Session Court of Ootacamund, and tried by the said Court, early in November 1867.

2. The circumstances connected with the claim are as follows:—

On the 25th of October 1867, the Joint Magistrate wrote to the Head Assistant Magistrate of Palghaut forwarding a Recognizance for John Manikum's appearance at the Session Court at Ootacamund on the 4th November 1867, to give his evidence in the aforesaid case. No reply having been received to this communication until the 4th November, the Joint Magistrate telegraphed to the Palghaut Head Assistant Magistrate, requesting John Manikum's appearance forthwith at the Session Court at Ooty. Meantime, the trial of the case was closed on the 5th idem.

On the 6th, Colonel Campbell telegraphed to Mr. Cameron, the Head Assistant Magistrate at Palghaut, to the effect that John Manikum was not required at Ooty. In the interim, Mr. Cameron wrote to Colonel Campbell on the 5th, returning the Recognizance duly signed, and stating that the latter's letter of 25th October 1867 had been mislaid, and that, in consequence, delay occurred in Manikum's appearance at the Session Court of Ooty. The witness arrived at Ooty on the 7th, when his evidence was not required, as the case had been dismissed on the 5th. He preferred a claim for travelling expenses and batta, to the amount of Rupees 64-14-0. This was referred by the Joint Magistrate to the Session Judge, who refused payment, on the ground that, as the trial had been concluded without the witness' evidence being taken, he would not be justified in taxing the Government with the cost of batta for the witness. The Session Judge, however, wrote to the Magistrate of Malabar to the effect that, owing to the delay on the part of Mr. Cameron in sending a reply to the Ooty Joint Magistrate, he (Mr. Cameron) should be called upon to pay the expenses of the witness. Mr. Cameron, in his turn, refused to pay, for the reasons set forth in his letter of the 25th November 1867, No. 436, to the Magistrate of Malabar.

3. It will appear that the witness had counted on receiving payment of his travelling expenses and subsistence from the Session Court, and that, during the temporary absence of the Session Judge, Colonel Campbell advanced him 20 Rupees from his private funds.

4. Under the peculiar circumstances of the case, I beg to recommend, that the Joint Magistrate's application for payment of batta and travelling allowances to the witness be sanctioned by Government.

5. Colonel Campbell has now reduced the charge of bandy-hire to the same rate as that allowed to the other witnesses who appeared in his own Court in the said case—vide my letter of the 31st December 1867, No. 130. The amount of the revised bill is Rupees 46-6-0, against Rupees 64-14-0 provided in the original bill.

From Lieutenant Colonel W. R. CAMPBELL, Joint Magistrate of Ootacamund, to the Magistrate of Coimbatore; dated Ootacamund, 13th December 1867, No. 118.

I have the honor to forward copies of the undermentioned correspondence regarding a claim for travelling expenses and subsistence, amounting to Rupees 46-6-0, made by one John Manikum, a witness in a case of Adultery ("Joseph versus Augustin Appavu"), committed by me to the Session Court of Ootacamund, and tried by the said Court early in November 1867.

Copies of Correspondence.

First.—Letter from Lieutenant Colonel Rose Campbell, Joint Magistrate of Ooty, to the Head Assistant Magistrate, Palghaut, dated 25th October 1867, No. 99, forwarding a Recognizance for John Manikum's appearance at the Session Court of Ooty on 4th November 1867.

Second.—Telegram from Lieutenant Colonel Rose Campbell, Joint Magistrate of Ooty, to the Head Assistant Magistrate, Palghaut, dated 4th November 1867, requesting John Manikum's appearance "forthwith" at the Session Court of Ooty, as no reply had been received to the letter of the Joint Magistrate of Ooty, dated 25th October 1867, No. 99, above alluded to.

Third.—Telegram, dated 6th November 1867, from Lieutenant Colonel Rose Campbell, Joint Magistrate of Ooty, to the Head Assistant Magistrate, Palghaut, to the effect that John Manikum was not required at Ooty.

Fourth.—Letter, No. 425, dated Palghaut, 5th November 1867, from J. Cameron, Esq., Acting Head Assistant Magistrate of Malabar, to the Joint Magistrate of Ooty, replying to the Joint Magistrate's letter, No. 99, of 25th October 1867, and mentioning that, in consequence of letter No. 99, aforesaid, having been mislaid, delay had occurred in John Manikum's appearance at the Session Court of Ooty.

