

(1) Number of pages _____

(2) Date of repair _____

(3) Initials of the Referencer _____

MADRAS RECORD OFFICE

Government of Madras

Public Works

DEPARTMENT

G.O. No.	169	Press
~~B.P. No.~~		~~Mis.~~
Dated	20. 1.	195
		1875

Original

Not to be folded or roughly handled

No. 348. 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, 5th December 1874, No. 182:—

I HAVE the honor to acknowledge the receipt of G. O., No. 338, dated 2nd instant.

2. With reference to paragraph 2, I have to express my very deep regret at the expression of His Excellency's opinion that the case of "Koricherry Atchuden" *vs.* Overseer D'Rebello, does not seem to have received the slightest attention at my hands in my official capacity as District Engineer. I trust I may be pardoned for venturing with all deference to point out that I have complied with the instructions laid down in Chapter XIII. of the Code under head of "Legal Proceedings," with perhaps the one exception of forwarding the report called for at the conclusion of paragraph 5.

3. I would beg, with all submission, to be allowed to state that I was not in charge of this district from the 15th of June to the 26th of November 1873, the period for which the plaintiff claims salary as cooly maistry from the Overseer; I did not take charge till the 20th of December of that year, nor was there any correspondence connected with the subject among the office records; the first intimation I received of the matter was from Mr. Supervisor Lalor on the 16th ultimo, when he addressed me by letter No. 410, with which were forwarded copies of the Overseer's Nos. C. and G., dated 15th and 20th October, respectively; these were forwarded to Government with my No. 172, dated 19th ultimo, accompanied by an English translation of the plaint and copy of the defence proposed by the Overseer; to this latter I had nothing to add, knowing nothing of the circumstances of the case, and conceiving that the Overseer's reply would be deemed sufficient.

4. The Overseer himself being under suspension, I doubted whether I was legally, or departmentally, authorized to call upon him for his defence, and it did not, I candidly admit, strike me as imperative upon me to do so, when he had forwarded to me a written statement of his proposed answer for the satisfaction of Government. I was, and am, unable to state from my own personal knowledge whether the claim put forward by the plaintiff was a just and proper claim or not, and Mr. Lalor, the officer in charge of the Range, could not, and cannot, say more than that he believed, and believes, the plaint to be untenable; perhaps I ought to have stated this latter fact in my No. 172, dated 19th ultimo, but I believed in my conscience that the case was simply one between man and man, *i.e.*, between the plaintiff and the Overseer in an open Court; that I could not, as District Engineer, adjudicate on the merits or demerits of the case, and that I had done all that was required to do in forwarding copies of the documents already alluded to.

5. I am now informed that I have erred in not thoroughly examining the circumstances of the claim; and in obedience to the orders I have received I venture to offer my opinion upon them, earnestly hoping that what I have already stated may have some weight with His Excellency the Governor in Council.

6. I have been carefully through both plaint and reply, and unless the Overseer is altogether untrustworthy, I do not see how the former can be established, for the plaintiff could not have been both petty contractor and a salaried head

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Proceedings of the Madras Government, Public Works Department,
20th January 1875.

cooly at one and the same time; whereas, from his own statement, it would appear that he not only filled both these appointments, but in addition was mussalchi of the Poodoopaddy bungalow for October and November 1873, and provision supplier to departmental cartmen besides.

7. The plaintiff's statement, that he was appointed a cooly maistry by the Overseer on the 15th June 1873, is contradicted by the latter, who states (and is right in so stating) that he only took charge of the work on the 27th idem, when he found that the plaintiff was employed as a petty supplier of road materials, in which capacity he remained till October of the same year, when, on the 13th of that month and up to the 26th November, he (the plaintiff) was employed as a head cooly. I place no stress whatever on the Overseer's observation regarding the number of "working days" for which the plaintiff claims salary; for the latter, if employed at all, may have held that his pay was "monthly." I look upon this remark of the Overseer's as irrelevant to the real question, and as merely a legal quibble, for his letter is evidently drawn up by a Vakil or other legal adviser.

8. The plaintiff received payment by cheques given by the Range Officer in July as a petty contractor for broken stone to the amount of Rupees 122-4-6; in August he received Rupees 70-11-0 for a further supply of the same material, and in October a third sum of Rupees 109-9-0 for broken stone and shingle delivered on the road side, including cart hire; the plaintiff acknowledges the receipt of these three sums "as a final payment in settlement of all demands;" his claims for payment to coolies for collecting shingle (4-11-0), for making a pathway (where he does not state), for conveying broken stones (13-2-0), cart hire for carting shingle (26-4-0), and on account of baskets (21-14-0), (a large amount for such cheap articles,) I hold to be untenable, as the terms of a contract include all these items; his receipts, have also been attached to the bill for his pay as head cooly from 22nd October to 8th November and from 10th to 26th November at 8 annas per diem = Rupees 15. He also acknowledges the receipt of Rupees 4 as his pay as head cooly from the 13th to 21st October; when he received cheques from the Range Officer for materials supplied by him as a contractor, the plaintiff must have known perfectly well that no pay could be passed to him as a cooly maistry.

9. Under the circumstances now represented by me, I venture to state my opinion that the claim put forward by the plaintiff is a false and frivolous one, and to express my regret that I should not have given this opinion earlier.

No. 349.

ORDER THEREON, 20th January 1875, No. 169.

ESTABLISHMENT, No. 24.

RECORDED pending the submission
of a report of the decision of the case.

(True Extract.)

Colonel, R.E.,

Secretary to Government.

To the District Engineer, Malabar.
Exd. S. T. Austin.

Spare Copies

N^o 182. Malabar Distt. Engineer's Office
Calicut 5th Dec^r. 1874
From
The District Engineer,
Malabar.

To
The Secretary to Government,
Public Works Department,
Madras.

Sir,

I have the honor to
acknowledge the receipt of
G.O. N^o 338 of dated 2nd instant.
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I



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I have the honor to be,
Sir,

Your most Obedt Servant,

W. H. Livingston
District Engineer,
Madras.

Addressing a pla-
-card on the
-card at the
-cherry Cathedral
-riding Queen
-at the Hotel.

Feb. Nov. 1953. 20-1-95.

2007/11/15

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mission of a Report of the degrading
the case -
Erwin

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7664
Govt. of 1874 Madras.
PUBLIC WORKS.

3664 A. 8-12-74

To The Dist. Ingr.
Malabar

Dated

Recd.

Encl.

G. O. 20 Jan 1875 No. 169.

Nos. 348-349.

The decision of
the court -

Suit Letter from the
Dist. Ingr. Malabar
offering explanation
in the case of the en-
brought against Over-
& Rebels by Kori-
cherry Alchuden
recorded pending the
submission of a report