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MADRAS RECORD OFFICE

Government of Madras

Public Works DEPARTMENT

G.O. No.	3387	Press
B.P. No.		Mis.
Dated	2-12-	1944

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Works Department,
2nd December 1874.*

No. 36. Read the following letter from W. S. HARRINGTON, Esq., District Engineer, Malabar, to Colonel G. W. WALKER, R.E., Secretary to Government, Public Works Department, dated Calicut, 19th November 1874, No. 172 :—

I HAVE the honor to forward papers as per margin in connection with a suit

1 Copy of letter from Mr. Supervisor Lalor, to the District Engineer, No. 410, dated 16th November 1874.

1 Do. do. from Overseer D'Rebello, to Mr. Lalor, No. C, dated 15th October 1874.

1 Do. do. No. G, dated 20th October 1874.

1 Do. of plaint, dated 14th November 1874.

1 Do. of answer.

brought by one Atchuden against Overseer D'Rebello, who requests permission to employ a Vakil to defend it.

2. D'Rebello is at present under suspension, but the claims preferred by the plaintiff are for arrears due to him since 1873.

No. 37. ORDER THEREON, 2nd December 1874, No. 3,387.

ESTABLISHMENT, No. 5.

THE employment of a Vakil to defend the case is sanctioned, but the question as to the payment of costs

thereof will be deferred till the result has been reported, and copy of the judgment furnished for the information of Government.

2. The Governor in Council is constrained to observe that this case does not seem to have received the slightest attention at the hands of the District Engineer, whereas it was clearly his duty to have made himself acquainted with the particulars of the claims advanced and the defence proposed, so as to advise the Government as to whether the former are based on any reasonable grounds or otherwise.

(True Extract.)

(Signed) G. W. WALKER, Colonel, R.E.,

Secretary to Government.

To the District Engineer, Malabar.

Exd. E. C. Shunker.

Spare Copies

Draft Answer to Atchuden's plaint.

Allegation of plaint.

1. That he was appointed by defendant as a Cooly Maistry in June 1873 at 8 annas per diem, and was retained as such till 26th November 1873; and on that account claims Rupees 66, deducting Rs. 15 from Rs. 81, the alleged amount of his pay from 15th June to 26th November 1873:—

Defense.

Plaintiff says that he was appointed in D. P. W., but not to any particular work or works, nor it is clear from the Memo: of account at the foot of the plaint, but inferring from other circumstances, he means it to be on the Tambacherry road works, I

assert that his alleged appointment by me as a cooly Maistry on 15th June 1873 is false from the simple fact that I only took charge of the work on 27th June, (vide report of Range Officer dated 29th July 1873 No. 296, and that of Range Maistry Parichan dated 27th June 1873) and could not therefore have appointed him on 15th June 1873:—

On my assuming charge of the works I found him to be a petty Supplier of road metal such as broken stones and River Shingle, which I allowed him to continue till October 1873, but never appointed him as a cooly Maistry. He as well as other petty Suppliers of road metals were fully paid for their supplies by Range Officer on bills issued by me. (vide Vouchers bearing their signatures & Vouchers Nos. 90, 91, 152 & 196 of 1873 and No. 50 of June 1874.)

In October 1873 when
the collection of masts
stopped and spreading
commenced, I employed him
and one Periasetty as ¹⁸ coolies
on the 25 mile to the Tankasherry
road on 13 October at 3 annas
per day they worked and paid
himself (plaintiff) on that account for
days worked from 13 October to 26th
November viz Rs. 19, on 3 rolls by two
payments one of Rs. 4 and the other of
Rs. 15; of which Rs. 15 only he acknowledges
falsely to have been paid to him out
of his alleged pay as Head Cooly or by
Maistry from 15 June to 26 November 1873
viz: Rs. 81. The sum of Rs. 19 of which 15 Rs.
he acknowledges to have been paid to him out
of his pay of Rs. 81, was paid to him with other
coolies according to the rolls furnished by him for work
done between the 13 October to 26 November 1873. (vide Voucher
N^o 205 of 20 Decr: 1873 & N^o 283 & 284 of 31st January 1874)
If he then had any claim to his pay from 15 June to 12th
October 1873 he would not have accepted the payment of
Rs. 19 or 15. The claim to the alleged balance is
therefore not only false but untenable in law.

I have to point out the
impossibility of the facts he
alleges viz: he claims Rs. 81
as his pay from 15 June to 26th
November 1873 at 8 annas per
diem

diem for which he must
have worked 162 days, ~~as~~
whereas the number of days
between the said dates is only
131 after deducting the Sundays
(24) and average native holidays
(10), it is evident he could not
have worked for more than 131 days
for which he could according to
his own assertion, claim Rs. 65-8-
only and not Rs. 81.

False as his claim is
so absurd & inconsistent
are his allegations as eviden-
ced by the foregoing para.

That he claims Rs. 6, as
his pay as Munsalji of
Pudoorpady bungalow for
October and November 1873.

