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MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.
1/1/37

GO. No.	<u>101</u>	Pres.	
		Ma.	
Dated	<u>1/1/37</u>	18	<u>52</u>

Not to be folded or roughly handled

12

Fort Saint George, Public Works Consultation of 22nd March 1859.

No. 108. Read the following letter from J. R. BOYSON, Esq., Government Solicitor, Madras ; to J. D. BOURDILLON, Esq., Secretary to Government, dated 10th March 1859, No. 322.

SIR,

E. M. C., dated 20th May 1858, No. 956, Public Works Department.

With reference to the Extract from Minutes of Consultation noted in the margin, I have the honor to state that on receipt thereof I applied to the Chief Engineer for detailed statements of the Honorable Company's claims against Masalamany Padatche, Narrainsawmy Naick, Rama Pillay and Streerungum Pillay and others, shewing how they had arisen, &c. : also for separate Accounts Current between the Company and those parties in respect of such claims ; and either the originals or copies of all documentary evidence relating to such claims ; likewise for a statement of the grounds upon which those parties refused to pay the several balances alleged to be due from them.

2. In due course I received from the Chief Engineer a copy of an explanatory letter and enclosures from the District Engineer of Tanjore to his address, and a bundle containing numerous papers, &c., relating to the matter, in the Telooogo language. I was under the necessity of returning these Telooogo papers to the Chief Engineer for English Translations, with which he was afterwards good enough to furnish me.

Rupees 238-6-11	due by Masalamany Padatche.
" 99-6-5	" Narrainsawmy Naick.
" 66-12-7	" Rama Pillay.
" 22-5-0	" Streerungum Pillay.

3. Assuming that the refusal of the parties above named to pay the several sums noted in the margin, and alleged to be due from them, is based upon a difference of opinion between themselves and the Officers of Government as to the measurements of their work (and such I understand is the case,) the expediency of suing them for the sums in question, and the probability of a successful issue to such suits will depend altogether upon the evidence that may be available in support of the accuracy of those measurements, for which the Officers of Government have given the Contractors credit in their respective Accounts Current, and upon Government satisfying the Local Court that their Officers' mode of measurement as well as the results were in all respects correct. If there is conclusive evidence on this point on the part of Government, and there is no other ground of defence open to the Contractors which has not been brought to my notice, Government in the event of suing ought to obtain and I think would obtain Decrees against the several parties for the several amounts claimed from them with costs and, looking at the comparatively small amounts of the several claims, and the security given by the parties for the due performance of their Contracts, would in all probability realise payment of such Decrees.

4. It must however be borne in mind, that the work in question was done so far back as the early part of 1856 ; that many of the Officers of Government and their Subordinates who were then employed in the District have since been removed, and may now be employed at a distance, that the prosecution of the contemplated suits and the obtaining of evidence to sustain them, &c., would occupy much valuable time of those in public employ ; that a very slight difference between the modes of measurement adopted by Streerungum Pillay, Palanyandy Pillay, and Neelamagum Pillay and the Officers of Government, with respect to so large a quantity of work as was done by these Contractors, would soon meet and make up so small a balance as is now claimed from them, viz., Rupees 22-5-0, and that the same observation applies, although with less force, to the balances alleged to be due from Narrainsawmy Naick (Rupees 99-6-5) and Rama Pillay (Rupees 66-12-7). Under these circumstances I do not recommend the adoption of any legal Proceedings with respect to these 3 claims, unless the evidence in support of them is most conclusive, but would rather suggest that the amounts be written off to Profit and Loss. If however, the evidence in support of them is conclusive and can be made available without much public inconvenience, I would then recommend that suits be instituted in respect of them.

5. The claim against Masalamany Padatchy (Rupees 238-6-11) is of an amount which looking at the quantity of work done precludes the probability of its being met by any differ-

Fort Saint George, Public Works Consultation of 22nd March 1859.

ence or error of measurement, and if such evidence as I have above pointed out is available in support of it, I would recommend a suit for enforcing its adjustment.

