

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 528.

DATED 9th Mar. 1895.

INDEXED.

[Despatch Abstract.]

MEMORIALS WITHHELD.

Directing that the memorials to His Excellency the Viceroy and Governor-General from K. Vencatanarayanappa and D. Subbiah, late constables of the Nellore Police, praying for restoration, be withheld under Rule 3 (7), section III of the B. Memorial Rules, and the memorialists informed accordingly.

9/10/95

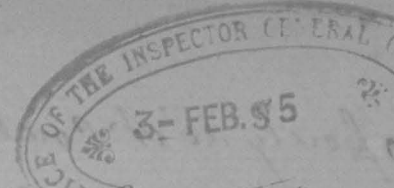
BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
80	59		11-1-95				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	434.		1895				
	4988.		1895				

Received by the 93/95



The Vice Roy & Governor General of India
Calcutta

Through the Superintendent of Police
Kallone Distt.

Forwarded to
the Inspector General
of Police
Madras

Most humble memorial of H. Kucattarayanappa
Late 2^d Class Constable No. 228. Kallone Distt.
Residing at Sauttapett
Kallone
Respectfully Sheweth.
25.1.95

1 That the memorialist obediently begs for
your Excellency's permission to approach with
memorial against the unequal injustice and several
pains himself of dismissal for so called malprac-
tice.

2 That the Charge against your Excellency
humble memorialist is that he had in his
possession a book of J. Penal Code while he was
answering questions paper on the same subject
for station house officers Examination with
the dishonest object of using it in answering
the questions. The Circumstances under
which he had the book were the following:
The book of a size by 1 1/2 x 1 1/2 and hence in
concealable; he appeared in the Examination
hall holding the book in his hand

so openly as it could be at once observed by the
 Superintendents of the hall; the memorialist seated
 himself in the exact front of the Superintendent of
 Police at a distance of only 3 yards that in the first
 glance at the Examiner, he may discover what they
 are doing; when he entered in to the hall with the
 book the paper to be answered related to Criminal
 Procedure Code; 10 minutes after Criminal Procedure
 Code Paper on Penal Code was given; and the Superintendent
 of Police watching as he was during the time allowed
 for Criminal Procedure, did not object to the
 memorialists having a book.

3 That these Circumstances are enough to show
 the explanation of the memorialist to be plausible
 and not ridiculous and establish want of
 dishonest intention. The dishonest intention
 of a man should be inferred from the Circumstances,
 and here possession of a book by the Examiner
 is not of itself at all sufficing to prove the
 intention and other incidents also should be
 considered with it. When the balance of Circumstances
 does not favour the presumption of particular
 intention, one should not be found guilty of it.

The Conduct of a man is the Chief Criterion of his
 intention. Your memorialist's Conduct was not in
 the least suspicious and on the contrary straight
 forward and plain.

4 That no man intending to commit wrongful
 act, would so openly expose himself for detection.

5 That it may be an excusable mistake
 to have Compensary of the book he is to be examined
 in.

6 That dismissal from public service is with
 due respect to the orders of the Deputy Inspector
 General and Inspector General of Madras Government
 submitted his disproportionate with the guilt such
 acts are frequently detected during university examina-
 tions, but such examinees were never found disqualified
 for Government service. They were only held ineligible
 for examination for certain periods.

7 That your excellency will graciously observe
 that dismissal of a young public servant for an
 unintentional act is extremely hard and unprecedented.

8 That hitherto at the times of Examination
 it was usual in the District Police Office to supply
 the Candidates with paste boards to serve as pads
 for paper to be written on; but during the quarter
 in question the Distt Superintendent of Police
 ordered that no paste boards will be supplied to
 the Examinees at the time of writing. Hence the
 memorialist took the book in question openly and
 honestly to use it as a pad of writing. The order
 about the non supply of paste boards was given to the
 Candidates only in few minutes prior to the Commence-
 ment of Examination; when all the Candidates
 were in the Distt Schools. Hence they had no
 opportunity of procuring other books than the law
 books taught in the S. H. Q's Class. Your

Excellency's memorialist most humbly begs to bring all the Circumstances to your liberal and generous cogitation to observe with what motive he was taken the book in to the Examination hall.

9 That considering it necessary to give description in detail of the room where the Examinees took their seats showing the respective positions of the several seats and the dimensions of the room, the memorialist begs to submit the accompanying plan and the following facts for your Excellency's perusal.

