

*Proceedings of the Madras Government, Public Works Department,
29th January 1872.*

Read the following letters :—

No. 568. Read again letter from the Superintending Engineer, 8th Division, dated 24th November 1871, No. 3,228, and recorded in Miscellaneous Proceedings, dated 8th December 1871, No. 47.

- 1 Letter from Acting Talook Overseer, dated 11th July 1871.
- 2 Letters from Madura Range Officer, Nos. 292 and 506, dated 16th August and 26th October 1871.
- 1 Letter from Balakristna Moodelliar, dated 21st October 1871.
- 1 Petition from Rungiah Naick, with Collector's endorsement No. 783, dated 13th June 1871.
- 1 Letter from Meylore Tahsildar, with twenty-seven enclosures.
- 1 Letter from the Magistrate, No. 249, dated 5th September 1871.

In reference to G. O. of the 3rd October 1871, No. 2,506, I have the honour to report that the late Overseer, Balakristna Moodelliar, could be successfully prosecuted for fraud in regard to the charges passed by him for the three works mentioned below, namely,—

	RS.
(1). Sluice and calingulah in Maroothoor Periacommoy ..	325
(2). Calingulah in Poolangoody tank	265
(3). Sluice in Mannoothan tank	74
	664

2. In addition to the above there is another fraudulent overcharge of 12 Annas per cubic yard for gravel taken out of the side trenches of road No. 5 on a supplementary estimate of Rupees 1,786-9-6, prepared by Balakristna Moodelliar for sanction from the expected savings on the sanctioned estimate of Rupees 28,000, and passed by the Range Officer, Assistant Engineer Mr. G. R. Leggatt, on his own authority and without communication with this office. This fraud is brought to notice in the Acting Taluq Overseer's letter of the 11th July 1871 (marked A.), received with the Range Officer's letter of the 16th August 1871, No. 292 (marked B).

3. Under these circumstances it appears clear that Balakristna Moodelliar must be held directly responsible to the Government for the losses they have incurred by his incompetence and dishonesty.

4. Considering the Overseer's general decrepitude and bodily ailments, for he was then suffering from what perhaps is as about a terrible scourge as the frame of man can well be subjected to, namely, two guinea worms in one of his testicles, I was willing to screen the Overseer from being criminally prosecuted and punished, provided he was willing to make good to Government the abovementioned amounts thus shown to be squandered, namely,—

	RS.
For the three tanks	664
For one-half of the over charge of gravel on road No. 5 ...	893
	1,557

But as it is clear by the tone of his letter, dated 21st October 1871 (marked C.), received with the Range Officer's letter No. 506, dated 26th October 1871 (marked D.) that he is not disposed to do so, I have no alternative but to recommend that Balakristna Moodelliar, who is now recovered from his bodily ailments above mentioned and able to undergo punishment, be now criminally prosecuted for fraud.

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5. In connection with this subject I may mention that I received the accompanying petition from one Rungiah Naick, with the Collector's endorsement No. 783, dated 13th June 1871, (marked E.), complaining that Balakristna Moodelliar is in the habit of receiving bribes, and has been "generally plundering" in the Meylore Taluq. This petition was sent on by me to the Range Officer, with an endorsement No. 1,016, dated 26th June 1871, requesting that the Acting Taluq Overseer, Nagalingum Pillay, may be directed to conduct the necessary inquiry, and to forward his report at an early date with the Range Officer's remarks thereon. Instead, however, of complying with my request, Mr. Leggatt took it upon himself to place the matter in the hands of the Meylore Tahsildar, whose letter No. 142 of the 9th August 1871, forwarding the records of his Proceedings connected with this case, is herewith submitted for information, (marked F.), with its twenty-six enclosures.

6. On calling upon Mr. Leggatt for an explanation as to why he took this matter out of the hands of the Acting Taluq Overseer, Nagalingum Pillay, who, from not being mixed up in the matter, appeared to me the very man to conduct the inquiry, he (Mr. Leggatt) replied that he did so at the Pillay's own request. The Pillay, however, not only denies this, but produces a pencil memorandum in which Mr. Leggatt desires him to return all the papers connected with the case, as he (Mr. Leggatt) was going to dispose of it himself.

7. I am of opinion that the Tahsildar's letter above referred to could scarcely be less unsatisfactory. Instead of arriving at some decision, he merely talks of the discrepancy between the statements of the witnesses, as if this were a novel proceeding, and "leaves it to the Range Officer's consideration and judgment."

8. It will be observed that the whole of the evidence, adverse to the Overseer, is forwarded in Tamil; but the pleader's lengthy defence is submitted in English.

9. It will also be observed that this pleader considers that the Overseer's innocence is, in a measure, proved by the following circumstance:—

"It is also admitted by the complainant that his state is too low and he is "hardly able to maintain himself."

10. What chance, may I ask, has a poor man of obtaining justice when the adverse council is allowed to put in such a plea as this?

11. As the manner in which the Tahsildar has disposed of this business has been the occasion of considerable comment, I thought it my duty to bring the matter to the notice of the Madura District Magistrate for such instructions as he might consider necessary to issue in the matter.

