Marine (1899) Department.

G.O., No. 226 Marine.

Dated 8th March 99

R. 4/2/99

[Despatch Abstract.]

Petition of the Dy Conservator of the Port Madras.

Stating that H.E. the Governor Council has arrived at the Conclusion the Dy Conservator of the Port of Madras is bound to carry out the instructions he receives from the Chairman, Harbour Trust Board, that he has no right to require the Chairman to lay any matter before the Board.

BACK PAPERS.

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

FURTHER PAPERS.

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

Government {1899} of Madras.

MARINE.

Recd. } 1899. *Enclosures*

Regd. } *Spare copies*

G.O., No. 226, 8th March 1899.

MARCH.

Position of the Deputy Conservator of the Port of Madras

Stating that His Excellency the Governor in Council has arrived at the conclusion that the Deputy Conservator of the Port of Madras is bound to carry out the instructions he receives from the Chairman, Harbour Trust Board, and that he has no right to require the Chairman to lay any matter before the Board.

GOVERNMENT OF MADRAS.

MARINE DEPARTMENT.

Read—the following papers :—

Letter from the Deputy Conservator of the Port of Madras, dated 23rd Jan. 1899, No. 79.
Endorsement by the Presidency Port Officer, Madras, dated 23rd Jan. 1899, No. 1917/31 G.
Letter from the Chairman, Harbour Trust Board, Madras, dated 31st Jan. 1899, No. 4210.
Endorsement by the Presidency Port Officer, Madras, dated 15th Feb. 1899, No. 1917/60 G.

Order—No. 226, Marine, dated 8th March 1899.

In the correspondence read above, the Deputy Conservator of the Port of Madras raises the following questions :—

(1) Whether he has, or has not, the right to insist that the Chairman shall submit matters to the Harbour Trust Board, in its capacity as Conservator of the Port, for orders; and

(2) Whether the Chairman is empowered to issue direct orders to the Deputy Port Conservator on Port Conservancy matters without first referring the same to him or the Board for opinion.

2. His Excellency the Governor in Council has carefully considered the matter and has arrived at the conclusion that the Deputy Conservator is bound to carry out the instructions he receives from the Chairman, Harbour Trust Board, and that he has no right to require the Chairman to lay any matter before the Board.

(True Extract.)

Under Secretary to Government.

To the Presidency Port Officer.
„ Chairman, Harbour Trust Board.

Exd. T K. Narayana Aiyangar.

Marine DEPARTMENT. 3 l

Read the following :—

Letter from the Deputy Conservator of the Port of Madras, No. 79 dated 23rd Jan
Endorsement thereon by the Presidency Port officer, Madras, No. 1917/31 G., dated 23rd Jan
Letter from the Chairman, Harbour Trust Board, Madras, No. 4210, d/31st January
Endorsement thereon by the Presidency Port officer, Madras, No. 1917/60 G., d/15th February

119
230

~~Circulated to~~

ORDER. No: 226 Mar 8-3-99

In the correspondence read
the Deputy Conservator of the Port of Ma
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Council has carefully considered
the matter and has arrived at
the conclusion that the Deputy
Conservator is bound to carry
o
onservator

P. W. 4
1,000—14-11-98.

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Chairman, Harbour
Board, and that he has
to require the Chairman
y matter before the Board.

Cmt 1
6/3/49

READ the following:-

Letter from the Deputy Conservator of the Port of Madras, No. 79, dated 23rd January
Endorsement thereon by the Presidency Port Officer, Madras, No. 1917/31 G., dated 23rd January
Letter from the Chairman, Harbour Trust Board, Madras, No. 1210, dated 31st January
Endorsement thereon by the Presidency Port Officer, Madras, No. 1917/60 G., dated 15th February.

Position of Dy Conservator of the Port of Madras.

Circulated to

The Hon Mr. Archbold C.S.I.
The Hon Mr. Wilson for Mr. Graham

pp 76-85 supra

but
Col

Par

FOR ORDERS.

In the correspondence read above, the Deputy Conservator of the Port of Madras requires the following questions:-

(1) Whether he has, or has not, the right to insist that the Chairman shall submit matters to the Harbour Trust Board in its capacity as Conservator of the port for orders, and

(2) Whether the Chairman is empowered to issue direct orders to the Deputy Port Conservator on Port Conservancy matters without first referring the same to him or the Board for opinion.

2. The Harbour Trust Board has been appointed Conservator of the Port of Madras under the Act to its powers of Act X of 1889 as Conservator, this capacity responsibilities are defined in Chapter III of the Act

To The Presidency Port officer
" Chairman, H. T. Board.
By to Mr Wilson 4/1
MC

[P. W. 43
600—14-11-98.]

The Deputy Conservator is the executive officer of the Board in its capacity of Conservator; vide para 6 G.O. 161 Marine dated 27th April 98, and as such is obviously bound carry out all lawful instructions ich he may receive from the Conservator. o he apparently does not question, ough the Presidency Port Officer, in Endorsements on the correspondence, ems to think otherwise.

The only question, therefore, in ispute between the Deputy Conservator nd the Chairman seems to be whether e latter can issue orders to the Deputy Conservator without on every ccasion obtaining the prior approval f the Board to such orders.

5. As regards the personal powers f the Chairman, attention is invited Section 20, clause (2) of the Harbour rust Act, wherein he is empowered exercise Supervision and Control the acts and proceedings of all s of Executive administration Conservator is ng officer or Servant of the Board in

Hag J.

The Dy. Conservator is bound to carry out the instructions he receives from the Chairman of the Harbour Trust Bd. and he has no right to require the Chairman to lay any matter before the Board.

HA 23.2.99.

HMS 2-3-99

would appear advisable in order to avoid friction and to prevent cancelling of orders which may be afterwards found unsuitable that the Chairman should consult the Dy. Conservator before issuing any orders to him.

In that case the Dy. Conservr would cease to be subordinate. It must be left to the Chairman's discretion. The Col. of a regiment freely consults his Adjutant before issuing an order, but it would be fatal to discipline the Col. to do so. HA. HMS

He treated more as a subordinate consults ordinate to be consulted than a subordinate to be ordered.

The law recognizes no such distinction. HA. HMS

† Para 6 of his Endorsement, No. 1917/60 G., dated 15th February 1899. (Hag J.)

pp 84-85 c/p

in its capacity of Conservator. It follows, therefore, that he is bound to submit to the Supervision and Control of the Chairman personally: i.e. to carry out all orders he may receive from the Chairman on Port Conservancy matters; but it

6. Seeing that the powers and responsibilities of the Conservator of the port are defined by law, the proposals of the Presidency Port officer to vest in the Deputy Port Conservator some of those powers and responsibilities by executive order of Government seem inadmissible. The fact that the Deputy Port Conservator is an Officer of the Royal Indian Marine and that he is paid from Port funds does not seem to materially affect the question; ~~but~~ he should be shielded

7. The Presidency Port officer seems also to misapprehend the intention of the Government as to the position of the Deputy Conservator before and after the appointment of the Harbour Trust Board as

Conservator

Conservator of the Port of Madras;
for whereas before the present
Constitution, the Port officer was
himself the Conservator, after the
change, he was formally relegated
to a Subordinate place - his powers
as Conservator having been taken
away and conferred on the
Harbour Trust Board, while he
himself was made "the Executive
Officer of the Board".

8. It is not, perhaps, necessary
to go into the specific cases which
have given rise to the correspondence.
The Chairman enters into these
matters at some length with the
object of justifying the orders
he gave on each occasion.

C.S.

Conl
19/2/99

H 76 P 24 Pm

C.No. 119

D/01 9

Submitted with reference to the D/o.

The papers have only just reached me. The matter is complicated and will require careful handling. Conservator's views perhaps interviewed might, therefore, be deferred till after your return from Tanjore.

C.S.

16 Feb 99.

Mr. Ames has just been here. The question seems to be this - is Mr. Ames under the direct control of the Board & can the Chairman give orders over his head in reference to conservancy matters?

Conl
16/2/99

C.A.V.

Marine (1899) Department.

CURRENT No. 119.

From

The Deputy Conservator
of the Port,
MADRAS.
(Thro. the P. P. Officer)

Order

No. 79

Dated 23rd January, 1899.

Received

Registered 25.

Enclosures 4 (A,B,C,& D.)

Spare copies

SUBJECT.

Brings to notice a difference of opinion on a Port Conservancy matter between the Deputy Port Conservator and the Chairman of the Harbour Trust Board, and requests that the decision of Government may be obtained in the matter, and also as to their relative position in regard to Port Conservancy affairs.

BACK PAPERS.

No.	Date.
(61 2n	2) 4.58.
(5)2	1) 1.58. 1C

FURTHER PAPERS.

No.	Date.

Enc. A

11

No.401 H.

Port Office,
Madras, 24th November 1898.

From

The Deputy Conservator of the
Port of Madras,

To

The Secretary
Harbour Trust Board,
Madras.

Sir,

I have the honour to report for the Chairman's information that on the 22nd instant the Port Diver discovered 3 tins of asafoetida in the possession of one of the coal recovery boats belonging to Streenevasa Chetty. All 3 tins were open and every thing points to their having made away with one tin as a case containing 4 such had been removed from the bottom of the Harbour very recently.

All the Contractors had been warned by me against removing anything except coal from the bottom of the Harbour. I consider therefore that this contractor is liable under the terms of his contract to be punished with fine of Rupees 100/ for the above offence and request that the punishment may be awarded.

I have good reason to believe that articles are constantly being picked up and removed by these coal recovery boats and I would advise that the contracts be not renewed. The coal should in my opinion be dredged up by the Harbour Engineer and treated as wreck.

I have &c.

(s/d) W. Aves

CommanderR.I.M.,
Dy. Conservator of the Port.

