

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1189

Dated 23rd May 1895

INDEXED.

[Despatch Abstract.]

PETITION.

Declining to interfere on behalf of A. Vaikuntayya, amin of the Puttur Munsif's Court, with reference to his appeal against the order of the District Judge, South Canara, regarding his retirement, and informing him that he should apply to the District Judge as regards the arrears of pay alleged to be due to him.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

[G. 75]

NOTE FOR THE UNDER SECRETARY.

With refce to H. C. Secy's note, attention is solicited to Ad 50660 of 1883 & 3. 11. 1883. Rs 651, 7ml. From then, it will be seen that the money appears to have been paid into the Court and not into the High Court.

Submitted to Co.
I think the J. C. Clerk is right; if Co. agrees the word "cannot" must be altered in the Draft

2
20/8

Detailed statement showing the amount of Process fee due and that produced for the execution of warrant of arrest issued by Mangalore District Munsif in execution Petition No. 274/1883.

1	2	3	4
Date	Description	Amount due Rs As P	Amount of Process fee produced. Date of Payment Amount paid.
29-6-83.	Warrant issued	1	3-12-83 1
4-7-83.	Handed over to the prison to be executed		12-7-83 2 4
18-7-83	Returned without being executed	2	18-7-83 1 4
20-7-83	Handed again for search with date of return extended		18-1-84 2 22-1-84 1 28-1-84 2 16-2-84 1 12
		3	1-3-84 4
24-12-83	Date of return again extended for search	36 8	20-3-84 4 8-4-84 4 25-6-84 23 8
2-1-84	Handed again for execution	1	27-8-84 20 8
8-1-84	Period of return extended		29-8-84 " 12
17-1-84	Returned	" 12	Amount actually paid 69
18-1-84	Period extended for search		
22-1-84	Defendant produced	1 4	
From 22-1-84	Ordered to be in	54 12	
to 28-8-84	Custody of prison		
	Amount of Batta required	100 8	Balance due 31 8
	Amount actually paid	69	100 8

22-3-92
Signed/ J. S. Saldanha
Sheristadar

Honored Sir.

On testing the amount of additional Batta due on warrant of arrest issued by a late Mangalore District Munsif in this execution case, I find a deficiency of Rs 31-8-0. To decide whether this deficiency is a real one; and if real on how and where the amount has been credited to Court Accounts I required Register C from 1883 from Mangalore District Munsif if not already transferred to Central Nazim's Office. To see if there are any more similar cases, I require C Registers from 1884 to date. I solicit Judge's sanction to get them and the records of execution cases, connected therewith. If I find any positive data I must be your Honor to take up the matter not otherwise as the Registrar

C and records are in Vernacular. 29-3-92.

/ Signed / J. S. Salolanha
Sheristadar

Forwarded to the District Munsif of Mangalore for enquiry and reports at an early date. 30-3-92.

/ Signed / W. C. Holmes.

Ag. District Judge

Of course the Sheristadar can refer to these Books.

/ Signed / W. C. Holmes.

Ag. District Judge

(True Copy)

/ Signed / A. P. Lobo.

Superintendent

Application made on 24-2-93 By A. Vaikunta
Stamp papers called for 25-2-93

Stamp papers deposited 27-2-93

Copy ready 2-3-93

Ditto Delivered

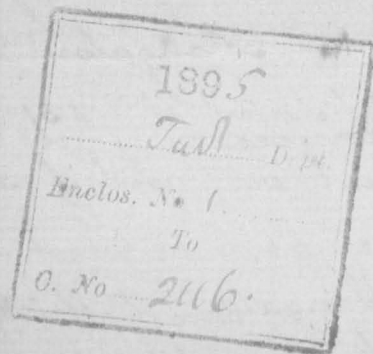
/ Signed / A. P. Lobo.

Superintendent

True Copy.

A. Vaikuntak

Amin



N^o 35

District Munsiff's Court, Mangalore.

Dated 17th February 1890

The District Munsif of Mangalore.

W. J. Tate Esquire.

Ag. District Judge of South Canara.

Respected Sir,

With reference to the docket of the District Court N^o 9, dated 13th Instant, calling for a report from me about the efficiency or otherwise of the Central Naziriat and Central Copyist Establishments, I beg to submit with regard to the former, that I have to repeat most of the complaints made by my predecessor Mr. A. Venketramana Poi, in his Itilla N^o 246 (enclosure N^o 1) so long ago as 10th November 1884 against the irregular working of the whole department. Service of processes is not on the whole satisfactory, warrants of arrest especially being returned in a large number of cases unexecuted. The carelessness of the process servers in promptly executing the processes entrusted to them and the general indifference shown by the Central Nazir in returning them timely to this Court give rise to much inconvenience to the Court's work and unnecessary loss to the suitors.

