M.R.O. 1—77,003—8-6-37.

(1) Number of pages 6

(2) Date of repair 11 - 2 - 43

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No. 2415 Press ~~Mis.~~

141-142

Dated 10 - 10 - 1862.

Not to be folded or roughly handled

Proceedings of the Madras Government, Public Works Department, 10th October 1862.

No. 141. Read the following Proceedings of the Madras Government in the Judicial Department, dated 6th October 1862, No. 1,637 :—

Referring for the opinion of the Government Pleader letter from the Acting Magistrate and Agent to the Governor, Vizagapatam, expressing certain doubts with regard to prosecuting men who failed to work after receiving advances on bonds from the District Engineer, Upper Godavery, and stating that in his opinion no other measure than a Civil Suit in each case exists for the recovery of the advances. (Vide Judicial Proceedings, 6th October 1862, Nos. 34-35.)

No. 142. ORDER THEREON, 10th October 1862, No. 2,415.

Communicated to the Deputy Chief Engineer, Northern Circle.

(Signed) W. I. BIRDWOOD, Colonel, R. E.,
Secretary to Government.

JUDICIAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from D. F. CARMICHAEL, Esq., Acting Magistrate and Agent to the Governor, Vizagapatam; to the Honorable T. PYCROFT, Chief Secretary to Government, Fort Saint George, dated 16th September 1862, No. 457.

I yesterday received a large packet from Captain Haig, District Engineer Upper Godavery, who said, "I have the honor to enclose the bonds (one hundred and twenty-eight) of men "belonging to Vizagapatam, who after taking advances according to the bonds (to the amount "of Rupees 465-8) never arrived at this station, Dumagudiem. I shall therefore feel obliged "by your ordering the Tahsildars to recover these amounts and by your remitting them to me."

2. I am of opinion that no means exist, short of a Civil Suit in each case, of recovering these advances. I enclose copy of the form of contract, translated into English. Act XIII of 1859, as extended by the Government Notification of August 23rd of that year, does not apply, because the employer is not "resident or carrying on business" in any part of the territories to which that Notification referred. At least that is my opinion, but as the amount advanced in this District may probably be multiplied by four (for I believe Captain Haig recruits in all the surrounding Districts), I submit the question, in case Government should think proper to consult their High Court Pleader.

3. Section 492 of the Indian Penal Code punishes breach of a contract to serve at a distant place to which the servant or workman is conveyed at the employer's expense. But by the 68th Section of the Code of Criminal Procedure, I cannot take cognizance of the offence, before taking the examination of the complainant. Captain Haig need not indeed appear in person, but as ruled by the (late) Sudder Court on 16th July last: "He cannot give another a "power of Attorney to appear on his behalf, but the complaint may be laid and the prosecution "conducted by any person acquainted with the facts of the case and having an interest in the "issue."

4. My object in mentioning these details is, that the difficulties (if I have rightly conceived them), which exist in the prosecution of persons contracting under the present system may be considered, and such instructions as appear necessary may be communicated to the Department Public Works for the information of Captain Haig.

5. I enclose the number of the Godavery District Gazette referred to in the contract.

No. 91.

Kararnamah executed by YITAPAKA GADDIGADU, an inhabitant of Dondaparti Village, attached to the Taluq of the Vizagapatam District.

I hereby agree to work, under orders of the District Engineer of Upper Godavery, on the Government Annicut there for 8 months from the date of my arrival at Dumagudiem, in the said Dumagudiem Village or in any other locality of the District; and to receive wages at 6 Rupees a month for each strong Cooly, and batta at 2 Annas per 10 miles if proceeding with family, or at 2 Annas per 15 miles if proceeding singly.

2. If during the 8 months agreed on by me, I fall sick from fever, become unable to work, and obtain a Certificate from the Doctor to return to my native country, there should be no hindrance whatever to my departure. In case of my going in this manner, I shall take travelling batta at the said rate.

3. If, on the contrary, I go away for any other cause than fever during the said 8 months, I shall not only frofeit such travelling batta, but also at once repay the batta drawn by me, together with any balance of the advance taken by me which may be due to Sircar on that day.

4. All the other stipulations published by the District Engineer in the Gazette dated 14th March 1861, No. 34, have been read over and explained to me. I bind myself to act up to them. The sum advanced to me this day is (4) four Rupees.

(Signed) K. BAPANAYYA,
Gumasta supplying Coolies to Upper Godavery Annicut.

1st February 1862.

(Marked) GADDIGADU.

Witnesses.

(Signed) DIVARAM APPALASWAMI.
(„) VANAVARI APPALASWAMI.

Written by Kunchum Suttayya.

(True Copy and Translation.)

(Signed) D. F. CARMICHAEL,
Acting Magistrate and Agent to the Governor.

ORDER THEREON, 6th October 1862, No. 1,637.

Referred for the opinion of the Government Pleader.

(True Extract.)

Chief Secretary.

To the Government Pleader,
(with Godavery Gazette, No. 12.)
„ Government Agent in Vizagapatam.
„ Public Works Department.

Exd. T. O'Connor,

10 Spare Copies

No. 1862 Dispatch
Pro: of Govt for October
No. 3097

Pro: of the Madras
in the Judicial Dept.

Dated 6th
Rec'd 17th } Oct. 62.

No. 1637

Referring for the opinion of the Govt. Pleader's letter from the Acting Commissioner and Agent to the Governor, Vizagapatam, expressing certain doubts with regard to prosecuting men who failed to work after receiving advances on bonds from the District Engineer Upper Godavery and stating that in his opinion no such prosecutions should be carried on civil suits in each case ought for the recovery of the advances.

No 2415 - 10 Octr

Withdrawn order

No. 141. 142

No. 2415

Communicated to the Deputy Chief Engineer N. Circle.

Chepauk
10th Octr 62

13 Copies.

To The Deputy Chief Engr N. Circle with 5 Copies of the Judl Pro. Dispt 11th

No 87