Fifth.—Letter, No. 104, dated 11th November 1867, from Lieutenant Colonel Rose Campbell, Joint Magistrate of Ooty, to R. G. Clarke, Esq., Acting Session Judge of Ooty, forwarding a claim of Rupees 64-14-0* made by John Manikum for travelling expenses and subsistence.

* Altered to Rupees 46-6-0.

Sixth.—Letter, No. 188, 1867, dated 21st November 1867, from R. G. Clarke, Esq., Acting Session Judge of Ooty, to G. A. Ballard, Esq., Magistrate of Malabar, requesting Mr. Ballard to call upon Mr. Cameron to meet John Manikum's equitable expenses and to reimburse the Joint Magistrate of Ooty in the sum of (20) twenty Rupees, advanced by him to John Manikum out of his own private funds.

Seventh.—Letter from J. Cameron, Esq., Acting Head Assistant Magistrate, dated Palghaut, 25th November 1867, to G. A. Ballard, Esq., Magistrate of Malabar, 436, 1867, acknowledging that he had mislaid and entirely overlooked letter, No. 99, dated 25th October 1867, to his address, from Lieutenant Colonel Campbell, Joint Magistrate of Ootacamund, requiring John Manikum's appearance at the Session Court of Ooty.

Eighth.—Letter, No. 2548, 1867, dated Calicut, 28th November 1867, from G. A. Ballard, Esq., Magistrate of Malabar, to R. G. Clarke, Esq., Acting Session Judge of Ooty, stating that he is unable to see on what grounds he can call upon Mr. Cameron, Acting Head Assistant Magistrate of Palghaut, to meet the expenses of John Manikum.

Ninth.—Letter, No. 201, dated 4th December 1867, from R. G. Clarke, Esq., Acting Session Judge of Ooty, to Lieutenant Colonel Rose Campbell, Joint Magistrate of Ooty, stating that the Session Court of Ooty cannot meet John Manikum's demand for expenses, as that individual never made his appearance at the Session Court in the Adultery Session Case No. 15, 1867, "Joseph versus A. Appavu."

2. Although the Court of the Joint Magistrate of Ooty has nothing whatever to do with claims made for expenses by witnesses who may be summoned to attend the Session Court, still, in this particular case, I have been compelled to trouble you with this lengthy correspondence regarding John Manikum's claim for travelling expenses and subsistence, as you will observe by the correspondence that neither the Acting Session Judge of Ooty nor the Magistrate of Malabar will take any further steps towards causing the claim to be adjusted.

3. That the Recognizance for John Manikum's appearance on 4th November 1867 at the Session Court of Ooty, sent by me on the 25th October 1867, instead of having been mislaid by Mr. Cameron, Acting Head Assistant Magistrate of Palghaut, been only served, John Manikum would have made his appearance in time for the trial at the Ooty Session Court, and he would have been entitled to receive payment of his expenses from the Session Court.

John Manikum is in no way to blame, and he is fully entitled to have his claim adjusted, as he came to Ooty from Palghaut "post haste," on the Recognizance being served on him, after receipt by the Acting Head Assistant Magistrate at Palghaut of my telegram of the 4th November 1867. And there has been no remissness on my part: I sent the Recognizance to Palghaut in time for John Manikum's appearance at the Session Court of Ooty; I telegraphed to Palghaut on 4th November 1867, for his appearance at Ooty, by desire of the Session Judge, as soon as it was ascertained that he, John Manikum, was not forthcoming; and I telegraphed again on 6th November 1867 to Palghaut after the adultery case was dismissed by the Session Court, in order, if possible, to prevent John Manikum coming to Ootacamund, as his presence was not then required, but my second telegram did not reach in time.

4. I request you will be so good as to submit the matter for the consideration of Government, in order that sanction may be granted for my drawing the amount of expenses, Rupees 46-6-0, to be paid to John Manikum, from which I shall reimburse myself in the sum of Rupees (20) twenty I advanced to him from my own private funds during the temporary absence of the Acting Session Judge of Ooty, as John Manikum, who is a Railway Contractor, declared to me that he had no funds to enable him to return to Palghaut; that he had counted on receiving payment of his travelling expenses and subsistence from the Session Court of Ooty; and that being detained at Ootacamund would put him to considerable inconvenience and expense, besides the discomfort (when not required) of remaining in the cold climate of the Hills, which is so distasteful to Natives.