2. It does not also appear that any whole some check is exercised by the immediate head of the department, viz, the Central Nazir, upon his Amin's and peons in their unintelligent and sometimes suspicious conduct

in executing the orders, the Amiri's return, the orders, wholly unexecuted to the Court, when objection is raised by any individual in connection either with one of the properties, or with a building standing on one of the properties, or with any small part of the properties comprised in the orders much to the annoyance and loss of the parties concerned. In some other cases, their conduct in attaching things or corps before Judgment has given rise to applications for sanction to prosecute them criminally.

3. It is most desirable that the Nazir should use some discretion in exercising his so-called privilege of retaining the processes for 3 days before distributing them to his peons for service; otherwise, the object of the parties in getting the processes issued in time is defeated. For, it so happened in O.S. No. 322 of 1887. on the file of this Court (Vide Judgment enclosure No. 2) that when a warrant of arrest was issued from this Court on the 13th March 1889 to secure the attendance of a witness who was at that time in the town of Mangalore, the Nazir retained the warrant with himself till the 18th of the same month, by which time the witness left Mangalore for some other place; and the peon returned the warrant on the 20th idem stating that the witness was not found.

4. The number of the cases of delay in executing processes promptly may be reduced to a large extent by calling upon the Central Nazir, as suggested by my predecessor, to submit, within 5 days after the close of each month, to the District Court through the Munsif a list

of processes not returned before the day fixed for their return, with a brief explanation of delay in each case.

5. With regard to the Central Copyist establishment it is, perhaps, too well known, to the District Court to need any report from me to the effect that most of the suitors are not furnished with copies without delay. The delay puts the Clerks of this Court, in some cases, to the inconvenience of not being able to arrange their papers, in time for sending the records to the District Court Record room.

I beg to remain

Respected Sir,

Your most obedient servant

/ Signed / M. Mundappa Bangar

District Munsif.

/ True Copy /

/ Signed / A. P. Lobo.

Superintendent.

626/93

Application made on 24-2-1891 By Vaikunthiah

Stamp papers called for 25-2-1893

Stamp papers deposited 27-2-1893

Copy ready - - - - - 2-3-1893

Do Delivered

/ Signed / A. P. Lobo.

Superintendent

/ True Copy /

A. Vaikunthiah

Amiri

Mangalore 15th January 1895

Certified that I have carefully examined Adige
Vai Kuntaya son of Ramachendraya Shanbog
Amin District Munsiff's Court Kettur.
His age is, by his own statement, $56\frac{9}{12}$ years
and by appearance about 56 years. I consider
him to be fit for further service for one year.

Signed / C. Hara.

Surgeon Major
Acting District Medical and
Sanitary Officer South Canara.

Forwaded to the District Munsiff of Kettur
with reference to his office letter No. $\frac{27}{11-1-95}$.

/ True Copy /

M. Shrinivas Rau.
Superintendent.

974/95

Application made. 15-3-95

Stamp papers called for 18-3-95

Stamp papers deposited 21-3-95

Copy ready. 29-3-95

True Copy.

A. Vai Kuntak

Amin



Proceedings of the D. Court - 13-3-95

Read letter No 93 from the D. Munsiff
26-1-95
of Ruttur recommending the retirement of
his Court Amin Vee Kuntaya who is past
56 years and reporting that he has been
negligent in his duties and was a constant
source of troubles and unnecessary
correspondence.

Order. The District Judge concurs with
the Munsiff in the opinion formed by him
as regards Vee Kuntaya. He is therefore,
compulsorily retired from the 31st Instant.
Application for pension to be sent up at
once.

Signed / W. G. Holmes.

District Judge:
(True Copy.)

M. Shrinivas Rao.

Superintendent

971/95

Application made. 15-3-95

Stamp papers called for 18-3-95

Stamp papers deposited 21-3-95

Copy ready. 29-3-95

True Copy.

J. Vee Kuntaya
Amin



The Petitioner should
apply to the District
Judge.

(By Order)

Signed / D. W. G. Bowie

High Court of A. G. Registrar
Judicature, Appellate side
Madras.
30th March 1894

True Copy.

A. Vaikuntak

Amin

High Court.

Jaffal Petition No 84 of 1894

From.

A. Vaikuntak

Amin, District Court S.

Canara, transferred to the

Puttur District Munsiff
Court.