No

12

No.408 H. Port Office,

Madras, 28th November 1898.

From

The Deputy Conservator of the

Port Of Madras,

To

The Secretary

Harbour Trust Board

Sir,

In continuation of my letter No.401 H dated 24th instant, I have the honour to report that the Sub Marine Diver, has since given me further information from which it is evident that the coal recovery Contractor Streenevasa Chetty is making a practice of picking up articles from the harbour and disposing of them, when he can do so without detection. When the boatmen are discovered in possession of any articles, they make the excuse that it came up in their dredger and that they are going to hand it over to the Port Office &c.

The Contractors were all warned by me that they would be prosecuted if they picked up articles other than coal from the harbour. I would advise this mans contract being at once cancelled, for his having allowed his boatmen to pick up the 5 tins of asafoetida as reported by me.

I have &c.

(s/d) W. Aves

Commander,R.I.M.,

Dy. Conservator of the Port

Madras,30th November 1898

To

The Secretary, Harbour Trust Board

Sir,

With reference to your letter No.5278 dated

3

28th instant I beg to state that my diver Thamin Saib while diving for coal on sunday the 20th instant,brought the three tins referred to, up to the surface along with the coal, which are put in indiscriminately into the boxes of coal and the tins were only discovered when the coal boxes were emptied into the Catamaran, This matter was at once brought to my notice, when I directed my diver to inform it to the Government diver, but as it was too late on Sunday night, it was intended to do so the next morning, the three tins were at once, made over to him. There was not the least intention on my part to withhold the tins or to do it otherwise than handing over the tins to your Government diver. On enquiring my diver I was told that the three tins, when they were brought up, were in the same condition as they were handed over to your diver subsequently. They were not however found in one case, as the Deputy Conservator of the Port presumes, the very fact that the tins were left in the boat the whole night on Sunday and the following morning till the Government diver came, will itself convince your honor that I had not had any criminal intention.

I may herein add that about 40 days ago my diver Mr. Cherry brought up one sheet of brass while diving for me in the same manner and I at once handed it over to your diver. It would be a pity to throw back into the sea what has already been brought up; but if you desire it or direct it to be done, I shall have no objection and do so in future. I beg fuxther to bring to your kind notice that this system of bringing up to the surface all articles from the sea and handing over to the Government Diver all other articles excepting coal, has been adopted by several previous contractors and in connection with this, I hope I am not out of way in mentioning that about 2 months ago, one Contractor Mr. Brown also brought up sundry articles along with the coal,such as hammers, bar irons &c and handed over these to the Government diver subsequently.

I beg also to state that I, with a bonafide belief

belief, thought I would be worng in throwing away into the sea after it once comes up from it, without your honor's knowledge and if your honor still thinks I was wrong in not throwing away these tins into the sea, I beg most respectfully to be excused.

I beg &c.

(s/d) V. Streenivasa Chetty

No.364 C

Copy forwarded to the Deputy Conservator for favor of remarks. The undersigned is of opinion that the explanation may be accepted.

(s/d) J.N. Atkinson

Chairman
1-12-98

MEMORANDUM

No.417 H

Port Office,
Madras, 2nd December 1898.

From

The Deputy Conservator of the
Port Of Madras.

To

The Secretary
Harbour Trust Board.

Subject

The letter of explanation from the coal recovery Contractor Streenevasa Chetty with the Chairman's opinion thereon copy forwarded with his No.364 C dated 2nd instant.

Remarks

I am of opinion that the explanation given is a fabrication

fabrication of falsewoods and should not be accepted and if it is all the Contractors will continue plundering the harbour.

There is absolutely no excuse for articles being sent up by the divers and they were distinctly informed in writing that they would be prosecuted if they brought up things from the bottom except coal. The fact of the three tins having been deliberately cut open on the top by a knife is sufficient proof to show it was the intention to make away with the contents. Moreover the men denied to the Diver when questioned that they had them in the boat, but the Diver smelt them and so proceeded on board the boat and found them.

It was on account of Mr. Brown having brought up some iron articles that I issued the order mentioned.

There is absolutely no excuse for the man.

(s/d) W. Aves

Commander,R.I.M.,
Dy. Conservator of the Port.

Memorandum.

No.369 C.

Harbour Trust Board
Secretary's Office
Madras, 3rd December 1898.

From

The Secretary
Harbour Trust Board

To

The Deputy Port Conservator
Madras.

Subject

6.

Subject

Your memorandum No.417 H dated 2nd December re. Streenivassa Chetty.

Remarks.

Chairman's note thereon

The Deputy Conservator is requested to say under what provision of the law he would recommend prosecution.

(s/d) J.N. Atkinson
Chairman
5-12-98.

Port Office,
Madras, 5th Decr: 1898.

No.422 H

MEMORANDUM

From

The Deputy Conservator of the
Port Of Madras,

To

The Secretary,
Harbour Trust Board,
Madras.

Reference.

Your memo No.369 C dated 3rd instant forwarding copy of Chairman's note on my memo No.417H dated 2nd December re: Streenevassa Chetty.

I have not recommended the man being prosecuted but that he should be fined in accordance with the terms of his contract with the Chairman.

(s/d) W. Aves, Cmmdr:, R.I.M.,
Dy: Conservator of the Port.

7.

No.374 (C)

Madras Harbour Trust
Secretary's Office
6th December 1898.

From

The Secretary,
Harbour Trust Board,
Madras,

To

The Deputy Port Conservator,
Madras.

Sir,

I have the honor to acknowledge the receipt of your Memo. dated 5th December No.422 H.

The Chairman wishes to know whether he is correct in assuming from your letter of 28th November No. 408 H that three tins of asafoetida were found in possession of V. Streenevassa Chettey's men, but that none of the contents had been abstracted.

(s/d) C. Pinsent
Secretary
H.T.Bd.

MEMORANDUM.

No.428H.

Port Office,
Madras, 7th Decr: 1898.

From

The Deputy Conservator of the
Port of Madras,

To

The Secretary,
Harbour Trust Board

Subject

His No.374 (C) dated 6th instant.

Remarks

Remarks.

Three tins of asafoetida were found in possession of V. Streenevassa Chetty's men and each tin was cut open right round the top, but the contents appeared intact.

(s/d) W. Aves
Commander,R.I.M.,
Dy: Conservator of the Port.

No.385 (C) Madras Harbour Trust
Secretary's Office
12th December 1898.

From

The Secretary,
Harbour Trust Board,
Madras,

To

The Deputy Port Conservator,
Madras.

Sir,

Referring to your memo No.428 H dated 7th December, I am directed to request that you will furnish a copy of your order to V. Streenevassa Chetty & other Contractors not to recover anything but coal from the sea bed of the Harbour and am to enquire under what provision of law it is a lawful order for the infringement of which he could be fined under the terms of his contract.

(s/d) C. Pinsent
Secretary
Harbour Trust Board

No.445 H

Port Office,
Madras, 15th December 1898.

From

The Deputy Conservator of the
Port of Madras,

To

The Secretary,
Harbour Trust Board

Sir,

In reply to your letter No.385 C dated 12th instant, I have the honor to forward herewith copy of my order to the coal recovery contractors not to recover anything but coal from the bottom of the harbour.

The provision of law under which it is a lawful order is comprised in section 29 (1) of the Indian Ports Act X of 1889.

I have &c.

(s/d) W. Aves
Commander,R.I.M.,
Dy: Conservator of the Port.

Port Office,
Madras, 26th Aug: 1898.

No.1136

From MEMORANDUM.

The Dy: Conservator of the
Port of Madras,

To

V. Streenevassa Chetty
No.29, Moothacaran Street,
Moothial Pettah.

Reference.

His application for permission to recover

other

other articles besides coal.

This cannot be permitted and he should be careful to instruct his divers accordingly as if found doing so, he will be prosecuted.

(s/d) W. Aves
Commdr:,R.I.M.,
Dy: Conservator of the Port.

MEMORANDUM.

No.404 (C) Harbour Trust Board
Secretary's Office
Madras, 20th Decr: 1898.

From

The Secretary,
Harbour Trust Board

To

The Deputy Port Conservator,
Madras.

Subject.

Your letter No.445 H dated 15th Decr: 1898 forwarding copy of his order to Streenevassa Chetty and other coal Contractors forbidding them to recover anything other than coal from the bottom of the Harbour.

Chairman's Note thereon

He did not "sweep" for anchors.cables or other stores.

What is the meaning of "creep"

(s/d) J.N. Atkinson
Chairman
17-12-98.

MEMORAMDUM

Port Office,
Madras, 29th Decr: 1898.
Despatched 4th Jany 1899.

No.7H.

From

The Deputy Conservator of the
Port Of Madras,

To

The Secretary,
Harbour Trust Board.

Subject.

The Chairman's remark on my letter No.445 H dated 15th December '98 forwarded with your Memo No.404 (C) dated 20th idem.

Remarks.

The nautical meaning of"Creep" is to search for articles under water by means of a small anchor or grapnel or any instrument of that description.

The expression "creep or sweep" in Act X of 1889, is evidently intended to cover all modes of searching for lost stores vide the index "unauthorised persons not to search for lost stores"

(s/d) W. Aves
Commdr:,R.I.M.,
Dy: Conservator of the Port.

No.418 C

Madras Harbour Trust
Secretary's Office
6th January 1899.

From

The Secretary, Harbour Trust Board,

To

The Deputy Port Conservator,Madras.

Your Memo No.7 H dated 29th December,received 5th

8th January 1899 regarding the recovery of articles from the sea bed of the Harbour other than coal by Streenevassa Chetty.

Chairman's Note thereon

The action of Streenevassa Chetty and his employees did not fall within the strict meaning of section 29 (1) of the Indian Ports Act, and as penal provisions of law must be construed strictly, I fail to see that he committed any offence or breach of lawful orders. The Contract has moreover expired, and no action is necessary.

