

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1448

Dated 10th July 1895

INDEXED.

[Despatch Abstract.]

GOVERNMENT PLEADER AND PUBLIC PROSECUTOR, SALEM.

Approving the District Magistrate's proposal to appoint M.R. AY
T. Subramania Iyer as-----.

BACK PAPERS.

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

FURTHER PAPERS.

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CURRENT NO. 3082
1,000-23-10-93.

Judl Department.
Confidential

From the Collector
and District Magistrate,
Salem.

To The Chief Secretary to
Government
Judicial Dept
Ootacamund

Dated 18th June 1895.

Recd 26.
Depd 28.
Depd 25th June 1895
Ref No. 782
Sub

Enclosures two

Subject.

Reporting that the present
Joint Pleader and Public
Prosecutor's term will expire
on 24th June 1895 and no-
minating Mr R. T. Soobram-
anayyer as further post

H.M.
his

The following is subd for
approval: 10 July 1895, No. 144

Order: 9/7/95

In view of the circum-
stances represented by the
District Magistrate, the
proposal to appoint Mr R. T.
Soobramania Iyer as Joint
Pleader & Public Prosecutor,
Salem, on the expiry of the
term of office of the present
incumbent, is approved.

5-7-95

6/7/95

Dr. Salem 1891
Act. Genl (R)

It is noted from the cases cited by
Mr. P. K. that the late Govt.
Pleader & Prosecutor has been
disgracefully low in the performance
of his duties and should not
be reappointed. The Petition presents
to him shows no reason for
reappointing him. Mr. P. K. does
not state and gives no
reason in support of what he
says.

The main reason for office being
impaired and if Govt decides
that he is not to be reappointed
that is enough. It is not
further necessary nor expedient
to give the full reason why
not 6/7/95

Confidential

Salem Collector's Office.

9th June 1895.Ref No. 782
Sub
From

G. STOKES Esq.,

Collr. & Dist. Magte. of Salem.

To

The District and Sessions Judge
Salem

SIR,

Under Government order dated 13th

August 1892 to 1897 Judicial, it is now necessary
to consider the reappointment of the Government
Plender and Public Prosecutor of this District. At
present this appointment is held by Mr. R. B. V.
Varthiayyer avergal for the third term of three
years which will expire on the 26th Instant. The
Government order lays down that "so long as the
Public Prosecutor is thoroughly efficient and per-
forms his duties satisfactorily, he ought not to be
disturbed."

Salem
24th May 1895

Sir,

I beg to thank you for
having nominated me for the
appointment of Court Plender
which as I did tell you once
before I am still willing to take
up. I saw your letter of the 25th
inst only last night as I
was away from Salem for some
2 or 3 days.

I beg to remain
Sir
your most obedient
Servant
F. Subramaniam

disturbed". I regret I cannot state that the present Government Pleader and Public Prosecutor has, during his third term, satisfied either condition. I have had to find many instances of the very greatest delay and neglect on his part, which, while pointing to his want of diligence and inattention to instructions, led to difficulties in execution of proceedings to recover the costs awarded to Government, and in the conduct of criminal cases of importance. I state in brief few instances in the succeeding paras for your information.

2. In execution of a decree of 1000 Rs in favour of the Forest Department, some 18 head of cattle belonging to the judgment-debtor were

attached

attached, and the District Forest Officer requested the Government Pleader on 19th July 1896 to take steps to bring the cattle to sale. Heedless of reminders, the Government Pleader had not taken any steps as requested until 15th May 1895 when the matter was brought to my notice; vide a copy of the District Forest Officer's note to 6648 dated 15th July 1895 attached herewith. On the 18th Idem I called on him to explain the delay within three days and, on the 24th, a reminder has issued to him. He has not yet submitted his explanation. The delay which he has allowed to occur in the matter is excessive and blameworthy, and has probably rendered the prospects of the realisation of the decree amount slender

x
Sincerely yours

to some of the cattle have recently died.