12. In reply, Mr. McQuhae sent me the enclosed letter, (marked G.), No. 249, dated 5th September 1871, stating that the course adopted in this matter appears to him highly irregular, and that "the Tahsildar exercised sound discretion in "arriving at no decision on this inquiry, for he had no authority to arrive at any "decision."

13. I conceive that there are few persons will concur with this sentiment. I think that it will be generally conceded that a Magistrate, who exercises "sound

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discretion" and who is guided by honourable feelings, will not make the pretence of taking up a case in which he is perfectly well aware from the first that he has no jurisdiction whatever, and that he would, in truth, have exercised a "sound discretion", either by declining to interfere in it at all, or if he did take it up by giving his unbiassed opinion thereon.

14. I regret to have to trouble the Government with this lengthy statement; but I think that it is only due to them that they should know the precise particulars of the case in connection with Balakristna Moodelliar's misconduct, and also that they may be aware of the difficulties with which I, as Superintending Engineer, am surrounded in this district when attempting to bring frauds on Government to light.

No. 568A. From the Government Pleader, to the Secretary to Government, Public Works Department, dated Madras, 12th January 1872, No. 5.

WITH reference to the Proceedings of Government noted in the margin, forwarding certain papers relating to alleged frauds by one Balakristna Moodelly, 8th December 1871, No. 47.

late Taluq Overseer in the Madura District for my opinion, I have the honour to state that I have carefully perused the papers, and find that it is impossible to judge from them whether Balakristna Moodelly can be successfully prosecuted on the charges preferred against him by the Superintending Engineer.

2. The Superintending Engineer, in his letter to Government of 24th November 1871, only enumerates the works in respect of which he is of opinion that a criminal charge of fraud can be maintained against the late Overseer; but he does not state the nature of the fraud nor how it is brought home to the accused. With regard to these particular works, all that appears from the other papers is that as to one (No. 1 in the letter) of them, the Superintending Engineer, from personal inspection, considers it to have been wholly unnecessary; as to another (No. 3 in the letter) the present Taluq Overseer reports that the bricks used are not of good quality; and as to another, (road No. 5, referred to in paragraph 2 of the letter,) the Taluq Overseer says the rate allowed for removing gravel is excessive, in which, however, he is not confirmed by the Assistant Engineer.

3. I would suggest that the Superintending Engineer be requested to specify the exact nature of the frauds with which he charges the late Overseer, and the evidence by which he proposes to support the charge in each particular case, with which information before me I shall be able to give an opinion as to the probable result of a criminal prosecution against Balakristna Moodelly.

4. With regard to the charges of receiving bribes, etc., referred to in paragraph 5, etc., of the Superintending Engineer's letter, I may observe that I have gone through the evidence taken on the inquiry before the Tahsildar, and am of opinion that it is wholly insufficient to support a criminal charge on that head against Balakristna Moodelly.

5. I return all the papers forwarded to me with the above reference.

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29th January 1872.*

No. 569.

ORDER THEREON, 29th January 1872, No. 275.

ESTABLISHMENT, No. 44.

COMMUNICATED to the Superintending
Engineer of the 8th Division, with a
view to his furnishing, if possible, the

information required in paragraph 3 of the letter from the Government Pleader.

(True Extract.)

Colonel, R.E.,

Secretary to Government.

To the Superintending Engineer, 8th Division, with original Enclosures.

Exd. E. C. Shunker.

No. 3228 Superintending Engineer's Office
Madura 24 November 1871

From
Lieut. Colonel H. A. Roberts A.C.
Superintg. Engineer 8th Div.

To
Colonel J. Carpendale A.C.
Secretary to Government

Sir,
In reference to G.O. of the
3rd October 1871, No 2506, I have

the honor
to report that
the late Overseer
Balakrishna
Moodeliar,
could be
successfully
prosecuted
for fraud
in regard
to the charges

passed by him for the three works
mentioned below viz:

1 Shree and palingulah in Maroothoor

Penaconimoy. ————— Rupees 325
 2) balingulah in Poolangoody
 tank ————— 265
 3) sluice in Mannothan tank — 74
 664

2 In addition to the
 above there is another fraudulent
 over charge of 12 annas per cubic
 yard for gravel taken out of the
 side trenches of road No 5 on
 a supplementary estimate of
 Rupees 1786.9.6 prepared by
 Balakrishna Moodeliar, for sanction
 from the expected savings on
 the sanctioned estimate of Rupees
 28,000, and passed by the Charge
 Officer, Assistant Engineer Mr G. R.
 Leggatt, on his own authority
 and without communication with
 this Office. This fraud is brought
 to notice in the acting Talook
 Overseer's letter of the 11 July 1871
 (marked A) received with the Charge
 Officer's letter of the 16 August 1871
 No 292 (marked B).

3 Under these circumstances
 it appears clear that Balakrishna
 Moodeliar must be held directly
 responsible to the Government for
 the losses they have incurred
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 honesty.

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 general decrepitude and bodily
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 of his testicles, I was willing to
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 criminally prosecuted and punished
 provided he was willing to make
 good to Government the above
 mentioned amounts thus shown
 to be squandered viz.