(s/d) J.N. Atkinson
Chairman
6-1-99

Port Office,
Madras, 9th January 1899.

No.10 H

From

The Deputy Conservator of the
Port of Madras,

To

The Secretary,
Harbour Trust Board.

Sir,

With reference to the correspondence ending with the Chairman's note forwarded with your memo No.418 C dated 6th instant, I have the honor to acquaint you, for the information of the Chairman, that I regret I am unable to agree with his view of the matter, and that being the case, I feel it to be my duty as Executive Officer and Dy: Conservator of the Harbour Trust Board in its capacity as Conservator to request that the whole correspondence may be placed before the Trustees for it is very necessary in the interests of the port in my opinion that such an important matter should be fully considered by the Board and no decision arrived at without the legal opinion of their solicitor.

If the Chairman's ruling in the present instance be accepted, it will mean that as soon as it becomes known there will be no restriction to the plundering of the harbour of lost stores, and persons so detected will probably make the same excuse as the Contractor did in the case viz, that they were about to report the finding of such stores to the Receiver of wreck. In fact it is tantamount to giving the public permission to search for lost stores, which is contrary to section 29 (1) of the Indian Ports Act No.X of 1889("Unauthorised persons not to search for lost stores")

Moreover by the terms of the Contract drawn up between the coal recovery Contractor and the Chairman Harbour Trust Board the Contractor is punishable under clause (d) with a fine of Rupees 100/ for disobedience of a lawful order issued by the Dy: Conservator and I maintain that the order issued by me to the Contractors, not to recover anything **but** coal, was a lawful order under the Act.

I have &c,
(s/d) W. Aves
Commdr:,R.I.M.,
Dy: Conservator of the Port.

No.422 C

Madras Harbour Trust
Secretary's Office,
10th January 1899.

From

The Secretary,
Harbour Trust Board,
Madras,

To

The Deputy Port Conservator
Madras.

Memo.

Your letter No.10 H dated 9th January

Chairman's Note thereon

I see no reason to refer the matter to the Trustees and unless the Deputy Conservator can point out any rule under which he is empowered to demand such a reference I must decline to comply with his request.

(s/d) J. N. Atkinson
Chairman
10-1-99

(s/d) C. Pinsent
Secretary
Harbour Trust Board

(True Copies)

J. Waves.
Commander, R.I.M.,
Dy: Conservator of the Port.

No.1098

From

The Engineer,
Harbour Trust Board,
Madras,

To

The Chairman,
Harbour Trust Board,
Madras.

Madras, 18th February 1898.

Sir,

In reply to your question as to whether the coal in the harbour can be recovered by placing the Priestman's dredging crane upon a Diver's Lighter, I have the honor to say that the crane could not be worked from any lighter so small.

2. The smallest lighter required would be a 100 iron ton lighter with plenty of beam, and a flat bottom to prevent rolling besides plenty of deck space is required for depositing, washing and separating the coal from the mud and sand, the dredger will bring up. The "Wenlock" is the most suitable vessel for the purpose as it will be steady and can supply the water for washing the coal from her pumps. Nothing can be done till the dredger arrives.

I have &c.

(s/d) A. Lee Pogson
Engineer,
Harbour Trust Board

No.1558 T.

Madras Harbour Trust
Traffic Department
21st February 1898.

From

The Traffic Manager, Harbour Trust, Madras,

To

The Secretary, Harbour Trust Board, Madras.

Sir,

With reference to your No.2803 T of the 8" instant

instant, asking whether I can suggest any efficacious and cheap way of getting up coal from the bottom of the Harbour, I have the honor to suggest that 2 small A class hand cranes could be placed on a ten ton lighter and used for the purpose working small bulls grabs of a class which I have seen landed for use by the railways.

I have &c.

(s/d) S. Hutchence,

Traffic Manager

Harbour Trust

Chairman's note thereon.

Ask Deputy Port Conservator if it is necessary to remove the coal or can we wait till "Wenlock" comes.

(s/d) J.N. Atkinson

Chairman
21-2-98

No.441 (C)

Copy forwarded to the Deputy Port Conservator for information and favor of remarks.

(s/d) C. Pinsent

22nd February 1898. Secretary

Harbour Trust Board

No.57 H. Port Office,

Madras, 24th February 1898.

From

The Deputy Conservator of the Port,

Madras,

To

The Secretary,

Harbour Trust Board,

Madras.

Sir,

With reference to the correspondence copies

forwarded with your No.441 C dated 22nd Instant for information and favor of remarks, I have the honor to state that the dredging of Nos 4 and 5 berths should be proceeded with without delay and that it could be done in the manner suggested by Mr. Hutchence. The washing & separating of the coal could easily be done on shore after it was landed.

I have &c.

(s/d) W. Aves

Commdr:,R.I.M.,

Dy: Conservator of the Port.

MEMORANDUM.

No.450 (C) Harbour Trust Board

Secretary's Office,

Madras, 28th February 1898.

From

The Secretary,

Harbour Trust Board,

Madras,

To

The Deputy Port Conservator,

Madras.

Subject

Your letter No.57 H dated 24th February regarding dredging coal at berths Nos. 4 and 5.

Remarks.

After examining Lt. Beauchamp's chart of soundings and referring to his report dated 14th September 1897 the Chairman has passed the following order.

"The papers may be recorded. There seems no necessity to take action till the "Wenlock" comes."

(s/d) C.Pinsent
Secretary, Harbour Trust Board

No.65 H

Port Office,

Madras, 3rd March 1898.

From

The Deputy Conservator of the Port

Madras,

To

The Secretary,

Harbour Trust Board,

Madras.

Sir,

With reference to the correspondence ending with the Chairman's order communicated in your Memo No.450 C dated 28th ultimo, I have the honor to request that my view of the matter be placed before the Board as I consider that there is considerable risk of vessels bumping in Nos.4 & 5 berths under certain circumstances and that important matters of this nature should receive the attention of the Board.

I have &c.

(s/d) W. Aves

Commander, R.I.M.,

Dy: Conservator of the Port.

(True Copies)

W. Aves.

Commander, R.I.M.,

Dy: Conservator of the Port.

URGENT.

Madras, 6th September 1898.

From

Messrs. Best & Co.,

To

The Chairman,

Harbour Trust Board.

Sir,

We are informed that two boats belonging to the Contractors who are recovering coal at the bottom of the Harbour are working at a distance of only 100 yards from that part of the beach where we are now landing coal ex S.S."Caithness".

Two boats also belonging to the same Contractors are working in close proximity to the above vessel and the "Darius".

We shall feel obliged by your issuing instant orders for the discontinuance of work whilst vessels are discharging as it appears to us the practice of recovering coal in close proximity to the landing place & the Steamers is putting a premium on dishonesty.

(s/d) Best & Co.

Chairman's Order

What berths are occupied by coal ships discharging ? These salving boats should be directed not to work between a vessel discharging and the shore or groyne if she is discharging thereon.

(s/d) J.N. Atkinson

Chairman

6-9-98

URGENT.

No.223 C

Copy forwarded to the Deputy Port Conservator for

for necessary action.

(By Order)

(s/d) C. Pinsent

Secretary

H.T.BD.

(True copy)

H Alves.

Commander,R.I.M.,

Dy: Conservator of the Port.

MEMORANDUM of agreement entered into this sixteenth day of August 1898 at Madras between the Trustees of the Harbour on the one part and V. Streenivassa Chetty Merchant, residing at No, 29 Moothial Petta Mootakaren Street Madras, of the other part.

The Trustees of the Harbour having accepted a tender made by the said V.Streenivassa Chetty of Rs.four per ton for the recovery of Coal from the bottom of the Harbour; the following are the terms and conditions mutually agreed to

(a) That in consideration of the sum of Rupees four per ton to be paid to the Harbour Trust by the said V. Streenivassa Chetty he shall be entitled to recover from the sea-bed of the Harbour coal now lying upon the sandy bottom under or near berths 3,4,5,6, and 7 which has been lost overboard from time to time in course of discharge from various vessels, or which may hereafter be so lost overboard during the continuance of this agreement, viz from the sixteenth day of August 1898 to the thirty first day of December 1898. and he shall be entitled to convert coal so recovered to his own use, without further payment to the Harbour Trust for dues on landing.

(b) The said V. Streenivassa Chetty shall not be entitled to recover coal from the rubble base alongside the north arm of the Harbour nor shall he be entitled to recover coal in or near the line of surf or along the margin of the water.

(c) All coal recovered by the said V. Streenivassa Chetty must be removed from the Board's premises within 24 hours of being landed and shall not be removed until payment at Rs.four per ton has been made,nor without a pass from the Board's Traffic Manager who will after payment grant same daily on application.

(d) All vessels, barges, lighters rafts and boats used for the recovery of the said coal shall be employed afloat subject to any lawful order issued by the Deputy Conservator of the Port in his capacity as such, and should any lawful order of the said Dy: Port Conservator be disobeyed the said V.Streenivassa Chetty shall be liable for every such offence to be punished with fine which may extend to ~~the~~ one hundred rupees and with further fine which may extend to one hundred rupees ~~ten rupees~~ for every day on which after notice has been given to him by the Dy: Port Conservator he wilfully and without lawful excuse continues to disobey

disobey such lawful order or direction.

The Chairman of the Harbour Trust Board is hereby empowered to inflict such fines within such limit and his decision shall be final. The amount of such fine or fines shall be deducted from the deposit made by the said V. Streenivassa Chetty referred to herein para (e)

(e) As security for the good behaviour of the said V. Streenivassa Chetty and of all persons employed by him in the said recovery of coal from the bottom of the Harbour the said V. Streenivassa Chetty has deposited with the Harbour Trustees the sum of Rs.one hundred from which fines which may be inflicted by the Chairman under clause (d) hereof shall be recovered.