6. It doubtless is expedient that Government should not submit to imposition at the hands of those with whom it deals and should assert its rights even at some cost and trouble; but it also seems to me desirable that Government should not embark in litigation involving the expenditure of the time of public Officers as well as of public money, unless there is a tolerable certainty of success, and this the more especially if the amount in question is small, as failure in such cases on the part of Government would only tend to encourage others to resist legitimate demands.

Letter from the Superintending Engineer S. C. in charge of the Central Office P. W. to the Government Solicitor, dated 15th June 1858, No. 1145, with one Enclosure.
Letter from Officiating Chief Engineer, to the Government Solicitor, dated 22nd September, with four Enclosures.

7. I submit for reference, if desired, the papers noted in the margin, and in conclusion I beg to suggest, that a copy of this communication be sent through the Chief Engineer to the District Engineer of Tanjore, with instructions to apply to me direct or through the Chief Engineer for any further advice he may require.

No. 109.

ORDER THEREON, No. 661; dated 21st March 1859.

Ordered to be communicated to the Chief Engineer with reference to his letter of the 30th April 1858, No. 9440. Colonel Faber will be guided by the opinion expressed by the Government Solicitor in the latter part of para. 4 and in para. 5, and will report the result for the information of Government. No time should now be lost in determining the course to be followed, and in taking the proceedings so resolved on.

2. In the event of the District Engineer requiring further legal advice in this matter, he will address the Government Solicitor direct, as proposed in para. 7 of this letter.

(Signed) J. D. BOURDILLON,
Secretary to Government.

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N^o 322.

From

The Government Solicitor Madras.

To

The Secretary to Government.
P. W.

Madras 10th March 1859

Sir,

With reference to the Extract from
EM dated 20th May 1858 } Minutes of Consultation noted
N^o 986 Public Works Report } in the margin I have the
honour to state that on receipt thereof I
applied to the Chief Engineer for detailed
statement of the Honorable Company's claims
against Chas. Ramany, Vastatche, Varamisamy,
Kank, Rama Pillay and Srinivasa Pillay
and others, showing how they had arisen, and
also for separate account current between the
Company and those parties in respect of such
claims, and either the originals or copies
of all documentary evidence relating to
such claims: likewise for a statement of
the grounds on which those parties refused
to pay the several balances alleged to be due
from them.

I have since received from the
Chief Engineer a copy of an explanatory letter
and enclosures from the District Engineer of Tanjore

to

to his address and a bundle containing numerous papers relating to the matter in the Telugoo Language.

I was under the necessity of returning these Telugoo papers to the Chief Engineer for English Translation with which he was afterwards good enough to furnish me.

Assuming that the refusal of the parties above named to pay the several sums noted in the margin

and alleged to be due from them

is based upon a difference of opinion between themselves and

the Officers of Government as to

the measurements of their work and such

I understand is the case, the expediency

of suing them for the sums in question and

the probability of a successful issue to such

suits will depend altogether upon the evidence

that may be available in support of the

accuracy of those measurements for which

the Officers of Government have given the

Contractors credit in their respective accounts

current and upon Government satisfying

the Local Court that their Officers' mode of

measurement as well as the results were

in all respects correct. If there is conclusive

evidence on this point on the part of Government

and there is no other ground of defence open

to the Contractors which has not been brought

Papers 238. 6. 10. chiefly relating to

Padatchee-

- " - 99. 6. 5 - Tannamannu

- " - 56. 12. 7 - Rada Pillay

- " - 22. 5. - Steerungum

Pillay.

to my notice Government in the event of suing ought to obtain and I think would obtain Decrees against the several parties for the several amounts claimed from them with costs and, looking at the comparatively small amounts of the several claims and the security given by the parties for the due performance of their Contracts, would in all probability realise payment of such Decrees.

