

(1) Number of pages 8

(2) Date of repair 7-9-63

(3) Initials of the Referencer _____

MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No. <u>3798</u>	Press ~~Mis.~~
<u>565-66</u>	
Dated <u>22-12-</u>	<u>1863.</u>

Not to be folded or roughly handled

[Signature]

*Proceedings of the Madras Government, Public Works Department,
22nd December 1863.*

No. 565. Read the following Proceedings of the Madras Government in the Military
Department:—

Communicating letter from the Adjutant General forwarding }
copy of a Memorandum from the Judge Advocate General, } (Here enter 30th October 1863, No. 3,494.)
reporting on the case of Sub-Conductor Shannon.

No. 566. ORDER THEREON, 22nd December 1863, No. 3,798.

Communicated to the Superintending Engineer, 7th Division, with a request that in accordance with paragraph 2 of the letter from the Adjutant General of the Army, recorded in the foregoing Proceedings, Mr. Acting Sub-Conductor Shannon may be reinstated in his appointment in the Public Works Department and called upon to account for the tools reported to be missing. Should the Acting Sub-Conductor fail to do so satisfactorily, he should be brought before a Court of Enquiry (to be composed of such Officers as may be available) before whom the circumstances of the case as well as the letter from the Civil Surgeon at Coimbatore, No. 28, dated 8th August 1863, should be laid, and the result reported to Government with the least practicable delay.

(True Extract)

(Signed) CHARLES A. ORR, Colonel, R. E.,
Secretary to Government.

To the Superintending Engineer, 7th Division, with two enclosures.

Exd. S. T. Augustin.

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MILITARY DEPARTMENT,
PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following papers :—

From the Adjutant General, Head Quarters, Bangalore, 16th October 1863, No. 548; to the Secretary to Government, Military Department.

With reference to the Order of Government in the Public Works Department, of 16th September 1863, No. 2684, communicated to this Department on the 21st idem, I have the honor, by order of the Commander-in-Chief, to forward, for submission to His Excellency the Governor in Council, copy of Memorandum from the Judge Advocate General, reporting on the case of Sub-Conductor Shannon.

2. Sir Hope Grant considers that it is to be regretted, the Superintending Engineer 7th Division did not cause the alleged misconduct or neglect of duty on the part of the Sub-Conductor to be investigated by a Court of Inquiry, agreeably to G. O. G., No. 220, of 3rd June 1859, and His Excellency would now recommend, for the proper disposal of the case, that he be re-placed in the Department of Public Works, with a view to his being called on to account for the missing Tools, and dealt with accordingly, as suggested in paragraph 8 of the Memorandum from the Judge Advocate General.

Memorandum from the Judge Advocate General, Bangalore, 12th October 1863, No. 550; to the Adjutant General.

The Judge Advocate General has the honor to return the whole of the papers received with the Adjutant General's Memorandum, No. 171, of 1st instant, requesting an opinion as to how Sub-Conductor Shannon can be disposed of, he having been dismissed from the Department of Public Works, and re-placed at the disposal of His Excellency the Commander-in-Chief, by the Proceedings of the Madras Government, Department Public Works, and Order thereon, of 16th September 1863, No. 2684.

2. This dismissal was inflicted for his continued neglect of calls made on him by his superiors "to account for Tools of the Coimbatore Range, missing from his charge:" at least this is the only specific charge made against him; although the state of his health and his habits are also alluded to as precluding all chance of his being of the slightest use in the Department.

3. The Sub-Conductor having been thus punished, cannot be now tried for his neglect of duty, as he could plead it as a valid bar to trial, and being a Warrant Officer, he cannot be reduced except by the sentence of a Court Martial.

4. By the Regulations for the Department Public Works, framed by the Governor General in Council, of 17th June 1856, No. 117, in paragraph 4, it is laid down that, with a view of affording *Military promotion* to deserving Non-Commissioned employed in the Department, and of supplying a staff of *Warrant Officers for service in the Field with Engineer Parks*, the Establishment fixed will be filled up by promotion from Serjeants employed in the Department Public Works; the individuals so promoted continuing in the Public Works Establishment and performing their Departmental duties, except when required for Field service. These Regulations, excepting this paragraph, are embodied in G. O., No. 29, of 3rd February 1857, and it provides, that Warrant Officers, employed in the Department, will be allowed their *Military Pay* and allowances in full.

In G. O. G., No. 341, of 3rd September 1853, Serjeant P. J. Shannon, Artillery, Sub-Overseer in the Department Public Works, was promoted to the rank of Sub-Conductor.

5. The Warrant Officers so employed in the Department Public Works are therefore not Departmental, but of the ~~subordinate~~ grade, and, if from misconduct as such, they are rendered unfit for that Department, they consequently cannot be considered fit for the other service in which they hold that grade.