(f) On or after the 31st day of December the Board shall return to the said V, Streenivassa Chetty the said sum of Rs.one hundred alluded to in para (e) or such smaller amount thereof as may remain after deducting any fines imposed by the Chairman under clause (d).

(g) Should the said sum of Rs.one hundred deposited as security for good behaviour under clause (e) become exhausted by reason of fines inflicted by the Chairman then the said V. Streenivassa Chetty shall from that date no longer be entitled to recover coal from the bottom of the Harbour.

(h) The Harbour Trust Board are at liberty to accept any other offer or offers for recovery of coal from the sea-bed of the Harbour during the continuance of this agreement.

(i) In case of any dispute or difference of opinion as to the meaning of any part of this agreement, or as to anything done or to be done thereunder the decision of the Chairman shall be final.

(s/d) V.Streenivassa Chetty

(s/d) J.N. Atkinson

Chairman H.T.B

No.193 C

Copy forwarded to the Deputy Port Conservator for information.

(By Order)

(Sd) C. Pinsent

Secretary
Harbour Trust Board

18th August 1898.

(True Copies)

Commander,R.I.M.,
Dy: Conservator of the Port.

Thro' the Presidency Port Officer.

33

Port Office,
Madras, 23rd January, 1899.

No.79

This seems to be a difficult & original case for the Chairman of Board

From

Commander W. Aves, R.I.M.,
Deputy Conservator of the Port,
M a d r a s,

To

The Secretary to Government,
Marine Department,
C h e p a k.

Sir,

A difference of opinion upon a Port Conservancy matter having arisen between the Chairman of the Harbour Trust Board and myself (copies of correspondence attached-marked A) I considered it my duty to request that the matter might be placed before the Trustees in their capacity of Conservator, as it seemed to me that the question involved was too important to risk a mistake being made in the decision arrived at by the Chairman . It will be seen from the correspondence that,owing to the time occupied over the same,the man's Contract for recovery of Coal had expired, and it might be thought that no good purpose would be served by inflicting the fine upon him as advised by me. I would, however, point out that if the ruling of the Chairman be accepted, and it becomes known to the public (as it certainly will) it will appear as though there was no law against "unauthorised persons searching for lost stores"--as I explained to the Chairman in my letter on the subject.

The Chairman has, however, declined to place the matter before the Trustees, as he does not consider it necessary unless I can point out any Rule by which I am empowered to demand such a reference.

Although I fail to discover any written Rule

it

it seems to me that in my capacity of Deputy Port Conservator it is my duty to cause such important matters to be brought to the notice of the Board of Trustees in their capacity of Conservator of the port. I would therefore respectfully request that Government may be asked to decide as to whether I have or have not the right which is questioned by the Chairman.

2. I would take this opportunity of also asking whether it was the intention of Government, when the Conservancy of the port was transferred to the Harbour Trust Board, that the Chairman of the Harbour Trust Board should be empowered to issue direct orders to the Deputy Port Conservator on Port Conservancy matters without first referring the same to him or to the Board for opinion as he has recently done (vide enclosures marked B & C.)

In the first instance (enclosure B) the matter being, in my opinion, important, I requested that it might be placed before the Board, and although no intimation was received by me that my request would be acceded to, it apparently was, and the Board resolved a few days later that the recovery of coal from Nos. 4 & 5 berths should be proceeded with without delay-which was in accordance with my recommendation.

In the second instance (enclosure C) the matter being unimportant as regards the Conservancy of the port, I issued the Chairman's order, and contented myself a few days later(when it became necessary to cancel the same and issue another order in lieu)with remarking verbally to the Chairman that it would be advisable to refer such matters to me before issuing any orders so as to prevent mistakes occurring in future, but to this remark he offered no comment.

I have the honour to be, Sir,
Your Obedient Servant,

Waves.

Commdr., R.I.M.,
Dy. Conservator of the Port.

35

Port Office,

No. 80 Madras, 23rd January, 1899.

To

The Presidency Port Officer,
Madras.

Sir,

I have the honour to request you to be good enough to forward, in your capacity of Presidency Port Officer, the accompanying letter× and enclosures to the Secretary to the Government of Madras, Marine Department. I would point out, in connection therewith, that the Deputy Port Conservator of Madras holds a different position to that of the Port Engineer or the Secretary to the Harbour Trust Board, both of whom are appointed by the Board and their services retained at its discretion, and whose salaries are met from Harbour Dues.

The post of Deputy Port Conservator, on the other hand, is one which is specially reserved by the Secretary of State for India for an Officer of the Royal Indian Marine. He is appointed by the Government of India; his salary is fixed by that Government and is met from Port Funds over which the Madras Government exercises control.

As the Deputy Port Conservator's position has never been clearly defined with regard to his relations to the Harbour Trust Board, and as the Chairman does not appear to quite appreciate the same, I think it would be advisable that this should now be done.

I have the honour to be,
Sir,
Your Obedient Servant,

Waves.

Commdr., R.I.M.,
Dy. Conservator of the Port.

P.T.O.

×. Duplicate. (Original forwarded to the Chairman, H.T.B.)

No. 1917/31 G

Forwarded, observing that although under Section 2(2) of the Madras Harbour Trust Act II of 1886, the Chairman can exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, &c, it is not clear that when the port conservancy of Madras was handed over to the Harbour Board, it was ever intended that the powers of the officer who had hitherto performed the executive duties of the Port Officer of Madras should be affected in any way and be of a less responsible character than those of a Coast Port Officer, on his being made the Deputy of the Harbour Trust Board, in its capacity as Conservator of the Port, or that the Chairman should issue orders direct on Port conservancy matters without reference in the first instance to the Deputy Conservator.

2. It seems to me that in all port conservancy matters not involving expenditure beyond the sum that the Board may place at his disposal to meet ordinary requirements, the Deputy Conservator should have a free hand in carrying out the duties of Conservator as specified in Chapter III of the Indian Ports Act X of 1889, provided that no radical change is made in existing port arrangements without the previous sanction of the Board, and that he keeps the Board duly informed of his actions.

3. In conclusion I would point out that Section 2 of the Harbour Trust Act and its clauses do not seem to apply to the Deputy Conservator for the reason that he is appointed by the Government of India for a certain period; that his salary is paid by that Government; and that his leave regulations and allowances have been framed by that Government. The Deputy Conservator therefore appears to stand on a different footing to either the Secretary or the Engineer.

H. A. Thuillier

Commdr., R.I.M.,

Presidency Port Officer.

Presy: Port Office,
Madras, 25rd January, 1899. mm

37

Marine (1899) Department.

CURRENT No. 230

From The Presidency Port Officer

No. 1917/60 G

Dated 15—2—99.

Received 3/8

Registered

Enclosures 21.

Spare copies.

SUBJECT.

Forwards letter from the Chairman Harbour Trust Board dealing soliciting orders on Coast Port Conservancy matters.

[P. W. 29. 1,000—29-11-98.]

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

M 40

Marine (1898) Department.

38

CURRENT No.

Order

From
The Chairman,
Harbour Trust Board,
Madras.

No. 4210

Dated 31-1-'99

Despatched 2-2-do-

Received

Enclosures 21

Spare copies

SUBJECT.

Submitting, with remarks, letter No.79 dated 23rd Jany: 1899 with enclosures from the Dy. Port Conservator, soliciting orders on Port Conservancy matters.

BACK PAPERS.

G. O.	No.	Department.	Date.

FURTHER PAPERS.

G. O.	No.	Department.	Date.

Marine (1899.) Department.

39

CURRENT No.

From

The Deputy Conservator
of the Port,
Madras.

Order

No. 79

Dated 23rd January, 1899.

Received

Registered

Enclosures 4 (A,B,C,&D)

Spare copies

SUBJECT.

Brings to notice a difference of opinion on a Port Conservancy matter between the Deputy Port Conservator and the Chairman of the Harbour Trust Board, and requests that the decision of Government may be obtained in the matter, and also as to their relative position in regard to Conservancy matters.

BACK PAPERS.

No.	Date.

FURTHER PAPERS.

No.	Date.

Enc. A. 40 1.

Form No. 53 A.

PORT OFFICE,

No. 401 A. Madras, 24th Nov. 1898

From

THE DEPUTY CONSERVATOR OF THE

PORT OF MADRAS,

To

The Secretary

Harbour Trust Board.

Sir,

I have the honor to report for the Chairman's information that on the 22nd instant the Port Diver discovered 3 tins of asafoetida in the possession of one of the Coal Recovery boats belonging to Streenivasa Chetty. All 3 tins were open and every thing points to their having made away with one tin as a case containing 4 such had been removed from the bottom of the Harbour very recently.

All the Contractors had been warned by me against removing any thing except coal from the bottom of the Harbour. I consider therefore that the Contractor is liable under the terms of his contract to be punished with a fine of Rupees 100/- for the above offence and request that the punishment may be awarded.

I have good reason to believe that articles are constantly being picked up and removed by these

coal

recovery boats and I would
rise that the contracts be not
ewed. The coal should in my
inion be dredged up by the
rbour Engineer and treated as
eek.

I have &c.

(Signed) A. Davis

Comr R.I.M.

Dy Conservator of the Port.

(True copy)

A. Davis

Comr R.I.M.

Dy Conservator of the Port.

42 A. contd

Form No. 53 A.

PORT OFFICE,

No. 408 A

Madras, 28th Nov. 1898.

From

THE DEPUTY CONSERVATOR OF THE

PORT OF MADRAS,

To

The Secretary

Harbour Trust Board.