Plaintiff was ex-
watcher (Munsalji) of
Pudoorpady bungalow,
when I took overcharge
of the Tankasherry road,
which building he was
looking after in addition to
the petty contract, retained as
such till the end of August 1873,
(when he was dismissed for allowing
his coolies to cook & sleep in the
building) & received payment on that
account up to that month at Rs. 3 per

month as per Vouchers N^o 26, 65, & 109 of 1873.
Afterwards, one Allee was appointed to look after the
bungalow & was paid at the same rate from 1st
Novr: 73. (vide Voucher N^o 243 of 17th January 1874.)

If the plaintiff had continued up to November 1873 he would have received his pay for Sept. which has not been debited the Cash book, and which he does not claim to.

He states in his plaint the amount of Rs. 145-1-0 was found due to him on 26 November 1873, which includes his pay as Mussalji or watchman for October & November is before close of the month for which he claims pay.

III He states that Rs. 65-15-0 is due to him on account of supplying broken stones &c.

Plaintiff does not say when he was engaged in this work, & makes his statement quite obscure by not giving the date and not saying, whether the metal was collected departmentally or supplied at the road by him as metal supplier. Although in obscurity I affirm what he stated is false, for the metal was supplied by petty Contractors as stated in para II of this statement & they were paid at a fixed rate per cubic yard of the metal brought & measured on the side of the road, and not the hire of coolies for collecting, cleaning

cleaning pathway, and for sundries were paid to them as shown in his plaint. From the time I took charge of the Tambacherry road the collection of metal was not done departmentally but petty suppliers brought it to the road & were paid for the quantity measured per cubic yard at a fixed rate which will be proved by plaintiff when put in the witness box and by his own Vouchers.

IV He also states Rs. 7-2-0 is due to him on account of provisions supplied to Office Servants or departmental Cartmen at the order of the defendant.

I never ordered the plaintiff to supply provisions to any & especially to departmental cartmen or Office Servants who were paid in cash and not in provisions for work done. The cartmen or office servants will themselves disprove the allegation of plaintiff if called upon.

/s/ S. B. D'Kebello
Taluk Officer D.P.W.

/s/ J. B. C. P.

W. Hamilton
D. Engineer Malabar

To

The Officer in charge
No. 11 of Calicut Range.
Calicut.

Sir,

I beg to report for your information that I have received a summons from the Subordinate Judge South Malabar Calicut to answer a suit on 26th Instant filed against me for Rs 145-1-0 by one Atchuden being the amount he alleges due to him on account of his pay for work done on Sambercherry Road as Maistry. This man you are aware was employed during the time of Range Maistry A. Marichen and continued in the work as a Petty Contractor until or about October 1873, but not as a Maistry. I therefore beg you will be so good as to favor me with attested copies of Bills and Measurement slips issued by me and paid by you in the Range Office from July 1873 to this date together with the No. of Cheques that were given to him from time to time. In the meantime I beg I may be permitted to engage a Pleader to defend the Suit.

I beg &c
Signed / S. B. W. R. bello
Juling Joverar. 10. 12. 74

In a letter from
the Dist. Engineer
Malabar to the
Secretary to Govt.
No. 8. H. Malabar
dated 19th November
1874, No. 172

Ms. 7207 Dec 1/74
In B. A. 36.

Wright answers to
the plaint in the
suit Atchuden
Revenue Officer
Malabar.

Ms. 7310/74
1/1/74

N^o 6

Calicut 20th Oct 1874.

To

The Officer in charge
Calicut Range.
Calicut.

Sir,

With reference to your endorsement N^o 453 of 19th Instant I beg to inform you that it is impossible to me to prepare the answer to Atchaden's Complaint as prescribed in paras 4 and 5 Chapter ~~III~~ of P. W. Code without the documents alluded to in my letters N^{os} C and F of 15th & 19th Instant respectively. I therefore beg you will be so good as to favor me at once with all the copies of documents required by me for preparing the answer.

I beg to be

Signed/ S. B. N. N. N. N.
Calicut. Overst N^o P. W.

[True Copies]

Signed/ J. L. L. L.

In ch. Calicut Range.

[True Copies]

W. W. W. W.

W. W. W. W.

To

The Subordinate Court

Calicut

16th Nov 1874

In a letter from
the Dist. Engineer,
Malabar, to the
Secretary to Govt,
D. P. H. Madras
dated 19th Nov 1874
No. 172.

12th Dec 1874
D. P. H. No. 36.

Copy of Govt. Order
letter informing
Mr. Supr. Labor
of the suit brought
against him by
one Atchuden.

13th Dec 1874

The Subordinate Court,
South Malabar

Poricherry Atchuden of Barba } Plaintiff.
Banshom Salient Talug— }

Overseer of Pabell, D. P. H. of — do } Defendant.
do — do — do }

Plaint. Under Section 26 of Civil
Procedure Code, that a sum of Rs. 145-1-1,
being balance due on account of my
pay and hire of coolies for doing road
work, may be decreed to be paid to
me by Defendant with costs of the
suit and interest at 12 per cent from
this date as well as from the date of
judgment.