13. In Pauper Appeal Suit no 295 of 1890 on the file of the District Court, the Government Pleader was instructed to oppose the application to sue in forma pauperis. The Court dismissed the application with costs to Government in its order dated 20th November 1890. The Government Pleader did not report the result until after two years. After five calls he submitted on 9th January 1893 a copy of the Court's order which did not specify the exact amount of costs awarded to Government. This omission he did not notice and had to be pointed out to him with the request to move the Court to insert the costs.

costs. It took him according to his own assertion seven months, but according to the records of this office about ten months to send a copy of the revised order. By this time the execution had been time-barred, and as in consequence the realisation of the costs awarded to Government became impossible, the amount has been written off.

4. Another Pauper Suit in which his neglect is noticeable is application no 666 of 1893 on the file of the District Court. The Court did not in its order, pass the usual order as to costs to Government. There has been no sign of his having noticed the omission or endeavoured to get it supplied until his attention was

was

as called to the same in memo dated 11th
December 1894. He has not yet replied to this

reference even after a reminder.

5. Another instance of an extraordinary
delay on the part of the Government Pleader and

a Public Prosecutor is original Suit no 1 of 1890

(A.S. no 6 of 1891) — a Suit for the Sub-division

and Separate Registry of the Pachal mittah.

The Suit was dismissed with costs to Govern-

ment and this order was confirmed on appeal.

Too. For the recovery of the sum of Rs 275 —

awarded to Government as the costs, the Govern-

ment Pleader was requested to promptly take

out an execution. But he has allowed such

an amount of avoidable delay in the matter

that

that it has now become difficult to realise, and

that Government will probably lose the

amount, the Plaintiff having died and

his sons having alienated his properties.

6. There was great delay in the execution

Proceedings also in O.S. no 8 of 1890. In view to

bidding on behalf of Government at the Court

Sale of the Pavethram mittah, one of the properties

of Kalayandi Pillai, the judgment-debtor to

Government in the above Suit, the Government

Pleader was asked to ascertain if there were

any other encumbrances on the Estate. He

did not attend to this requisition promptly

so much so that I had to observe as follows.

in

memorandum Reference on to 79 dated 18th
Peta

February 1894. "This matter should be at once
ascertained for certain. If there are any other

"encumbrances no bid should be made. It

"is excessively unsatisfactory that he has not

"taken any steps to ascertain this point

"on which he should have replied long ago".

In this matter and in proceeding against
the other properties of the Judgment-debtor,

he showed no promptitude. Owing to the delay

in the proceedings on behalf of Government

another decree-holder had succeeded in

obtaining an attachment order for the amount

held in deposit as surplus sale proceeds

of the Shendamangalam and Periakulam

Sections

Sections of the Shendamangalam Muttah
of which Malayandi Pillai was entitled of

to one twelfth share. This threw additional

obstacles in the way of realising the

large sum of Rs 7677 and odd due to

Government; but fortunately this amount

was paid subsequently by the representatives

of the judgment debtor, though after a

prolonged delay.

7. In O.S. no 7 of 1889 which was brought against

the Secretary of State for India and four

others to set aside the Revenue Sale of

Thuthukilam Division of the Belookuri

-chi Muttah, the Court dismissed the suit

and awarded the costs amounting to Rs

to Government. The Government Pleader was instructed to take out an execution. He himself suggested at first, as the easiest way of recovering the costs, the advisability of proceeding against the person of the Plaintiff Nangayagounden, a mittader, and an execution petition was signed and returned to him with memo No 4589 on 25th November 1893. He did not file this petition, but allowed a considerable delay to creep into the matter with the result that the sum of Rs 459 held in deposit, and to the refund of which Nangayagounden was entitled, could not be attached and adjusted in time towards the costs due to Government. In the meanwhile another decree holder against Nangayagounden

had attached and obtained payment of 87 Rs of the deposit under the orders of the Civil Court. The Balance viz Rs 372 was alone available for attachment for the Government costs, and for the remaining 57 Rs still due to Government, the first Pleader has now been instructed to take out a warrant of arrest of Nangayagounden. Had he simply applied for a warrant against the person of the debtor, as he was instructed to do in so far back as November 1893 or obtained without delay the attachment of the deposit amount, the costs could have been realised in full without the slightest difficulty.