Sir,

In continuation of my letter No 401 A dated 24th instant, I have the honor to report that the Submarine Diver has since given me further information from which it is evident that the Coal Recovery Contractor Shreenivasa Chetty is making a practice of picking up articles from the harbour and disposing of them, when he can do so without detection. When the boatmen are discovered in possession of any articles they make the excuse that it came up in their dredges and that are going to hand it over to the Port Office &c.

The Contractors were all warned by me that they would be prosecuted if they picked up articles other than coal from the harbour.

I would advise this mans contract being at once cancelled

for

for this hearing allowed his broadnet
to pick up the 3 tins of assafoetida
as reported by me.

(Signed) W Rowe

Comr R I Rs
Dy Conservator of the Port

(True Copy)

W Rowe
Comr R Irs
Dy Conservator of the Port

Madras 30th November 1898.

To

The Secretary
Harbour Trust Board

Sir,

With reference to your letter No: 32
dated 28th instant I beg to state that my
diver Thamina Shaik while diving f
coal on Sunday the 20th instant,
brought the three tins referred to,
to the surface along with the coal
which are put in indiscriminately
into the boxes of coal and the tins we
only discovered when the coal boxe
were emptied into the catamaran.
This matter was at once brought to
my notice, when I directed my diver
to inform it to the Government diver
but as it was too late on Sunday ni
it was intended to do so the next morn
the three tins were at once made ove
to him. There was not the least int
-tion on my part to withhold the ti
or to do it otherwise than handing
over the tins to your Government diver
On enquiring my diver, I was told
that the three tins, when they were
brought up, were in the same condition
as they were handed over to your diver
subsequently. They were not however
found

found in one case, as the Deputy Conservator of the Port-personnes, the very first that the tins were left in the boat the whole night on Sunday and the following morning till the Government diver came, will itself convince your Honor that I had not had any Criminal intention.

I may herein add that about 40 days ago my diver Mr Cherry brought up one sheet of brass while diving for me in the same manner and I at once handed it over to your diver. It would be a pity to throw back into the sea what has already been brought up; but if you desire it or direct it to be done, I shall have no objection and do so in future. I beg further to bring to your Kind notice that this system of bringing up to the surface all articles from the sea and handing over to the Government Diver all other articles excepting coal, has been adopted by several previous Contractors and in connection with this, I hope I am not out of way in mentioning that about 2 months ago, one Contractor Mr. Brown also brought up Sundry articles along with the coal, such as hammers, bar irons &c

and

handed over these to the Government diver subsequently.

I beg also to state that I, with a bonafied belief, thought I would be wrong in throwing away into the sea after it once comes up from it, without your's Honor's Knowledge and if your Honor still thinks I was wrong in not throwing away these tins into the sea, I beg most respectfully to be excused.

I beg to
/sd/ V. Sreenivasa Chetty
No: 364 C

Copy forwarded to the Deputy Conservator for favour of remarks.
The undersigned is of opinion that the explanation may be accepted.

/sd/ J. H. Atkinson
Chairman
1-12-98

(True Copy)

J. Aves.
Comm R. I. Rs.
Dy: Conservator of the Port

8.

MEMORANDUM.

No 4176

Port Office,

Madras, 2nd December 1898,

From

THE DEPUTY CONSERVATOR OF THE

PORT OF MADRAS.

To

The Secretary

Harbour Trust Board.

Register No.

Subject.

The letter of explanation from the Coal Recovery Contractor Streenivasa Chetty with the Chairman's opinion thereon copy forwarded with his No 364 C dated 2nd instant

REMARKS

I am of opinion that the explanation given is a fabrication of falsehoods and should not be accepted and if it is, all the Contractors will continue plundering the harbour.

There is absolutely no excuse for articles being sent up by the divers and they were distinctly informed in writing that they would be prosecuted if they brought up things from the bottom except coal. The fact of the 3 bins having been deliberately cut open on the top by

a

knife is sufficient proof to show
was the intention to make away
th the contents. Moreover the men
ied to the Diver when questioned
at they had them in the boat, but
Diver smelt them and so proceeded
board the boat and found them.
It was on account of Mr Brown
ving brought up some iron
ttles that I issued the order
entioned.
There is absolutely no excuse for
man.

(Signed) W Aves.
Comdr R.I.M.
Dy Conservator of the Port.

(True Copy)
W Aves
Comdr R.I.M.
Dy Conservator of the Port

No 369 C.

Memorandum

From Harbour Trust Board
Secretary's office
Madras 3rd Dec. 1898.

The Secretary
Harbour Trust Board.

To The Deputy Port Conservator
Madras.

Register No.

Subject

Your Memorandum No 4178.
dated 2nd December re. Sreenivasa Chetty.

Remarks.

Chairman's Note thereon

The Deputy Conservator is requested to say under what provision of the law he would recommend prosecution.

(Signed) J. D. Atkinson
Chairman
3-12-98

(True Copy)
W Aves.
Comdr R.I.M.
Dy Conservator of the Port.

11

Form No. 54 A.

PORT OFFICE,

Madras, 5th Decr 1898.

No. 422 M.

MEMORANDUM.

FROM THE DY. CONSERVATOR OF THE PORT OF MADRAS,

To The Secretary
Harbour Trust Bd
Madras.

Reference.

Your Memo No. 369 C dated 3rd inst forwarding copy of Chairman's note on my Memo No. 417 M dated 2 Decr re Streenivasa Chetty

I have not recommended the man being

13.

No. 374 C. Madras Harbour Trust

52

From

The Secretary
Harbour Trust Board.
Madras.

To

The Deputy Port Conservator
Madras.

Sir,

I have the honor to acknowledge the receipt of your Memo dated 5 December No. 422 M.

The Chairman wishes to know whether he is correct in assuming from your letter of 28th November No. 408 M that three pieces of asse Gaetida were found in possession of V. Streenivasa Chetty's men, but that none of the contents had been abstracted.

I have &c

(Signed) C Vincent
Secretary
H.T.B

(True Copy)

Waves
Comm R.I.M.
Dy Conservator of the Port.

being prosecuted but that he should be fined in accordance with the terms of his contract with the Chairman.

(Signed) W Rees
Comr R.I.R.
Dy Conservator of the Port.

(True Copy)
W Rees
Comr R.I.R.
Dy Conservator of the Port.

Mar 26/23/21

Mar 25/23/21

14.

MEMORANDUM.

53

No 4284.

Port Office,

Madras, 7th December 1898,

From

THE DEPUTY CONSERVATOR OF THE

PORT OF MADRAS.

To

The Secretary

Harbour Trust Board

Register No.

Subject.

His No 374(C) dated 6th instant

Remarks

Three tins of asafoetida were found in possession of 2 Lascars on Chetty's men and each tin was cut open sight round the top. but the contents appeared intact.

(Signed) W. Davies

Comr. R. I. Rs

(True copy)

W Davies

Comr R. I. Rs

Dy Conservator of the Port.

Mar 27/1899

No 385 C.

Madras Harbour Trust
Secretary's Office
12th December 1878.

From

The Secretary
Harbour Trust Board
Madras.

To

The Deputy Port Conservator
Madras.

Sir,

Referring to your memo No 428 dated 7th December, I am directed to request that you will furnish a copy of your order to V. Streenevasa Chetty and other Contractors not to recover anything but coal from the Sea bed of the Harbour and I am to enquire under what provision of law it is a lawful order for the infringement of which he could be fined under the terms of his Contract.

I have &c
(Signd) C. Punsett
Secretary
Harbour Trust Board

(True copy)
W Alves
Comr R. Gen
Dy Port Conservator.

16.

55

A. contd

Form No. 53 A.

PORT OFFICE,

No. 445 M. Madras, 15th Decr 1898.

From

THE DEPUTY CONSERVATOR OF THE

PORT OF MADRAS,

To The Secretary
Harbour Trust Board.

Sir,

In reply to your letter No 385 C dated 12th instant, I have the honor to forward herewith copy of my order to the coal recovery Contractor not to recover anything but coal from the bottom of the harbour.

The provision of law under which it is a lawful order is comprised in Section 29 (1) of the Indian Ports Act X of 1889.

I have &c
(Signed) W Aves
Comr R. I. M
Dy Conservator of the Port.

(True copy)

W Aves
Comr R. I. M
Dy Port-Conservator

Form No. 54.

Port Office,

Madras, 26th Aug 1895.

No. 1136

MEMORANDUM.

From the Dy. Conservator of the Port of Madras,

To V. Krishnamma Chetty
No. 29 Mac Thacanan Street
Near Thiel pettah

Reference.

His application for permission to recover other articles besides coal.

This cannot be permitted and he should be careful to instruct his divers accordingly as if found doing

Mar ECO 21/8/95

19.

1st H.H.C. Memorandum 58 A. con

Harbour Trust Board
Secretary's Office
Madras 20th Dec. 1898.

From
The Secretary
Harbour Trust Board

To The Deputy Port Conservator
Madras.

Register No.

Subject
Your letter No 4415 A dated 15th December 1898 forwarding copy of his order to Krishnamma Chetty and other coal contractors forbidding them to recover anything other than coal from the bottom of the Harbour

Remarks
Chairman's note thereon

He did not "sweep" for anchors cables or other stores
What is the meaning of "creep"

(Signed) J. N. Atkinson
Chairman
17-12-98.

(True copy)
Mayes
Asst R.I. &c
Dy Port Conservator

to be prosecuted

(Signed) W Alves

Comr R.S. &c

Dy Asst Conservator

(Issue copy)

W Alves

Comr R.S. &c

Dy Asst Conservator.

Inv E11/21/9/91

Inv E10/21/9/91

MEMORANDUM.

No 74.

Port Office,

Madras, 29th Decr 1898,
Despatched 4th Jany 99.

From

THE DEPUTY CONSERVATOR OF THE

PORT OF MADRAS.