That eleven Constables (Examinees) entered the room through the door No. 2 and stood in a file before the Superintendent, on uniforms and 7 of them holding in their hands the books and then they were directed to take seats.

The Superintendent did not take objection to their having entered the room with books nor did he order to put them off. The Examinees held the books too openly to escape the attention of the Superintendent and the size of the books is too big to be hidden.

That carrying books in an open and noticeable manner, shows absence of fraudulent motive in the Examinees.

That the first two hours were allowed for answering questions in Criminal procedure Code and at the end of which, the Superintendent gave them recess of 10 minutes and during that time they kept the books &c at their seats.

The Superintendent of Police could not fail

to observe this also for all the seats except two were placed before him and at a very short distance.

That the seat of the memorialist No. 228 was quite opposite to him in such a manner as he should be observed by every cast of the Superintendent's sight.

That when a Constable seated on the back side was found cribbing from the book the Superintendent, then took objection to the possession of books and dealt with 7 Examinees (No. 2, underlined in the plan subjoined) so severely, that their prospects were forever damaged.

That the memorialist farther begs to submit, that not tables like those supplied in the university Examination have been accustomed to be provided in this Examination. On the other hand, in this Examination all the Examinees on uniforms are directed to sit on surpans. Consequently they are obliged to write their answer papers on their thighs; which having been found to be a tedious business, the late Superintendent of Police have been accustomed to direct paste boards to be served as pads to the Examinees.

But in the present case nothing of those sort were supplied and just 2 or 3 minutes before the commencement of the Examination, the Superintendent directed that he had no such things to be supplied; whereon the Examinees unable to find out anything to serve their purpose had recourse to their books which they had reading in their schools and has taken them openly and honestly as in column 8 of the former petition.

Plan and one of the same books (that the Examinees

6
had, are submitted herewith through the Superintendent of Police, to show, that your Excellency may see that the intention of the memorialist could not at all be fraudulent.

10 There is one important point which neither the Dy. Inspector General of Madras Police Central Range, nor the Inspector General or the Madras Government failed the note.

That there while the Police Order new book Page 98 and Order No 170 lay down that Candidates should not be allowed to enter in Examination Hall not to keep any books with them, and when Candidates openly appeared before the Examiners with books in their hands and no body will take notice about the subject.

The Examiners are his assistants did not object it. The present Examiners Mr. G. T. Pagan has now arranged the Candidates should not have the books at the time of Examination Hall, the late Mr. H. Lunsd did neither so arrange or give notice to the Candidates in any other way.

The appellate authority failed to enquire whether the Candidates were warned not to have the books with them in the Examination Hall.

From the Copy of the minute written at the first appeal made by the Examiners, that he did not do warn them.

The explanation given by the Examiners

with the view that his words should not be passed as truth is not a reliable.

The officers are to be dealt with first report only. Punishing as who are really innocent down the mistake is great fault and his highly unjust.

I could not obtained justice even at the hands of the Madras Government. And I considered of the first report dated 28-3-94, were then against me by the Examiners and on the inspection of the Examination Hall.

The place were sat in the Examination Hall the plan also submitted it will show whether I am guilty or not. The Candidates who done the guilty by the Examiners must suffer the consequence who are really innocent. I am urging from the very commencement that I took the book to be used as a pad while the Examiner his a opinion only that I took the book with the view of Copying, there is no another evidence that there point only for dismissing me.

I therefore request your honor most humbly and request to Enquire whether the late Superintendent of Police failed by Police Order No 170 did not arranged the Candidates should not take the books with them.

11 That the memorialist humbly craves your Excellency to restore him to the post and render justice to him.

Sellone
17th January
1895

your Excellency most humbly
and obedient Servant
K. Venkate Narayappa

Appellant

Chief Office of Insp. Genl of Police
Madras 26 February 1895

N^o 1036

enclosures 8.

Forwarded with reference to Colonel
Porter's letter dated 19 September
1894, N^o 5459, and G.O., dated 20th
October 1894, N^o 2519, J. D.

Mammick

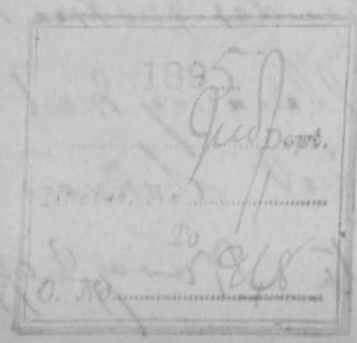
Inspector General of Police

C.