8. I have quoted the above cases to

show how perfunctorily he has done his
civil work. I have found him no better
in regards to criminal cases also. In fact
he seems to have far more work than
he is capable of. I found it necessary lately,
in the Taramangalam Extortion case, in which
an Akhore Sub-inspector Krishnaswami Row
was convicted, to appoint another Vakeel
on the application of the Assistant Inspector
of Salt and Akhore Revenue, Salem Circle
(his letter dated 11th January 1895). The
case was dragging so much and undesir-
ably in the hands of the Public Prose-
cutor. The Assistant Commissioner of Salt
and

and Akhore Revenue, Grode Division has re-
ported to me that he (the Public Prosecutor) has
lost very material records in this case.

9. The criminal appeals nos 5 and 6 of
1895 on the file of the Sessions Court had to
be disposed of without representation on
behalf of Government owing to the Public
Prosecutor's omission to apply for instructions
in time. He submitted the notices to me
just when there was one day before the
hearing, and when the notices reached the
General Deputy Magistrate against whose
judgments the appeals had been preferred,
the hearing was over. There was a delay of
over 10 days in the transmission of the notices
to

to me

10. In regards to the complaints of assault
and the sale of contraband salt, preferred by
Shri. K. V. for, Inspector of Salt and Akare,
Revenue Hosur Circle, against a wealthy
Muhammedan, the Public Prosecutor
was requested on 10th January 1895 to conduct
the prosecution before the Taluk Magistrate
at Hosur, as the cases of were of some
importance. The complaints were filed
in December 1894. He was not vigilantly
and vigorously conducting the prosecution,
but was applying for too many adjourn-
ments. On the 8th March last, I had to
order him out of the Sessions Court and to

direct
was

direct the Tahsildar Magistrate not to
adjourn the cases to suit his (Public Prose-
cutor's) convenience. Further, in connection with
this case, in contravention of my order No 27 date
10th January 1895, that another Vakeel would
be sent in his place to conduct the Sessions,
he arrogated to himself the power of appoint-
ing his own substitute. His action in this matter
was ultra vires and has been commented on
in my proceedings No 318 dated 18th February
1895. In another important case, viz Forest
Perjury case, he has not taken active steps
to start the prosecution though it is now
a considerable time since the case was
handed over to him. I append a copy of
the

the District Forest officers office note no 2
camp dated 2nd April 1895 for your perusal.
The explanation of the Public Prosecutor is that he
wanted to hear from the Magistrate as to the
date of hearing

11. Before concluding I have to invite your
attention to the fact that Mr Andrew also,
while acting as collector of this District,
was highly dissatisfied with the work of the
Government of the Pleader M R Vairi
ayer avergal. He traversed the several
stages of delay in no less than 20 suits entrusted
ed to the Government Pleader, and in calling
for his explanation, made the following ob-
servations (Reference no 1395 ^{Aug} dated 16th
October 1893). "I have observed with dissatisfaction
that

"that you do not appear to me to have attended
"with due diligence to the civil work in which
"you appear on behalf of Government. It
"maybe that your private practice make
"it impossible for you to give as much
"attention to such work as in my opinion
"it is your duty to give. If such is the
"case I think it is your duty to resign
"your post of Government Pleader and
"Public Prosecutor. I enclose a statement
"of papers etc referred to you in the disposal
"of which there has been excessive delay on
"your part. I request that you will be so
"good as to explain in detail, the delays
"and omissions and reply to calls from me

in respect of each case :xxx. I have only
further to remark that in spite of my
having pointedly drawn your attention to
the matter you have systematically re-
frained from coming to me from time to time
to inform me as to how your criminal cases
were progressing at the various Sessions. The
explanation of the Government Pleader was
disposed of in this office memo No. 3424 dated
28th November 1893 with these remarks. "The
undersigned (Mr Andrew) does not consider
it necessary to say much with reference
to the Government Pleader's explana-
tion. He admits, in effect, that he
allowed

"allowed his correspondence to get into
"a state of utter confusion, and he promises
"improvement. The Acting Collector therefore
"hopes that it may not be necessary in
"future to find fault with the Government
"Pleader for inattention and neglect in
"the conduct of Government Suits and
"matters relating thereto."