To

The Secretary
Harbour Trust Board

Register No.

Subject.

The Chairmans Remark on my letter No 445 K dated 15th December forwarded with your Memo No 4044 dated 20th idem.

REMARKS

The nautical meaning of "creep" is to search for articles under water by means of a small anchor or grapnel or any instrument of that description

The expression "Creep or Sweep" in Act X of 1889 is evidently intended to cover all modes of searching for lost Stores vide the index "Unauthorised persons not to search for lost stores".

(Signed) W Aves
Comr R.D.Mn
Dy Port Conservator

(True copy)
W Aves
Comr R.D.Mn
Dy Conservator of the Port.

No 418 C

Madras Harbour Trust
Secretary's Office
6th January 1899

From

The Secretary
Harbour Trust Board.

To The Deputy Conservator
Madras.

Your memo No 7 A dated 29th December received 5th January 99 regarding the recovery of articles from the sea bed off the Harbour other than Coal by Streenevasa Chetty

Chairman's note thereon

The action of Streenevasa Chetty and his employees did not fall within the strict meaning of Section 19(1) of the Indian Ports Act, and as penal provision of law must be construed strictly, I fail to see that he committed any offence or breach of lawful orders. The Contract has moreover expired, and no action is necessary

(Signed) J. H. Atkinson
Chairman
6-1-99

(True Copy)
W. Aves.
Comr R. I. M.
Dy Conservator of the Ports.

Rev 613/230 Ors

Form No. 53 A.

No. 10 4.

PORT OFFICE,

Madras, 9th Jany 189

From

THE DEPUTY CONSERVATOR OF THE

PORT OF MADRAS,

To

The Secretary

Harbour Trust Board.

Sir,

With reference to the correspondence ending with the Chairman's note forwarded with your memo Dt. 418 dated 6 instant, I have the honour to acquaint you for the information of the Chairman that I regret I am unable to agree with his views of the matter and that being the case I feel it to be my duty as Executive Officer and Deputy Conservator of the Harbour Trust Board in its capacity as Conservator to request that the whole correspondence may be placed before the Trustees, for it is very necessary in the interests of the port in my opinion that such an important matter should be fully considered by the Board and no decision arrived at without the legal opinion of their solicitors.

If the Chairman's ruling in the present instance be accepted it will mean that as soon as it becomes known there will be no restriction

Madras Harbour Trust

No 422(C)

Secretary's Office

10th January 1899

From

The Secretary
Harbour Trust Board
Madras.

To

The Deputy Port Conservator
Madras.

Memo

Your letter No 10 A dated 9th January

Chairman's note thereon.

I see no reason to refer the matter to the Trustees: and unless the Deputy Conservator can point out any rule under which he is empowered to demand such a reference I must decline to comply with his request.

(Signed) J. H. Atkinson
Chairman
10-1-99

(Sd) O. Pansett.
Secretary
H.T.B

(True copy)
W. Aves.
Comr R. I. Mn
Dy Port Conservator

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struction to the plundering of the harbour of lost stores, and persons detected will probably make same excuse as the Contractor did in this case viz that they were about to report the finding of such stores to the Receiver of wreck. In fact it is tantamount to giving the public permission to search for lost stores, which is contrary to Section 29 (1) of the Indian Ports Act X of 1889 "Unauthorised persons not to search for lost stores" Moreover by the terms of the Contract drawn up between the Coal Recovery Contractor and the Chairman Harbour Trust Board the Contractor is punishable under Clause (d) with a fine of Rupees 100/- for disobedience of a lawful order issued by the Dy Conservator and I maintain that the order issued by me to the Contractors, not to recover anything but Coal, was a lawful order under the act-

I have &c.
(Signed) W. Aves
Comr R. I. Mn
Dy Port Conservator

(True copy)
W. Aves
Comr R. I. Mn
Dy Conservator of the Port.

Enc. B. 25.

64

No. 1098.

From

The Engineer

Harbour Trust Board

Madras

To

The Chairman

Harbour Trust Board

Madras.

Madras 18th February 1898.

Sir,

In reply to your question as to whether the coal in the harbour can be recovered by placing the Priestman's dredging crane upon a Divers Lighter, I have the honor to say that the crane could not be worked from any lighter so small.

2. The smallest lighter required would be a 100 ton iron lighter with plenty of beam, and a flat bottom to prevent rolling, besides plenty of deck space is required for depositing, washing and separating the coal from the mud and sand, the dredger will bring up. The "Wenlock" is the most

suitable

suitable vessel for the purpose as it will be steady and can supply the water for washing the coal from her pumps. Nothing can be done till the dredger arrives.

I have &c
(Sd) A. Lee Pogson
Engineer
Harbour Trust Board.

Madras Harbour Trust
Traffic Department.
21st February 1898.

No. 1558 T.

From.

The Traffic Manager
Harbour Trust
Madras.

To.

The Secretary
Harbour Trust Board.
Madras.

Sir,

With reference to your No 2803T of the 8th Instant. asking whether I can suggest any efficacious and cheap way of getting up coal from the bottom of the Harbour, I have the honor to suggest that 2 small A class hand cranes could be placed on a ten ton lighter

lighter and used for the purpose working small bills grabs of a class which I have seen tendered for use by the railways.

I have &c
(Sd) S Hutchence
Traffic Manager
Harbour Trust.

Chairman's note thereon.

Ask Deputy Port Conservator if it is necessary to remove the coal or can we wait till "Wenlock" comes.

(Sd) J. N. Atkinson
Chairman.
21-2-98.

No 441 (C)

Copy forwarded to the Deputy Port Conservator for information and favor of remarks

(Sd) C. Pinsent.
Secretary
Harbour Trust Board.

22 Feby 1898

No. 5-74.

Port Office
Madras 24th Feby 1898

From.

The Deputy Conservator of the Port.
Madras.

To. The Secretary
Harbour Trust Board
Madras.

Sir

Lr. 6)

With reference to the correspondence copies forwarded with your №441 c dated 22nd Instant for information and favor of remarks, I have the honor to state that the dredging of №s 4 and 5 berths should be proceeded with without delay and that it could be done in the manner suggested by Mr Hutchence. The washing and separating of the coal could easily be done on shore after it was landed.

I have &c
(Sd) W. Ayes.
Comm R. I. Inv.
Dy Conservator of the Port.

Memorandum.

№ 450 (c).

Harbour Trust Board
Secretary's Office
Madras 28th Feby 1898.

From.

The Secretary
Harbour Trust Board

To.

The Deputy Port Conservator
Madras.

Subject.

Your letter №574 dated 24th Febuary — regarding dredging coal at berths №s 4 and 5.

Remarks.

After examining Lt Beauchamp's chart of soundings and referring to his report dated 14th September 1897 the Chairman has passed the following order

"The papers may be recorded. There seems no necessity to take action till the "Wenlock" comes."

(Sd) C. Pinsent.
Secretary
Harbour Trust Board.

№ 634. Port Office
Madras 3rd March 1898

From.

The Dy Conservator of the Port.
Madras.

To. The Secretary
Harbour Trust Board
Madras.

With reference to the correspondence
ending with the Chairman's order communi-
cated in your memo No 450 C dated 28th —
Lastly, I have the honor to request that
my view of the matter be placed before
the Board as I consider that there is —
considerable risk of vessels bumping in
No 2 and 5 berths under certain circumstances
and that important matters of this nature
should receive the attention of the Board.

I have &c
(Sd) W. Aves.
Comr R. I Mn.
Dy Conservator of the Port

(True copies)
W Aves.
Comr R. I. Mn
Dy Port Conservator

Urgent

Madras 6th September 1898

Best & Co. Enc. C

To.
The Chairman
Harbour Trust Board

Sir

We are informed that two boats belonging to the Contractors who are recovering coal at the bottom of the Harbour are working at a distance of only 100 Yards from that part of the beach where we are now landing coal ex SS. "Caithness"

Two boats also belonging to the same Contractors are working in close proximity to the above vessel and the "Darius"

We shall feel obliged by your issuing instant orders for the discontinuance of work while vessels are discharging, as it appears to us the practice of recovering coal in close proximity to the landing place and the Steamers is putting a premium on dishonesty.

We have &c
(Sd) Best & Co.

Chairman's Order.

What berths are occupied by Coal ships discharging? These salving boats should be directed not to work between a vessel discharging

...ying and the shore, or
...ogress if she is discharging
...hereon.

(Signed) J. R. A Cheeran
Chairman
6-9-98.

...ugust

...: 223(C)

Copy forwarded to the Deputy
...t- Conservator for necessary
...ction.

(By order)
(Sd) C. Pirouet.
Secretary
M.T.T.

(True Copy)
F. Eaves.
Coast R. I &c
Dy Conservator of the Port.

For EE
28/11

MEMORANDUM of agreement entered into this sixteenth day of August 1898 at Madras between the Trustees of the Harbour on the one part and V. Streenivassa Chetty Merchant, residing at No, 29 Moothial Petta Mootakaren Street Madras, of the other part.

The Trustees of the Harbour having accepted a tender made by the said V.Streenivassa Chetty of Rs.four per ton for the recovery of coal from the bottom of the Harbour; the following are the terms and conditions mutually agreed to

(a) That in consideration of the sum of Rupees four per ton to be paid to the Harbour Trust by the said V. Streenivassa Chetty he shall be entitled to recover from the sea-bed of the Harbour coal now lying upon the sandy bottom under or near berths 3,4,5,6, and 7 which has been lost overboard from time to time in course of discharge from various vessels, or which may hereafter be so lost overboard during the continuance of this agreement, viz from the sixteenth day of August 1898 to the thirty first day of December 1898. and he shall be entitled to convert coal so recovered to his own use, without further payment to the Harbour Trust for dues on landing.