Dated

Received 16-3-1894.

Stamps Rs. Nil

With 6 Enclosures.

Abstract

Stating that the Petitioner who
was temporarily transferred to
the Puttur District Munsiff's
Court has not been restored
to his permanent post in the
District Court and that the
arrears of pay due to him
have not been paid for
the assistance rendered in
connexion with the loss of
certain Court fee stamps,
and praying that redress
may be granted to him.

1005
Tud
No. 4
O. No. 2116

His Excellency the Governor in Council
Fort St. George, Madras.

The humble petition of Appeal of Adige
Vaikuntaya, Amin of the Putter Inff's
Court, transferred from the Central Office
District Court, South Canara. Dated 20th
April 1895.

Most respectfully Sheweth

That the Petitioner begs to show by the following facts
that the accompanying order of the District Judge dated 13.3.95
that the Petitioner should retire from service is not fair.

1. That a copy of certificate No. $\frac{3}{15.1.95}$ granted by the St.
Surgeon is hereto annexed, that the Government will be satis-
fied as to the conduct & work of the Petitioner on a kind perusal
of the certificates & other orders shown below & that the Petitioner's
age is only 56 years.

Mangalore 15th January 95
(1) Certified that I have carefully examined Adige
Vaikuntaya Son of Ramachandra Shambhoo Amin
District Munsif's Court Putter. His age is by his own
Statement 56 $\frac{3}{12}$ years & by appearance about 56 years.
I consider him to fit for further service for one year.

Signed/ O. Hara.
Surgeon Major

Acting St. Medical & Sanitary Officer
South Canara.

Forwarded to the District Munsif of Putter with reference
to his Office letter No. $\frac{27}{11.1.95}$.

(2) Putter District Munsif's letter No. $\frac{40}{11.12.90}$ reporting in obedi-
ence to District Court's proceedings No. $\frac{68}{29.11.90}$ that (para 4)
in regard to Amin's conduct Munsif has not received
any complaint ^{from} any suitor or Vakil nor had Munsif
any reason to think that the Amin has acted
negligently



Full

2116.

negligently or dishonestly in the execution of any process entrusted to him, that if the heavy loss of pay, which he has suffered in consequence of prolonged absence he taken into account one may be inclined to think that the circumstances of his family do not permit of his permanent residence at Puttur.

(3) Puttur District Munsif's letter No. 121 dated 23.10.90 stating that Mff could only presume that the Amin would not state a falsehood especially as his leave entailed forfeiture of full pay.

(4) 28.1.1868. Was appointed Batta Amin of Sub Court by Sub Judge Mr. J. G. Thompson.

(5) 23.8.1862. Mr. Thompson's successor Mr. L. S. Rorario certifies "performs his duty efficiently."

(6) 15.8.1873. Promoted as Amin on R. 4 by Sub Judge Mr. Kempan Menon.

(7) 1.4.1874 Sub Judge Mr. A. R. Krishna Menon certifies "appears to be intelligent and active in the discharge of his duty, can also read & write English tolerably well"

(8) 19.2.1874. Sub. Court Nazir Gonsalves certifies "he has a good knowledge of accounts & has performed his duty to my entire satisfaction."

(9) 9.7.1875. Mangalore District Munsif, Mangalore Acting Sub Judge, too certifies:-

"I have found him to be an efficient process server. He has been of material assistance to the Head Quinasta. I am glad he has been promoted to his higher appointment in Sub Court."

2. That the Atallah No. 93 is not true, that it was made at the instigation of the Head Officer that the Petitioner could not produce the copies of documents, to show that the Atallah was not a true one, as they were not granted.

3. That it does not appear from any existing regulation that an officer who has been declared unfit by the District Surgeon should be retained in Service or that an Officer

H.C.P. 9.1.79.
* G.O. 1120
12.5.80
" 651
16.9.90.

officer who has been declared to be fit for further Service by the District Surgeon should be compelled to retire that on the other hand it will be clear from the marginally noted G.O. that compulsory retirement should not be required till an Officer attains his 60th year.

The following are the particulars of unfit persons retained in Service.