5. The claim made by John Manikum, Rupees 46-6-0, for travelling expenses and subsistence may appear greater than under ordinary circumstances it might have been; but it should be borne in mind that he was obliged to travel from Palghaut as rapidly as he could, in order to reach Ooty in time for the trial at the Session Court.

I.

From Lieutenant Colonel W. R. CAMPBELL, Joint Magistrate of Ootacamund, to the Head Assistant Magistrate, Palghaut; dated Ootacamund, 25th October 1867, No. 90.

I have the honor to forward a Recognizance in Tamil for the signature of one John Manikum, Railway Contractor at Palghaut, which I request you will be so good as to cause him to sign and return to my Court as soon as possible.

2. John Manikum's appearance is required at the Session Court, Ooty, on 4th November 1867, at 10 A. M.

II.

Telegram from Lieutenant Colonel W. R. CAMPBELL, Joint Magistrate, Ootacamund, to the Head Assistant Magistrate, Palghaut; dated 4th November 1867.

Wrote on 25th October 1867; no reply. Direct John Manikum to appear at Session Court, Ootacamund, forthwith.

III.

Telegram from Lieutenant Colonel W. R. CAMPBELL, Joint Magistrate, Ootacamund, to the Head Assistant Magistrate, Palghaut; dated Ootacamund, 6th November 1867.

John Manikum not wanted now at Ootacamund.

IV.

From J. CAMERON, Esq., Acting Head Assistant Magistrate of Malabar, to the Joint Magistrate of Ootacamund; dated Palghaut, 5th November 1867, No. 425.

In reply to your letter, No. 99 dated 25th October last, I have the honor to enclose Recognizance signed by John Manikum for appearance on the 7th instant. Your letter referred to was mislaid; hence the delay.

V.

From Lieutenant Colonel W. R. CAMPBELL, Joint Magistrate of Ootacamund, to R. G. CLARKE, Esq., Session Judge of Ootacamund; dated Ootacamund, 11th November 1867, No. 104.

I have the honor to bring to your notice that I wrote to the Head Assistant Magistrate, Palghaut, on the 25th October 1867, forwarding a Recognizance for the signature of one John Manikum, Railway Contractor at Palghaut, for his appearance at your Court on 4th November 1867, he being a principal witness for the prosecution in the Adultery Case "Joseph versus Appavu."

2. John Manikum, however, did not make his appearance at Ootacamund on the 4th November 1867. I, therefore, telegraphed on 4th November 1867 to the Head Assistant Magistrate, Palghaut, agreeably to your desire, communicated through Mr. Wright, the Inspector of Police, for John Manikum's appearance "forthwith" at your Court, as his evidence was considered most essential in the case, he having been the person in whose house Augustin Appavu, the accused, had kept Joseph's wife.

3. In reply to my Telegram of 4th November 1867, I received a letter*, No. 425, dated Palghaut, 5th November 1867, from the Head Assistant Magistrate, stating that my letter, No. 99, of 25th October 1867, had been mislaid, and that, in consequence, delay had occurred in John Manikum's appearance at your Court.

* Copy herewith sent.

4. John Manikum arrived at Ootacamund in order to give evidence in your Court on 7th November 1867, too late for the trial, as the case ("Joseph versus Augustin Appavu") had been dismissed on 5th November 1867.

5. Since then, John Manikum has come to my Court, requesting payment of his expenses from Palghaut to Ootacamund (as per original Memorandum herewith forwarded, dated Ooty, 7th November 1867), amounting to Rupees 64-14-0. On his application, I spoke to the Sheristadar of your Court about the payment of the same. The Sheristadar informed me that, in your absence from Ooty, he had no authority to pay any money to John Manikum for expenses; I, therefore, advanced him a sum of twenty Rupees (20) out of my own money to enable him to return to Palghaut, he having stated to me that he had no funds, and had calculated on receiving payment of his expenses from your Court.

6. I have the honor, therefore, to request you will be so good as to reimburse me in the sum of twenty Rupees I have advanced to John Manikum, remitting to him the balance due.

Her Majesty's Government of India.

Session Court, Ootacamund.

Dr.

According to the Telegram received to appear before the Session Court of Ootacamund, to give evidence in Appavu's case.