(b) The said V. Streenivassa Chetty shall not be entitled to recover coal from the rubble base alongside the north arm of the Harbour nor shall he be entitled to recover coal in or near the line of surf or along the margin of the water.

(c) All coal recovered by the said V. Streenivassa Chetty must be removed from the Board's premises within 24 hours of being landed and shall not be removed until payment at Rs.four per ton has been made,nor without a pass from the Board's Traffic Manager who will after payment grant same daily on application.

(d) All vessels, barges, lighters rafts and boats used for the recovery of the said coal shall be employed afloat subject to any lawful order issued by the Deputy Conservator of the Port in his capacity as such, and should any lawful order of the said Dy: Port Conservator be disobeyed the said V.Streenivassa Chetty shall be liable for every such offence to be punished with fine which may extend to ~~the~~ one hundred rupees and with further fine which may extend to one hundred rupees ~~for rupees~~ for every day on which after notice has been given to him by the Dy: Port Conservator he wilfully and without lawful excuse continues to disobey

disobey such lawful order or direction.

The Chairman of the Harbour Trust Board is hereby empowered to inflict such fines within such limit and his decision shall be final. The amount of such fine or fines shall be deducted from the deposit made by the said V. Streenivassa Chetty referred to herein para (e)

(e) As security for the good behaviour of the said V. Streenivassa Chetty and of all persons employed by him in the said recovery of coal from the bottom of the Harbour the said V. Streenivassa Chetty has deposited with the Harbour Trustees the sum of Rs.one hundred from which fines which may be inflicted by the Chairman under clause (d) hereof shall be recovered.

(f) On or after the 31st day of December the Board shall return to the said V. Streenivasa Chetty the said sum of Rs.one hundred alluded to in para (e) or such smaller amount thereof as may remain after deducting any fines imposed by the Chairman under clause (d).

(g) Should the said sum of Rs.one hundred deposited as security for good behaviour under clause (e) become exhausted by reason of fines inflicted by the Chairman then the said V. Streenivassa Chetty shall from that date no longer be entitled to recover coal from the bottom of the Harbour.

(h) The Harbour Trust Board are at liberty to accept any other offer or offers for recovery of coal from the sea-bed of the Harbour during the continuance of this agreement.

(i) In case of any dispute or difference of opinion as to the meaning of any part of this agreement, or as to anything done or to be done thereunder the decision of the Chairman shall be final.

(s/d) V.Streenivassa Chetty

(s/d) J.N. Atkinson

Chairman H.T.B

No.195 C

Copy forwarded to the Deputy Port Conservator for information.

(By Order)

(s) C. Pinsent

18th August 1898.

Secretary
Harbour Trust Board

(True Copies)

M Aves.

Commander, R.I.M.,
Dy: Conservator of the Po...

Thro' the Chairman, Harbour Trust Board.

74

No.79

Port Office,
Madras, 23rd January, 1899.

From

Commander W. Aves, R.I.M.,
Deputy Conservator of the Port,
M a d r a s,

To

The Secretary to Government,
Marine Department,
C h e p a k.

Sir,

A difference of opinion upon a Port Conservancy matter having arisen between the Chairman of the Harbour Trust Board and myself(copies of correspondence attached-marked A)I considered it my duty to request that the matter might be placed before the Trustees in their capacity of Conservator, as it seemed to me that the question involved was too important to risk a mistake being made in the decision arrived at by the Chairman. It will be seen from the correspondence that, owing to the time occupied over the same, the man's Contract for recovery of Coal had expired, and it might be thought that no good purpose would be served by inflicting the fine upon him as advised by me. I would, however, point out that if the ruling of the Chairman be accepted and it becomes known to the public (as it certainly will) it will appear as though there was no law against "unauthorised persons searching for lost stores"-as I explained to the Chairman in my letter on the subject.

The Chairman has, however, declined to place the matter before the Trustees, as he does not consider it necessary unless I can point out any Rule by which I am empowered to demand such a reference.

Although

Although I fail to discover any written Rule, it seems to me that in my capacity of Deputy Port Conservator it is my duty to cause such important matters to be brought to the notice of the Board of Trustees in their capacity of Conservator of the port. I would therefore respectfully request that Government may be asked to decide as to whether I have or have not the right which is questioned by the Chairman.

2. I would take this opportunity of also asking whether it was the intention of Government, when the Conservancy of the port was transferred to the Harbour Trust Board, that the Chairman of the Harbour Trust Board should be empowered to issue direct orders to the Deputy Port Conservator on Port Conservancy matters without first referring the same to him or to the Board for opinion as he has recently done (vide enclosures marked B,& C.)

In the first instance (enclosure B) the matter being, in my opinion, important I requested that it might be placed before the Board, and although no intimation was received by me that my request would be acceded to, it apparently was, and the Board resolved a few days later that the recovery of coal from Nos. 4 & 5 berths should be proceeded with without delay--which was in accordance with my recommendation.

In the second instance (enclosure C)the matter being unimportant as regards the Conservancy of the port I issued the Chairman's order, and contented myself a few days later (when it became necessary to cancel the same and issue another order in lieu) with remarking verbally to the Chairman that it would be advisable to refer such matters to me before issuing any orders so as to prevent mistakes occurring in future,but to this remark he offered no comment.

I have the honour to be, Sir,

Your Obedient Servant,

Commdr.,R.I.M.,
Dy. Conservator of Port.

PRESIDENCY PORT OFFICE

76

Harbour Trust Office,

MADRAS, 31st January 1899

No. 4210

FROM

J.H.Atkinson Esq I.C.S.,

CHAIRMAN, HARBOUR TRUST BOARD,

MADRAS.

To

W.B.deWinton Esq,

SECRETARY TO GOVERNMENT,

Through, *Marine Department.*

The Presidency Port Officer,

M A D R A S.

Sir,

I have the honour to forward herewith together with its enclosures letter No.79 dated 23rd January 1899 from the Deputy Port Conservator of the Port of Madras,wherein, referring to three recent occurrences connected with the conservancy of the Port he asks for instructions (1) whether he has or has not the right to insist that the Chairman shall submit matters to the Harbour Trust Board in its capacity as Conservator of the Port for orders,and (2) whether the Chairman is empowered to issue direct orders to the Deputy Port Conservator on Port Conservancy matters without first referring the same to him or to the Board for opinion.

2. As to the general question I may point out that the Harbour Trust Board has been constituted Conservator of the Port of Madras by G.O.Marine No.161 dated 27th April 1888;that the Deputy Conservator is the Executive Officer of the Board as Conservator under G.O.Marine No.302 dated 5th July 1888 and that the only definite information I can find as to the Chairman's powers or responsibilities in this connection is contained in Resolution 7 of the Harbour Trust Board dated 21st February 1890,which runs as follows:-

"Resolved

"Resolved further.- that subject to general orders from time to time passed by the Trust as Conservator and approved by Government; the power of appointing,promoting,suspending,dismissing,fining,reducing or granting leave to Officers and subordinates of the Board in their capacity as Conservator of the Port shall be exercised by the Chairman.It has been the practice for the Chairman to carry on the ordinary routine business and correspondence without reference to the Board.

3. The three occurrences with which the Deputy Conservator illustrates his reference all arose out of the proceedings that have been undertaken during the past year to raise some of the coal lying on the bottom of the Harbour;and I will offer a few remarks on them.

4. The first of these occurrences in point of time is that referred to in enclosures B of the Deputy Conservator's letter.So far as I can find it was the Board's Traffic Manager who first brought to notice in his letter No.2I25 T dated 4th February I897 that there was probably a large quantity of coal on the sea-bed under the coal moorings.The Engineer confirmed this in his letter No.755 dated 22nd idem and the Deputy Port Conservator in his letter No.34I dated 25th idem.From that time forward the Board endeavoured for upwards of a year to devise some method of dredging the coal up:but the Engineer reported that none of the methods proposed were feasible,and that except at prohibitive expense,nothing could be done till the dredger "Wenlock" should arrive.In his endorsement No.44I (C) dated 22nd February I898 the Secretary forwarded to the Deputy Port Conservator an enquiry from me as Chairman whether the arrival of the "Wenlock" might not be awaited.The Deputy Port Conservator replied in his letter No.57 H of 24th February I898 that the dredging of berths Nos.4 and 5 should be proceeded with immediately and that it might be done in a certain manner that the Traffic Manager had suggested.The Engineer had stated that the Traffic Manager's suggestion could not be carried out;no other possible method had been suggested by any of the Board's advisers,and whereas the Deputy

Port

Port Conservator stated that berths Nos.4 and 5 were those that required immediate attention.Lieutenant Beauchamp R.I.M. who had recently conducted an elaborate survey of the Harbour, had said nothing about any shoaling of these berths,but that the northeast corner of the Harbour,i.e.where berths 6 and 7 are situated,had shoaled by about 3 feet since 1886.It seemed to me that nothing could be done till the arrival of the "Wenlock",which at that time was expected in Madras by the end of the year;and I put on record an order to that effect and forwarded a copy to the Deputy Port Conservator.To this he at once demurred,and at his request I laid the matter before the Board.

5. I fail to see that the Deputy Conservator has any valid cause for complaint about this matter.It seemed to me that having regard to all the difficulties in the way it was not unlikely that he would on reconsideration acquiesce in the suggestion to await the "Wenlock's" arrival;but as he did not do so I took the action he advised.Nevertheless I still feel inclined to doubt whether the matter was as urgent as the Dy. Port Conservator represented.At a subsequent date,in his letter 335 H dated 18th October 1898 he agreed "that if the dredger "Wenlock" will commence deepening the Harbour and removing coal in January next,other means of doing it need not be resorted to." It is true that at this time contractors were employed in raising the coal by means of divers,but owing to the restrictions imposed on them it was only a very small quantity that they could get from under any of the actual berths.Recently you have asked that the "Wenlock" should be detained at Vizagapatam before she comes to this port;and I believe the Presidency Port Officer supports this proposal, from which I infer that he does not consider that there is need for any special hurry about dredging the coal in the Harbour.