12. Even this admonition has had no
effect on the Government Pleader -
whose work has been throughout anything
but efficient and satisfactory. I therefore
find it necessary to nominate Mr Rly
T. Soobramaniam avargal B.A., B.L. for
the appointment of Government Pleader

and

and Public Prosecutor, which he is willing
to take up. I request that you will be
good enough to let me know your views

on the Subject as early as possible

I have etc

(Signed) L. Stokes

Collector and St. Magistrate

True copy

M. L. Stokes.
Collector and St. Magistrate

M.

21-6-95

Confidential

Department.

From the Collector

and District Magistrate,

Salem.

To The Chief Secretary to
Government Judicial
Department

Dated

No.

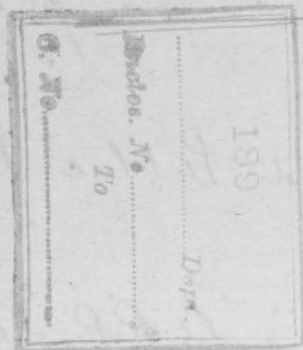
Enclosure.

Subject.

Enclosure to letter to Govern-

ment No. 782 dated 18th June

1895.

*Confidential*

Salem Collector's Office,

18th June — 1895.Reference No. 782
Sub

From

G. STOKES Esq.,

Collr. & Dist. Magte. of Salem.

To

Chief
The Secretary to Government,
Judicial - Department,
Madras.
bolucamund

SIR,

It has been directed, in Govern-
ment order dated 13th August 1892 No.
1487 Judicial, that the appointment of
the Government Pleader and Public Prose-
cutor should be made afresh at the expiry
of every term of three years. The present
Government Pleader and Public Prose-
cutor of this District is Mr. Vaithe-
ayyer avergal whose term of three years
will expire on the 24th Instant. I am not
prepared

prepared to recommend his reappointment
for another term as his work has been
anything but efficient and satisfactory.

Mr Andrew too, while acting as collector of
this district was of the same opinion,
and the District and Sessions Judge,
whom I consulted in the matter, states
in his letter No 430 dated 14th Instt,

that "from the circumstances brought to

"notice by you it seems clear that the

"present Government Pleader and Public

"Prosecutor has not been thoroughly and

"satisfactorily fulfilling his duties towards

"Government". Specific instances of very
great

great delay, inattention and inefficiency,
the part of this Government Pleader and
Public Prosecutor, have been quoted in my
letter to the District and Sessions Judge
No 782
C dated 9th Instant, a copy of
which I enclose herewith for the informa-
tion of Government.

2. In view to a prompt and satis-
-factory discharge of duties required of
the Government Pleader and Public Pro-
-secutor, I propose to replace Mr P. B. V.
Vaithi ayyar avergal by a better Vakeel.
I beg to nominate for the appointment
Mr R. T. Subbramanayyer avergal who
has

has consented to take up the same vide
 his letter of the 27th May last, enclosed
 herewith. He is a B.A., B.L. and High
 Court Vakeel, and is one of the best
 pleaders of the local bar. In this my
 nomination the District and Sessions Judge
 has fully agreed. I request that Govern-
 ment may be pleased to approve of
 my nomination and to appoint Mr. T.
 Sootramamangier avergal as the Government
 Pleader and Public Prosecutor of this Dis-
 trict for a term of three years.

I have the honor to be
 Sir
 Your most obedient servant
 Collector and District Magistrate

21-6-95

When given for copying _____
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AD AGAIN G.O., No. _____
 189 _____

CURRENT No. _____

ENCLOSURES TO G. No. _____

ORDER OF GOVERNMENT A A A A A A A

LETTERS OF GOVERNMENT.

STATEMENTS WITH DITTO.

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