Defendant appointed me
a cooly mistry in D. P. H. in June 1873,
on a pay of annas 8 per diem, and as
such I served until 25th November 1873
2. Rupees 66, being balance after
deducting Rs. 15 paid out of Rs. 81, the
amount of my pay from 15th June to
25th November 1873. Rupees 6 being my pay
as Munsalji of Pudoopady bungalow
for October and November 1873. — Rs. 15-10-0
on account of supplying broken stones &c.
between 24th and 25th miles of Tambrecherry road

road - and Rupees 7-2-0, on account of provisions supplied to office servants at the order of the defendant; in all Rs. 145-1-0, were found due to me by defendant on 26th November 1873 on which date defendant undertook to obtain and pay to me immediately.

The defendant has not as yet paid the amount, though he was on several times and even yesterday asked for it; hence this suit.

Pay from 15th June to 26th Nov/73	81	00			
Deduct amount received	15	00			
Balance			56	00	
Pay as Massalji of Pundrapady.					
kingalaw for October & November 1873			6	00	
On account of provisions supplied to Departmental cartmen			7	20	
coolies for collecting shingle	4	10			
Rs. for making a pathway for conveying broken stones	13	20			
Cart hire for carting shingle	25	40			
On account of baskets	21	60	15	50	
Total Rupees			145	10	

Dated 3rd October 1874 or Kanni 1059

I certify that the above statement is true to the best of my knowledge & belief.

(True Translation)

14th Nov/74

[Sd]/ S. B. S. P. H.
Sally Coorner R. P. H.

1. Jan 1874

W. H. M. S. T. C.
S. T. Engineer Malabar

N^o 410

N^o II or Calicut Range Office
Calicut 16th Novem bet 1774

From

The Supervisor in charge of
Calicut Range.

To.

The District Engineer of
Malabar.

Sir,

I beg to submit herewith
in the Subordinate Court Malabar a true Translation of a plaint in a suit
Calicut brought by one Mehuden against
Overseer W^m Rebello and the Overseer's
draft answer thereto and to recommend
that the Overseer be allowed to employ
counsel to defend the suit.

Enclosures
2 Copies of Overseer's
letters to Range
Officer of 15th &
20th Octaber 1774.

I beg
(Signed) J. Labor Supervisor
In charge Calicut Range.

(True Copy)

W. Sharman Esq
D. Engineer Malabar.

In a letter from the
Dist. Engineer Malabar
to the Secretary
to Govt. H. O. P. H. Malabar
dated 19th Novem 1874
No 172.

Ms. 7 2nd Dec 1774
in B. N. 36.
Copy of plaint in
the Court Mehuden
versus Overseer
of Rebello.

Mr 2010/74
3/74.

Malabar District Engineer's Office
 Calicut 19th November 1874
 To
 The District Engineer,
 Malabar

To
 The Secretary to Government,
 P. W. Department,
 Madras

Sir, I have the honor to forward papers as per margin in connection with a suit brought by one Atchuden against Overseer W. Rebello who requests permission to employ a Vakeel to defend it.

W. Rebello is at present under suspension but the claims preferred by the Plaintiff are for arrears due to him since 1873.

I have the honor to be
 Sir,
 Your most Obedt. Servant

W. Harrington
 District Engineer, Malabar

Copy of letter from the Superior Police
 to the District Engineer, Malabar, to the
 Secretary to Govt, P. W. Department,
 Madras, 19th November 1874
 No. 172
 P.S. 22nd Dec 1874
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 No. 172
 P.S. 22nd Dec 1874

410 26-11-74

36-37

Transacting papers in
connection with
suit - Attorneys
General Bismarck
Bellevue

Wm. B. B. B. B.
No. 33387

Notes 197
Recd 91

1972
Recd. 4

The Secretary to Govt
No. 8. 77
Charters

By W. 1874
Hon. Secy of State
The District Engineer

4 0 10: 33 37 42 Dec 24
The improvement of a harbor to -

depend the case is sanctioned but the
question as to the propriety of erecting there of
will be disposed to the result has been
reported, and copy of the judgment furnished
for the information of Government.

The Governor in Council is satisfied
to observe that this case does not seem to have
received the slightest attention at the hands
of the District Engineer, whereas it was clearly
his duty to have made himself acquainted
with the particulars of the claims advanced
and the dispute involved, so as to advise the
Government as to whether the former are
founded on any reasonable grounds or otherwise.

We will not put it away:
We will only let claim - &
Subjecting it to the
We will not let it be
We will not let it be
25th

7316
Govt. of 1874 Madras.
PUBLIC WORKS.

To *Mr. J. C. C. C.*
Malabar

Dated

Recd.

Encl. 4

G. O. 2 Dec. 1874, No. 3385

Nos. 36-37.

Malabar

Unit The employment

of a vessel to defend the
unit brought by one of the
against the vessel of the
sanctioned with the usual
the payment of the cost of the
as to the payment of cost
to be agreed to the result
is reported & copy of the
report to be furnished to the

information of C. S.