6. As a means of preventing any anomaly of the kind, G. O. G., No. 220, of 3rd June 1859, paragraph 8, appears to have been published, viz., "all serious cases of misconduct or neglect of duty on the part of Warrant Officers must be investigated by a Court of Inquiry, of which the Proceedings shall be submitted to Government for orders"

Had this been attended to, and sufficient evidence, to procure a conviction, been forthcoming, the Sub-Conductor could have been disposed of by the sentence of a Court Martial.

7. The neglect of these instructions, on the part of the Superintending Engineer, 7th Division, has, in addition to this complication, led him to exceed, *apparently*, his powers in the Department: as in the 3rd paragraph of his letter, forwarding the Sub-Conductor's case to Government, he states:—

"Under all these circumstances, as well as in consideration of his former career, I have decided on Mr. Shannon's dismissal from the Department, from the date of his suspension: leaving it for higher authority to decide whether he shall be allowed to retain the Military rank which he holds and disgraces."

8. If this supposition be correct, and if the Sub-Conductor, in consequence of these errors be re-placed in the Department, the whole might be remedied. A fresh call might then be made upon him to account for the Tools in his charge, now said to be missing, and if he failed to do so satisfactorily,—or neglected to attend to the order, he could be brought before a Court of Inquiry, and if the evidence elicited by it were sufficient to sustain the charge, be then brought to trial before a Court Martial and his case be legally disposed of by its judgment.

9. If "the state of health and habits of Sub-Conductor Shannon" alluded to, arise from excessive indulgence in liquor or drugs, and he has, from delirium tremens, been incapacitated for the performance of his duty, and this can be proved, he could be dealt with by a similar process.

10. The Superintending Engineer's statement of the Sub-Conductor's case is peculiar; he says, he "appears to have been sent to this District in disgrace in September 1861, with injunctions that he was to be carefully looked after. He appears to have been transferred from one Officer to another, and to have given no one satisfaction, but no decided measures seem ever to have been taken either to re-claim or to punish him." The cause for the removal in disgrace with the injunctions given in September 1861, are not mentioned; but this man's case was just previously to that period, before Government, who decided in his favor; in Order, No. 2157, of 22nd June 1861, Military Department.

11. There is a case in the Proceedings of Government, Department Public Works, No. 1332, of 10th July 1857, in which "Sub-Conductor J. Olive, of the Sappers and Miners, Assistant Supervisor in the Department Public Works, is dismissed from his appointment and remanded to his Corps, and, under the provisions of G. O. G. G., 17th June 1856, he is to forfeit his Warrant of Sub-Conductor." but a reference to that General Order, and to the corresponding one in the Madras General Orders, shews no provision on that head.

And the only authority for the reduction of a Warrant Officer, without a trial by Court Martial, that the Judge Advocate General can find is that contained in Section LIX. of the Mutiny Act for the Indian Forces, 20 and 21 Vict., Cap. 66, after having been acquitted or convicted of any crime or offence by the Civil Magistrate, or by the verdict of a Jury, when he may be reduced by order of the Commander-in-Chief.

ORDER, No. 3494, 30th October 1863.

Communicated to the Department Public Works, for information and guidance.

(True Extract.)

Marshall
Secretary to Government.

To the Adjutant General.

- .. Public Works Department.
- .. Judge Advocate General.
- .. Controller of Military Finance.
- .. Examiner Pay Department.

Exd. R. Stephenson.

Did not receive till 20th day
No 3798
Communicated to the
Superintending Engineer 7th Division with a
request that in accordance with para 2
of the letter from the Adjutant General of
the Army recorded in the foregoing Proceed-
ings Mr Acting Sub Conductor Shannon
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the Public Works Department and called
upon to account for the tools reported to be
missing. Should the Acting Sub Conductor
fail to do satisfactorily, he should be
brought before a Court of Enquiry (to be
composed of such Officers as may be
available) before whom the circumstances
of the case as well as the letter from the
Civil Surgeon at Coimbatore No 28 dated
8th August 1863 should be laid, and the
22nd Dec/63 result reported to Govt with the least
practicable delay.
To the Superintending Engineer 7th Division with 2 Enclosures
23rd Dec 63
25th December

No 1863 Dept
of War
No 4506

Pro: of Govt in the
Military Depart

Dated 20th Oct 1863
Received 4 Nov

No 8491

Communicating let.
from the Adjutant Genl for
-warding copy of a Memoran-
-dum from the Judge Ad-
-vocate Genl, in report
-ing on the case of Sub. Condu-
Shannon.

No 555-556

555-556

No 3798-22 December