Name	Appointment	Remarks.
1. B. Mageshadas.	Clerk Kundapur Munsif's Court.	The District Surgeon certified in February last that he was unfit for further Service. Notwithstanding he has been retained in Service.
2. Gopalaya	Amin, District Court, Central Office	His age is 57 years. This man does not know either to write or read English or Canarese which is the Vernacular of the District. nor does he know accounts. He does his work by proxy. He has moreover got a very bad disease in his hands. He was not sent to the Surgeon and has been retained in Service.
3. Salvador Kamti	Amin Puttur Munsif's Court.	He is 62 years old. The Surgeon has certified that he is fit & he has been retained. It appears that the sanction of the Court is necessary for retention after the 60th year. No such course appears to have been adopted in his case.
4. F. M. Brito	Clerk District Court.	He is a sickly man. He has been retained in Service without being sent to the St. Surgeon. His age is 55.
5. Sheikh Yusuf	Process Server District Court Central Office	This man obtained a gratuity. He has got Elephantiasis & is not able to walk far. He has been retained in Service without being sent to St. Surgeon.

4. That the Petitioner begs to state that he repeatedly took the liberty of bringing to the notice of the Judge the fact that the Central Nazir was granted extension of retention in Service in conformity with his wishes and was subsequently recommended for full pension though on examination of his accounts by the Sheristadar in compliance with the orders of the District Judge dated 30. 11. 91 & 30. 3. 92 respectively the fraud perpetrated by him on the Government to the extent of Rs 107-8-0 paid in the shape of Court fees and the consequent destruction of the B Registers which are indispensable for substantiating the fraud were communicated to the authorities by the Sheristadar & the Petitioner on 13. 5. 92 & 27. 6. 92 & that therefore the only object in ordering the compulsory retirement of the Petitioner is not so much an unfitness as a desire on the part of the Judge to get rid of this difficulty; and that on a kind perusal of the orders. Petitions, Mangalore Dunsiffs Itillahs Nos. 246 & 35 ^{10. 11. 91} 17. 2. 92. and the Sheristadar's report of the 29. 3. 92 to the District Judge herewith produced it will be found that they amply corroborate the above statement.

5. That no investigation of any kind has yet being conducted by the District Judge into the matter though it was either brought to his notice by the High Courts order No. 3084 ¹⁸⁹¹ or represented to him by the Petitioner in compliance with the endorsement of the High Court on his petition dated 26. 2. 94 pointing out the same matter to them.

6. That the petitioner has not completed the period of Service which entitles him to full pension that there is a distinct ruling in the Civil Service Regulations that an officer if fit should be retained in Service till he completes the same & that since the Surgeon has declared the petitioner to be fit for further Service he is not entitled to one-third pension and gratuity if he should retire at the present moment.

7. That the Petitioner has represented all the circumstances with earnest hope that the Government will be graciously pleased to consider whether it was right & proper on the part of the District Judge to have retained in Service & subsequently recommended for pension an Officer who caused so much loss to the Government without reporting the matter to the higher authorities & to have ordered the retirement of one who agreeably with the Judge's order examined the accounts & repeatedly brought the loss to his notice & who has been declared to be fit for further Service by the District Surgeon.

8. That in conclusion the petitioner prays that on a kind perusal of the above facts & the documents specified in the petition & the medical certificate No. 3 ^{15. 1. 95} enclosed herewith, the Government may be graciously pleased to direct the District Judge to grant him copies of the report which he may make & the documents which were refused by the Lower Courts & that the Government may also be pleased to reinstate the Petitioner in his former appointment as he is certified to be fit by the District Surgeon and that the pay of 8 months during which he was de-functed to examine the accounts & his pay from 1st instant till he is reinstated may also be ordered to be given to him.

For which act of kindness the Petitioner
shall as in duty bound

Error 4½ one only.

Respectfully
A. Vaidantak
Amrin

Judicial Dept.

CURRENT No. 246

651 of 16-9-90

1120 of 12-5-1880

From, Adiji Vaikuntaya,
Amin of the Putter Munsiff
Court,

For, meas

The petn. can be ^{rejected} ~~rejected~~
under para x of the petn.
rule c. But it may per-
haps be better to dispose
of the matter once for all by

no -

Dated -
Recd 26th } April 1895
Ref. 28th }
Ex. 5.

passing the following order:-

" Order, 23 May 1895, No 1109.

The Court ~~declines~~ ^{declines} to interfere

" with the Sessions Judge's

" decision in regard to the

" retention of the petn. in "

" public ^{public} ~~good~~ service. As regards

" the arrears of pay alleged to "

" be due to him, the petn. should

" apply to the S. Judge."

Subject

Appealing against the order
of the District Judge, South Canara,
regarding his compulsory retirement
from service.

14.5.95 20
18/6/95

16/5/95

16/5/95

16/5/95

16/5/95

16/5/95

16/5/95

When given for copying

When copied

When examined

When signed

189.

READ AGAIN G.O., No.

189

DATED

CURRENT No.

ENCLOSURE TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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IN ORIGINAL.

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