For the three tanks ————— Rupees — 664
 For one half of the over charge
 of gravel on road No 5. ————— 893
 Rupees 1557

But as it is clear by the tone of his letter dated 21st October 1871 (marked C) received with the Range Officers' letter No 506, dated 26th October 1871 (marked D) that he is not disposed to do so, I have no alternative but to recommend that Balakrishna Moodaliar, who is now recovered from his bodily ailments above mentioned, and able to undergo punishment, be ~~not~~ criminally prosecuted for fraud.

5. In connection with this subject, I may mention that I received the accompanying petition from one Anniah Naik, with the collector's endorsement No 783 dated 13th June 1871 (marked E), complaining that Balakrishna Moodaliar is in the habit of receiving bribes and has been "generally plundering" in the Meylore Talook. This petition was sent on by me to the Range Officer

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with an endorsement, No 1016, dated 26th June 1871, requesting that the Acting Talook Overseer Nagalingum Pillay may be directed to conduct the necessary enquiry, and to forward his report at an early date with the Range Officers' remarks thereon. Instead however of complying with my request, Mr Seegatt took it upon himself to place the matter in the hands of the Meylore Tahsildar, whose letter No 142 of the 9th August 1871 forwarding the records of his proceedings connected with this case, is herewith submitted for information (marked F) with its 26 enclosures.

6. On calling upon Mr Seegatt for an explanation as to why he took this matter out of the hands of the Acting Talook Overseer Nagalingum Pillay, who from not being mixed up in the matter appeared to me

the very man to conduct the
enquiry, he, Mr Leggatt replied
that he did so at the Pillay's
own request. The Pillay, however,
not only denies this, but produces
a pencil Memo. in which
Mr Leggatt desires him to
return all the papers connected
with the case, as he, Mr Leggatt
was going to dispose of it himself.

I am of opinion
that the Tahsildar's letter above
referred to could scarcely be
less unsatisfactory. Instead of
arriving at some decision, he
merely talks of the discrepancy
between the statements of the
witnesses, as if this were a novel
proceeding, and "leaves it to the
Range Officer's consideration and
judgment".

It will be observed
that the whole of the evidence
adverse to the Overseer is forwarded
in Tamil, but the pleader's lengthy

defence is submitted in English.
It will also be observed
that this pleader considers that
the Overseer's innocence is in
a measure proved by the following
circumstance "It is also admitted
by the complainant that his
state is too low, and he is
hardly able to maintain himself."

What chance may I
ask has a poor man of obtaining
justice, when the adverse council
is allowed to put in such a
plea as this!—

As the manner in
which the Tahsildar has dis-
posed of this business has been
the occasion of considerable
comment, I thought it my
duty to bring the matter to
the notice of the Madras District
Magistrate, for such instructions
as he might consider necessary
to issue in the matter.

In reply Mr. McEwen

sent me the enclosed letter (marked C.)
No 249, dated 5 September 1871 stating
that the course adopted in this
matter appears to him highly
irregular, and that "the Tahsildar
exercised sound discretion in
arriving at no decision on this
enquiry, for he had no authority
to arrive at any decision."

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it will be generally conceded
that a Magistrate who exercises
"sound discretion" and who is
guided by honorable feelings,
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of taking up a case in which
he is perfectly well aware from the
first that he has no jurisdiction
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the Government with this lengthy
statement, but I think that it is
only due to them that they should
know the precise particulars of
the case in connection with
Balakrishna Moodeliar's misconduct,
and also that they may be aware
of the difficulties with which
I, as Superintending Engineer, am
surrounded in this District when
attempting to bring hands on
Government to light.

I have the honor to be,
Sir,
your most Obedt. servant,

Richd. Roberts Lieut. Col. R.E.
Superintending Engineer S.D.W.

Pro 3rd Oct/71. W 25

P. W. 1871 Dep. 1st.
From No 3228
No 5637.
The Deputy Engineer
8th DN
To "

The Secretary to
Government DPW

Dated 24th Nov 1871
Received 27th

Enclosure. 34.

P. W. 173/72.

Reports that the
late Overseer Bala
Krishna Moodeliat
could be successfully
prosecuted for
fraud in regard
to the charges
passed by him
for the works referred
to in the 29th Dec/72.

568. —

to 29th Nov/71 at 7th Dec/71

Read again letter from the
Superintendent 8th DN, dated 24th Nov/71, No 3228
and recorded in Miscellaneous Proceedings, dated
8th December 1871. No 47

Communicated to the S. Eng
of the 8th DN with a view to his
furnishing, if possible, the informa-
- tion required in Para 3.

15th

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To

6 Shd with 34 original
deposited 31/1/72

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Govt. of 1672; Madras.

PUBLIC WORKS.

to the Springfield Aug 2
8th Division

Noted

Bari.

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G. O. 29th May 1872. 275.

late Nos. 568, 569

Overseer Balekistun hereby
letten from the Govt. House
advising as to the alleged
frauds by late
Balekistun ⁱⁿ ~~murder~~ of the
in the Madras District,
come to the Supt. S. D.
of the concerned with instructions