6. As the Deputy Port Conservator attached such importance to the immediate dredging of berths 4 and 5 the Board from the commencement of March 1898 was busy considering

every

every possible scheme for raising the coal.The Deputy Port Conservator himself was asked for advice,but offered no suggestion;and at length as a last resource,on the proposal of one of the Trustees contractors were engaged to dive for the coal.

7. From almost the very day that these contractors commenced operations,complaints began to come in from consignees of coal cargoes against the pilfering and dishonesty of the contractors;and one of these complaints and my order thereon form the subject of enclosure C to the Deputy Port Conservator's letter.Messrs Best & Co sent their letter of 6th September 1898 by special messenger,asking for "instant orders" to protect their interests.The messenger was directed by Messrs Best & Co to wait for my orders,and they are contained in the copy given by the Deputy Port Conservator.

8. I am again at a loss to understand how the Deputy Port Conservator can seriously object to the action I took.It was an urgent case,calling for immediate orders.To have consulted the Deputy Port Conservator might have meant serious delay, which would certainly have been resented by the firm concerned: and in my opinion there was no necessity to delay for a moment what was obviously an adinterim order.

9. The third case in point of time to which the Deputy Port Conservator refers is that to which enclosures A of his letter relate,and the history of the matter may,with slight elucidation be gathered from the enclosures themselves.In a boat belonging to one of the contractors for salving coal,3 tins of assafoetida were discovered in possession of one or more of the contractor's employees.The tins had been cut open,but the contents were intact;and it is admitted by the contractor that they had been brought up by the diver from the sea-bed.The Deputy Port Conservator thinks that one tin must have been made away with,but there is no evidence to this effect.The Deputy Port Conservator recommended that the contractor should be fined Rs 100 under the terms of his contract and his contract cancelled.Under the contract he was liable to a fine of Rs 100 to be inflicted by the Chairman for disobedience of any lawful order issued by the

-Deputy

Deputy Port Conservator and the Deputy Port Conservator quotes as such lawful order one that he issued to the contractor in question that recovery of articles other than coal cannot be permitted, and that if his divers are found recovering such other articles he, the contractor, will be prosecuted. It is obvious that this order was only lawful viz so far as, it embodies some substantive provision of law, and this provision the Deputy Port Conservator says is to be found in Section 29 (I) of the Indian Ports Act X of 1889, which with its marginal note runs as follows:-

Unauthorized person not to search for lost stores.

"(I) No person, without the permission of the Conservator, shall in any port subject to this Act creep or sweep for anchors, cables or other stores lost or supposed to be lost therein."

Now it is abundantly certain that the marginal note to the section cannot extend the meaning of the section itself, which must be construed strictly like all other penal, or disabling provisions of law: and since the contractor had neither "crept" nor "swept" for stores I have no doubt that he could not be proceeded against under that section. There was no other provision of law under which he could be proceeded against, and therefore I declined to fine him. Had I allowed the opinion of the Deputy Port Conservator to prevail I should not only have acted contrary to my own convictions, but as I believe, rendered the Board liable to a suit for damages.

10. The Deputy Port Conservator asks whether he was not entitled to call on me to refer this matter to the Harbour Trust Board: apparently that the Board should decide whether or no I as Chairman was to inflict a fine. This seems to me a curious suggestion, for in the first place by the contract bond it is the Chairman individually who is empowered to fine, and obviously these words connote the power to abstain from fining at his discretion, and the contract goes on "his decision shall be final:" and further the suggestion that an officer exercising judicial or quasi judicial functions

should

should be liable to be ordered to convict or to impose a specified penalty is altogether novel.An illegal order may be set aside by duly constituted authority,but there is no question of the legality of my order.Finally I invite attention to the strange suggestion that a subordinate should be given the power to issue orders or instructions to his superior officer.

II. The Deputy Port Conservator fears that if my ruling becomes known it will appear as if there were no law against unauthorised persons searching for lost stores.I cannot share the Deputy Port Conservator's apprehensions that even if this contingency does arise,there will be any serious danger to public interests.The"lost stores" referred to lie at the bottom of the Harbour,most of them in anything from 3 to 7 fathoms of water.The only means of getting them up as the Harbour Trust Board has ascertained in its long deliberations on the question of coal,are by dredging with trawls,buckets,grapnels or such like apparatus,or by diving. The former method are included I believe in the terms "creeping" or sweeping" that occur in Section 29 (I) of the Indian Ports Act above quoted;and if unauthorised persons take to diving for stores it will be time enough to have the law amended if need be.

I2. As a matter of fact it seems perfectly clear that the legislature did not intend to prohibit anything except the operations that would fall within the meaning of "creeping" and "sweeping" These are ofcourse objectionable because of the danger they would cause to moorings &c:but there seems no possible objection to any one recovering articles from the sea bottom,(technically called "wreck"),by other lawful means:and sections 72,-79 of the Indian Merchant Shipping Act VII of I880,in plain terms admit the right of any person to find and take possession of wreck subject to the obligation of delivering it up to the receiver of wreck.In his letter No.648 M dated I2th July I895 the Presidency Port Officer agreed that salvage might be paid to police peons and private persons who recover flotsam and jetsam:and I see no reason

why

why the Deputy Conservator should object to applying the same principle in the case of "wreck"

13. I must apologise for the length of this letter, which has been necessary to deal thoroughly with the somewhat insubordinate though frivolous reference of the Deputy Port Conservator.

I have the honour to be,

Sir,

Your Obedient Servant,

Secy.

Chairman,

Harbour Trust Board.

In forwarding these papers I beg to submit the following remarks for the consideration of Government,

2. The points for decision are,--

(a) Whether the Chairman of the Harbour Trust Board has the right to refuse to lay before the Trustees, in their capacity as Conservator, any matter on which the Deputy Conservator may desire their opinion, and,

(b) Whether the Chairman has the authority to issue direct orders to the Deputy Conservator on a Port Conservancy matter without first consulting him on the subject.

3. The cases which have led to these two points being placed before Government appear to have been only quoted by the Deputy Conservator to shew how the difference of opinion between himself and the Chairman had arisen. Mr.Atkinson, however, appears to consider that the Deputy Conservator intended that the Government should take notice of the correspondence , and has consequently entered into a lengthy explanation as to his reasons for acting as he has done. It does not seem to me necessary for Government to be troubled with anything more than the question of settling the two points I have brought to notice.

4. In connection with the case, I would beg to draw special attention to the following facts connected with the Deputy Conservator's appointment, viz,--

(a) that the appointment is not specified in the Harbour Trust Act and consequently that Sections 21 to 24 inclusive do not apply to the Deputy Conservator, for they only apply to persons appointed by the Board and paid out of Dues over which the Board has complete control;

(b)

(b) that the Board as Conservator exercises its powers as such under Chapter III of the Indian Ports Act No. X of 1889, and Section 7 (5) appears to give the Conservator authority over the officer performing the duties of the Conservator;

(c) that the selection of an officer to fill the appointment rests with the Government of India;

(d) that the pay of the post has been fixed by the Government of India and is met from Port Funds, over which Government retains control.

Under these circumstances, and from the fact that the Government of India has decided that the post shall be held ordinarily by a Royal Indian Marine Officer of the rank of Commander, it would appear that the Government of India considered that the duties of the appointment were of a nature as to require an officer of experience and position in order that the Conservator, not being a nautical body, might be properly advised in respect to the duties of Port officials as specified in Chapter III of the Indian Ports Act X of 1889.

5. The question is, whether this fact has been understood by Mr. Atkinson in his dealings with Commander Aves in their respective positions as Chairman of the Harbour Trust Board and Deputy Port Conservator. I do not think so, for it seems to me that Mr.Atkinson apparently looks on the Deputy Conservator as <u>his</u> Deputy and as a Harbour Board Official on the same footing as the Secretary and the Engineer. Mr. Atkinson also refers to the Deputy Conservator as " a somewhat insubordinate official " and calls his reference " frivolous ", but I fail, after a careful perusal of the correspondence, to find that these terms are justified.

6. It seems to me that when the Conservancy of

the

the port was transferred to the Harbour Trust Board that Government did not intend that the officer appointed as Deputy Conservator should, in executive matters, connected with the port conservancy, have less freedom of action than the officer who performed these duties before the transfer took place. In my opinion the Deputy Conservator should have a free hand in carrying out the executive duties specified for a Port Official in Chapter III of the Indian Ports Act, and that the control of the Conservator should be limited to that connected with expenditure and general administration in the same way as the Presidency Port Officer exercises control over the Coast Port Officers.

J. A. Sheet

Commander, R.I.M.,
Presidency Port Officer.

Madras, 15th February, 1899.

(1899) Department.

D.O. CURRENT No. 1

From
Mr. Avis

No.

Dated 15-2-99

Received } 16
Registered }

Enclosures

Spare copies.

SUBJECT.

Requesting that he may be permitted to have an interview in connection with his appointment as Dy Conservator

P. W. 20.
1,000—29-11-98.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Port Office,

Madras, Feby 15th 1899

Dear Colonel Smart.

I should like to have a few minutes conversation with you about 4 pm tomorrow if that will be a convenient hour for you to see me. It is about my appt as Dy Conservator - about which I ~~have~~ have

Recently addressed you through the P. P. C. H which you have probably seen ere this

Yours Sincerely
H. Alves.

Would you like me to come earlier?

2 8

C/o W
Please send to
letter cannot be
sent as area affected
- mem. -
Aunt
11/12/45