	RS.	A.	P.
6th November 1867... Cart hire from Palghaut to Railway station.....	0	8	0
Rail carriage, 2nd Class, from Palghaut to Poothanoor.	0	15	0
Transit hire from Poothanoor to Mettapolliem.....	15	0	0
Pony hire from Mettapolliem to Ootacamund.....	13	8	0
Return to Palghaut.....	29	15	0
Batta from 6th to 10th November 1867.....	5	0	0
Total...	64	14	0

OOTACAMUND, 7th November 1867.

(Signed) JOHN MANIKUM.

VI.

From R. G. CLARKE, Esq., Acting Session Judge of Ootacamund, to G. A. BALLARD, Esq., Magistrate of Malabar; dated Ootacamund, 21st November 1867, No. 188.

In forwarding the accompanying copy of a communication, dated 11th November 1867, from the Joint Magistrate of Ootacamund, I have the honor to state that when the adultery case, therein alluded to, came on for trial before the Session Court on the 4th instant, the witness John Manikum, Railway Contractor at Palghaut, failed to make his appearance in Court. A telegram was forwarded by the Joint Magistrate of Ootacamund to the Acting Head Assistant Magistrate of Malabar, requiring Manikum's immediate presence to give his evidence before the Court, and the trial was postponed until the following day to give time for receipt of a telegraphic reply from the Acting Head Assistant Magistrate. No such telegraphic reply was sent by Mr. Cameron; and on the following day the case was accordingly disposed of. On the 7th November, the witness Manikum arrived in Ooty, and a communication was received on the same date by the Joint Magistrate of Ooty from the Acting Head Assistant Magistrate, Mr. Cameron, who accounted for the delay by saying that the Joint Magistrate's letter, No. 99, of the 25th October last, which gave cover to a Recognizance to be signed by John Manikum, had been mislaid.

2. It is much to be regretted that the Acting Head Assistant Magistrate did not earlier make known to the Magistrate of Ooty the fact that he had mislaid the letter containing the summons to the witness Manikum, and request to be furnished with a fresh paper, and again that, on receipt of the telegram, he returned no immediate reply. Owing to Mr. Cameron's omission to do either the one thing or the other, the trial was concluded without the witness' evidence being taken, and, under these circumstances, the Session Court does not feel itself justified in taxing the Government with the cost of batta for the witness Manikum.

3. You will observe that the Joint Magistrate has advanced a sum of Rupees twenty out of his private funds to meet the immediate wants of the witness Manikum, and I have the honor to request that you will call upon the Acting Head Assistant Magistrate of Malabar to reimburse the Joint Magistrate in the said sum, and further to meet the equitable expenses of the witness Manikum.

VII.

From J. CAMERON, Esq., Acting Head Assistant Magistrate, to the Magistrate of Malabar: dated Palghaut, 25th November 1867, No. 436.

I have the honor to reply to your endorsement on a letter from the Acting Session Judge of Ootacamund, dated 21st November 1867, No. 188.

2. It is stated that one John Manikum was directed by letter to me from the Joint Magistrate, Ootacamund, dated 25th October, to appear as a witness in an adultery case in the Session Court on the 4th November; that he did not appear; that the Joint Magistrate telegraphed to me to send the witness, and the case was postponed to the following day (5th) to enable a reply to be received from me; and that, no reply having been received from me, the case was dismissed on that day (5th). The original letter was mislaid, and hence the non-appearance of John Manikum on the 4th. The Acting Session Judge regrets that I did not earlier make this known, and again that, on the receipt of the telegram, I did not make an immediate reply.

3. The Joint Magistrate's letter was mislaid and entirely overlooked till the receipt of the telegram, and so it was impossible to give earlier intimation of the fact. The telegram dated 4th directed John Manikum's attendance "forthwith." This order was carried out at once by binding him over to appear on the 7th, the earliest date on which he would reach Ootacamund. It was natural to suppose from the wording of the telegram that the case was postponed for such reasonable time as would allow of his reaching the Court. By obeying the order contained in the telegram, I considered that all that the case required was done, and that telegraphic reply was only necessary if for any reason the witness' attendance could not be procured. There was no intimation whatever that the case was postponed only to the next day, the 5th; the telegram implied the reverse. That telegram, moreover, was received at this office only at mid-day on 5th, and it was impossible for a telegraphic reply (even if sent) to have reached Ootacamund prior to the disposal of the case, which took place that very day.