It must however be borne in mind that the work in question was done so far back as the early part of 1856, that many of the Officers of Government and their Subordinates who were then employed in the District have since been removed and may now be employed at a distance; that the prosecution of the contemplated suits and the obtaining of evidence to sustain them would occupy much valuable time of those in public employ; that a very slight difference between the modes of measurement adopted by Steerungum Pillay, Palamangudi Pillay, and Etelamangudi Pillay and the Officers of Government with respect to so large a quantity of work as was done by these Contractors would present and make up so small a balance as is now claimed from them viz Papers 23. 5. a. and that the same observation applies although with less force, to the balances alleged to be due from Tannamannu, Rada

(Paper 99.6.5) and Ramas Pillay N. 66.12.71.
Under these circumstances I do not recom-
mend the adoption of any legal proceedings
with respect to these 3 claims unless the
evidence in support of them is most con-
-clusive but would rather suggest that the
amount be written off to Profit and Loss.

If however the evidence in support of them
is conclusive and can be made available
without much public inconvenience I
would then recommend that suits be
instituted in respect of them.

The claim against Masalamany
Padatchy (Paper 232.6.11) is of an amount
which looking at the quantity of work done
precludes the possibility of its being met by
any difference or error of measurement and
if such evidence as I have above pointed
out is available in support of it I would
recommend a suit for enforcing its adjust-
ment.

It should be expected that Govern-
ment should not submit to impositions at
the hands of those with whom it deals
and should assert its rights even at some
cost and trouble but it also seems to me
desirable that Government should not
embark on litigation involving the expen-
-diture of the time of public officers as
well as of public money unless there is
a tolerable certainty of success and the

the more especially if the amount in question
is small, as failure in such cases on the
part of Government would only tend to
encourage others to persist in legitimate
demands.

I submit for reference, if desired,
Letter from the Supt. Engineer H. the papers noted in the margin;
in charge of the Central Office P.W. and in conclusion I beg to
to the Govt. Secy. dated 15 June 1882 suggest that a copy of this
N. 1145 with one Enclosure. Communication be sent through
Letter from Offg. Chief Engineer to the Chief Engineer to the
the Govt. Secy. dated 22 Sept. with District Engineer of Tanjore
four Enclosures.

with instructions to apply to me direct or
through the Chief Engineer for any further
advice he may require.

I have the honor to be
Sir
Your most Obedient Servant

A. B. S. S. S.
govt. Secy.

P.W.

N^o 661

Extract from the Minutes of Consultation
Under date the 21st March 1859.

Read the following
letter from the Govern-
ment Solicitor.

(Forwarded 10th March 1859
N^o 322.)

Ordered to be
communicated to the
Chief Engineer with
reference to his letter of the
30th April 1858 signed
Colonel Tabor will
be guided by the opinion
expressed by the Gov^t
Solicitor in the latter
part of para 4 and
in Para 5, and will
report

[Handwritten initials and signatures]

27th 25th May, 1858 No 22928

Regarding the expediency of obtaining
all claims in respect of the balance
due to be due from the Government
Alley, Rouse, Pelly and Humeau
- having been; and seeing that a
bill be brought for recovering the
balance due by Humeau
Pelly, of certain evidence is
available to support it, and
proceeding with the same it was
that Government should not
be back in litigation involving
separation of public time and
money, unless there is liable
amount of success of

Public Works Department
1858-59

The Government Solicitor

The Secretary to Gov^t

dated 10th March 1859
Remitted to the

27th 25th May

7th March 1859

27th 25th May 1859

Reported with reference to the
20th May 1858 No 956 the
taken by the Government
in connection with the balance
allotted to be due to the
from Humeau and Pelly, as
- having been; and seeing that a
bill be brought for recovering the
balance due by Humeau
Pelly, of certain evidence is
available to support it, and
proceeding with the same it was
that Government should not
be back in litigation involving
separation of public time and
money, unless there is liable
amount of success of

27th 25th May

report the results for
the information of Govt.

No time should now

be lost in determining the course to be followed, &
in taking the proceedings,

2. In the event 20 members are

of the District Engineer
requiring further legal
advice in this matter,

he will address the
Govt. Solicitor direct,
as proposed in Parag
of this letter.

[Signature]

Cop
Sent Solr - Dated 22nd
with 7 Encls
10-11-11. Eng - 11