The Chief Secretary
to the Govt. of Madras

M.

Enclosures
Dismissal Order 1
Defaulters Sheet 1
Distt Supl Minute 1
Insp. General of Police }
Official Memorandum } 1
Madras Government Order 2
Total 6



fr. 25/19/94 This

25/19/94

948

From

The Inspector of
Police

No 1036

Date 26. 2. 95

Recd 27. 2. 95

By 27. 2. 95

Enc. Ch. 2756 of 4 n. t.

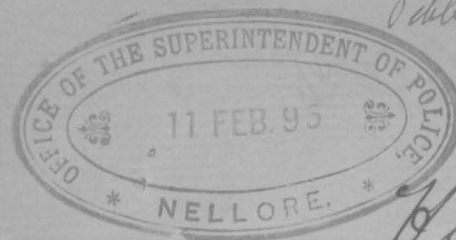
1 more enc.

Subject

Forw. Memorial N. K. Rukata.
Narayanappa late 2nd Class Constable,
Nellore, reqn. to be restored
to his post.

4/3/95.

(W.D)



Pattemkol 35/95

enclosure one 15th's memo

No 1037/26

6/10/95

His Excellency The Viceroy and The
Governor General
Of India
Calcutta

To The Inspector General of Police
Madras
Through The Superintendent of
Police Nellore District
Nellore.

Ever & most humble memorial of D. Subbiah
Superintendent of Police
Nellore
Late 2nd Class Constable No 462 Nellore
12.2.95.

District Residing at Rapoor.

Respectfully Sheweth.

That the memorialist shewethly begs
for your Excellency's permission to approach
with memorial against the unequal inequitable
and severest punishment of dismissal for
so called malpractice.

2 That the charge against your Excellency
humble memorialist is that he had in his
possession a book of Procedure Code.

1st sheet

while he was answering question paper
on the same subject for station house Officer's
examination with the dishonest object of using it
in answering the questions. The circumstances
under which he had the book were the
following:- the book is of size by $1\frac{1}{2} \times 1$ feet
and hence inconceivable; he appeared in the
examination hall holding the book in his hand
so openly as it could be at once observed by
the Superintendants of Police of the hall. The
memorialist seated himself in the front of
the Superintendent, at a distance of only 3 yards
that in the first glance at the examination
he may discover what they are doing. When
he entered into the hall with the book the
paper to be answered related ^{to} Criminal
Procedure Code. Ten minutes after Criminal
Procedure Code paper on Penal Code was
given; and the Superintendent of Police
watching as he was during the time allowed
for Criminal Procedure, did not object.

to the memorialists having a book.

3

That these circumstances are enough to show the explanation of the memorialist to be plausible, and not ridiculous, and establish want of dishonest intention. The dishonest intention of a man should be inferred from the circumstances, and here the possession of the book by the exawmeis not of itself at all sufficient to prove the intention, and other incidents also should be considered with it.

When the balance of circumstances does not favour the presumption of a particular intention one should ^{not} be found guilty of it. The conduct of a man is the chief criterion of his intention. Your memorialist's conduct was not in the least suspicious and on the contrary straight forward and plain.

4

That no man intending to commit a wrongful act ^{would} ~~could~~ so openly expose himself for detection.

5

That it may be an excusable mistake

3^d sh

to have ~~the~~ a company of the books he is to be examined in

6

That dismissal from public service it is with due respect to the orders of the Dy. Inspector General and Inspector General and of Madras Government submitted him with disproportionate with the guilt. Such acts are frequently detected during University examination but such examinees were never found disqualified for Government service. They were held ineligible for examination for certain periods.

7

That your excellency will graciously observe that dismissal of young public servant for an unintentional act is extremely hard and unprecedented.

8

That hitherto at the times of examination it was usual in this District Police office to supply candidates with paste boards to serve as pads for paper to be written on but during the quarter in question the Dy. Superintendent of Police ordered that

no paste boards will be supplied to the
examinees at the time of sitting. Hence the
memorialist took the books in question openly
and honestly to serve it as a pad. The order
about the ~~non~~ supply of paste boards was
given to the Candidates only a few minutes
prior to the commencement of examination,
when all the Candidates were in the District
school. Hence they had no opportunity of
procuring other books than law books -
taught in the J. H. & C. Class. Your excellency
memorialist most humbly begs to bring all
the circumstance to your literal and generous
Cogitation to observe with what motive he
has taken the book into the examination Hall.