Proceedings of the Madras Government, Judicial Department,
17th January 1868.

VIII.

From G. A. BALLARD, Esq., Magistrate of Malabar, to the Acting Session Judge of Ootacamund; dated Calicut, 28th November 1867, No. 2548.

Adverting to your letter, dated 21st November 1867, I have the honor to enclose copy of a letter from the Acting Head Assistant Magistrate and to observe that I am unable to see on what grounds I can call upon him to meet the

No. 188.

travelling expenses of John Manikum, as you request me to do.

IX.

From R. G. CLARKE, Esq., Acting Session Judge of Ootacamund, to the Joint Magistrate of Ootacamund; dated Ootacamund, 4th December 1867.

In forwarding a copy of communication received from the District Magistrate of Malabar, regarding the travelling expenses of John Manikum, one of the witnesses in the adultery case, *
● Session Case No. 15 of 1867—Joseph versus A. Appavu.
I have the honor to inform you that this Court cannot meet his demand, as that individual never made his appearance in Court while the case was under trial.

No. 97. ORDER THEREON, 17th January 1868, No. 61.

Under the circumstances stated in the correspondence above recorded, the Governor in Council sanctions the payment of Rupees 46-6-0, the batta and travelling allowance of the witness John Manikum, who was required to attend the Session Court at Ootacamund.

2. The Magistrate of Malabar will signify to the Assistant Magistrate, Mr. Cameron, the serious concern and displeasure of Government that he should have been guilty of a neglect of duty in dealing with the Recognizance for the attendance of this witness.

3. This negligence might, in certain circumstances, have been productive of great prejudice to persons concerned in a criminal trial and to the Public Service.

(True Extract).

Chief Secretary.

To the Magistrate of Coimbatore, with b.ll.

Do. of Malabar.

Accountant General.

Exd. J. H. Burns.

Judicial Department.

Memo. for Orders

From the Magte of Coimbatore. Dtd 2nd January 1868. No. 1.

The Magistrate of Coimbatore applies for the sanction of Govt. for the payment of Rs 46. 6. - travelling expenses and batta from Palghat, of a witness John Manikum, in a case of adultery before the Sessions Court at Ootacamund.

Mr. Cameron, Acting Head Assistant, mislaid the letter dated 25th October 1867 requiring the attendance of this witness. Joint Magistrate Colonel Campbell telegraphs for the witness on the 4th.
The

Journal 18

Read letter from Magistrate of Coimbatore

Order thereon No. 61 of 19 January 1868

Under the circumstances stated in the correspondence above recorded the Govt. in Council sanctions the payment of Rs. 46. 6. 0 the Batta and Travelling allowance of the witness, John Manikam, who was required to attend the Sessions Court at Coimbatore.

The Magistrate of Malabar will signify to the Assistant Magistrate Mr. Cameron the serious concern and displeasure

should be permitted now to saddle the public Treasury with payment of Rs. 46-6-0 simply because Mr. Cameron did not do what, in virtue of his official position, he was bound to do. -

Should the Govt. direct payment of that sum to be made by Mr. Cameron to the point agent at Coimbatore, who will be at liberty to recover therefrom what he advanced (Rs. 20) to the Govt. for private funds.

W.D.

I must mention the charge, directing Mr. Cameron to be more careful in future. His negligence in this regard the letter has ^{not in any way} ~~practically~~ ^{practically} ~~done~~ ^{done} him the cause of his exposure. I think the Govt. will be just if the charge is sustained. Had the letter been acted on by Mr. Cameron the witness would have been to be examined all the same and his

handing up would have had to be paid. The only result of Mr. Cameron's inaction was his own appearance of the witness at the trial. It is not usual to fine public officers for acts of mere inadvertence.

by A.

I wouldn't punish Mr. Cameron by the fine but I would signify to him the serious concern & displeasure of Govt. that he should have been guilty of a neglect of duty which brought in certain circumstances the production of a serious business & the

of fact that he should
have been guilty of
a neglect of duty, in
dealing with the
recognition for the
attendance of the witness,
which had been sent
to him by the J.

This negligence might in certain circumstances have been productive of great prejudice to persons concerned in a criminal trial, and to the public.

Service North

To the Trust of Livingston } depos
Acquaintance with the matter } 22/