9 That considering it necessary to give
descriptions in detail of the room where the
examinees took their seats showing the respective
positions of the several seats and the dimensions
of the room the memorialist begs to submit the
accompanying plan and the following facts
5th Shun

for your excellency's perusal:-

These eleven Constables (Escameros) entered the room through the Door No 2 and stood in a file before the Superintendent, and 7 of them holding in their hands the books and three they were directed to take seats. The Superintendent did not take objection to their having entered the room with books nor did he order to put them off. The escameros hold the books too openly, to escape the attention of the Superintendent and the size of the books is too big to be hidden.

That Carrying books in an open & ostensible manner shows absence of fraudulent motive ^{in the} ~~with~~ examination.

That the first two hours were allowed for answering questions in Criminal Procedure Code and ^{at} the end of which the Superintendent gave them recess of 10 minutes and during that time they kept the books ~~at~~ at their seats.

The Superintendent of Police could not fail to observe this also for all the seats except two

were placed before him and at a very short distance.

That the seat of the memorialist No 462 was quiet opposite to him in such a manner as he should be observed by ^{every} east of the Superintendent's sight.

That when a Constable seated on the back side was found cribbing from the book the Superintendent took objection on the possession of books and dealt with ⁷ examinees (Nos underlined in the plan subjoined) so severely that their prospects were forever damaged.

That the memorialist further begs to submit that notables alike those supplied in the university examination have been accustomed to be provided in this examination. On the other hand in the examination all the examinees on uniform are directed to sit on surface and consequently they are obliged to write their answers paper on their thighs; which having been found to be a tedious business the late Superintendents of
7th Street

Police have been accustomed to direct paste boards
to be served as pads to the examinees.

But in the present case nothing of those
sort, supplies.

10

There is one important point which neither
the Deputy or Inspector General nor the Government
of Madras took into consideration.

Namely. in the Police order new book page
No 98 and order No 170 it is told that the candidates
who appear for the examination must not be
allowed with any books or papers or whatever
with them. Here when 7 candidates openly appeared
before the examiner holding books (with intention
to serve as pads) in their hands the Superintendent
or his subordinates took no notice of them.

11

That the memorialist humbly craves your
excellency to restore him to the post and render
him justice to him.

Kllone

10th February
1895

Your Excellency's most humble
and obedient servant
Signed. D. Subbiah

No 1037.

Chief Office of Inspector of Police
Madras, 26 February 1895.Enclosures

Dismissal Order 1
 Defaulters sheet 1
 Dist. Supd. G.O. Minute 1
 Dy. Insp. G.O. Order 1
 Insp. G.O. Order 1
 Order of Government
~~of Madras~~ }
 Total 6 (Six only)

Forwarded with reference to Colonel

enclosures 8.

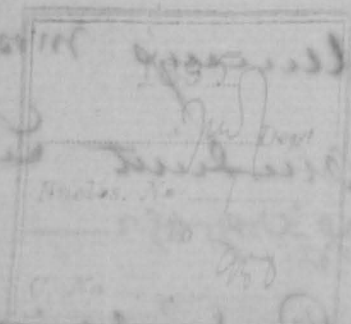
Porter's letter, dated 19 September
 1894, No 5459, and G.O. dated 20th
 October 1894, No 2519, f. 2.

M. A.

Inspector of Police.

To The Chief Secretary
 to the Govt. of Madras.

M.



Order g^h March 1888 No 528
Miss

8/2/95

To
The Secy. of Polie. Ho with ⁱⁿ Encls. ^{also} 12/3/95 ^{dispd}
∴ Clerk in charge of list of ^{minerals} ^{with} ^{keels}.

4285

The Inspector General of
Police

1037

Date 26. 2. 95

Recd 27- 2 - 95-

Recd 27-2-95

Encl. @ No. 2755 of 84 xFDK1

Subject.

Forw! Memorial of D

Subbia Lat. 2nd Class Const

McCombe request. to be
restored to his post

Co

READ AGAIN G.O., No.
189 .

DATKI

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.--

A = Copy in full.
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Q = Copy heading only