

GENERAL.
ESTABLISHMENT.

Govt. of 1888 Madras.

PUBLIC WORKS.

Dated July, 7th.

Recd.

Encl.

G.O., 7th July 1888, No. 2050 W.

JULY.

Criminal Suits

Instructions regarding the prosecution and defence of — by officers of the Public Works Department and the modification of Public Works Code para. 405.

It was now with me

No. 2489 Ct., Judicial.

Transferred to the Public Works Department accordingly.

(By Order.)

OOTACAMUND,
28th June 1888.(Signed) A. G. CARDEW,
Ag. Under-Secretary.

ORDER—dated 7th July 1888, No. 2050 W., Public Works.

The rule in para. 405 of the Public Works Code refers to civil proceedings only, and not to criminal cases.

2. When a public officer is prosecuted criminally, he must defend himself, and the only question will be whether he should bear the cost personally, or whether Government should bear it. This is a question which can only be decided after the investigation. The officer must, therefore, in all cases apply to the District Magistrate to appoint a vakil, and unless it is obviously a personal matter, or so simple that legal assistance is not necessary, the District Magistrate should comply with the request, subject to future orders as to payment of the fee.

3. As to prosecutions by officers of the department, Executive Engineers will be authorised, at their discretion, to order such to be instituted in very petty cases, or cases of emergency, but no important prosecution should be instituted without the sanction of Government, except in cases of emergency. In cases of doubt the Executive Engineer will do well to consult the District Magistrate, and no vakil can be retained, except through that officer.

4. These orders will be embodied in the Public Works Code.

(True Extract.)

(Signed) J. O. HASTED, Colonel, R.E.,
Secretary to Govt., P.W.D.

To Superintending Engineers.
To the Consulting Architect to Government.
" Superintending Engineer, Periyár Project.
" Examiner, Public Works Accounts.
" Chief Engineer for Irrigation.
" Consulting Engineer for Railways.
" Judicial Department.

Exd. F. R. Bantleman.
Spare Copies

READ—also the following paper :—

From H. SEWELL, Esq., District Magistrate, South Arcot, to the Chief Secretary to Government, dated Cuddalore, 4th June 1888, No. 111/88 :—

I have the honor to report the following case for the orders of Government.

2. On the 22nd February 1888 a complaint was lodged by one Nadamuni Sreenivasa Iyengar before the 2nd-class Magistrate of Mannárgudi, charging one Rangasami Pillai, head lascar of the Lower Coleroon anicut works under the Public Works Department, and another, with illegal seizure of cattle under Section 22, Act I of 1871.

3. The Sub-Magistrate fixed the hearing of the case for the 3rd March and sent out summonses. On that date the Public Works Department Superintendent of the Rajavoikal and the head lascar (one of the accused) requested the Sub-Magistrate to adjourn the case, as it was intended to bring a counter-complaint against complainant of having resisted the seizure of impounded cattle, and having rescued them while being taken to the pound. It was stated that this matter had been referred to their official superior the Assistant Engineer for orders.

4. The Sub-Magistrate first adjourned the case to the 17th and then to the 24th March 1888, but no complaint was formally laid by the head lascar, and on the matter being brought by the Sub-Magistrate to the notice of the Executive Engineer, through the Assistant Engineer, the former officer requested me in letter No. 246, dated 23rd March 1888, to say whether the case could not be adjourned till the sanction of Government to the institution of the counter-case which had been applied for was received.

5. As the counter-complaint was a simple matter, being an offence under Section 24, Act I of 1871, I asked the Executive Engineer (letter No. 55/88, reference on Engineer received, dated 5th April 1888) why, the sanction of Government was required; but as no reply was received till the 26th idem, I reminded him on that date.

6. In his letter No. 333, dated 30th April 1888, the Executive Engineer said that under para. 405 of the Public Works Code, the members of the Public Works Department were prevented from instituting or defending any suits in their official capacity without the formal sanction of Government, and that sanction had, therefore, been applied for.

7. I pointed out to the Executive Engineer, on the 2nd May, that the paragraph of the Public Works Department Code referred to by him related to civil suits and not to criminal proceedings, and asked him whether he had any other objection to the case against the lascar being proceeded with. I again reminded him of the above on the 14th May.

8. The Executive Engineer and Superintending Engineer, whom I also addressed on the subject, are both of opinion that para. 405 of the Public Works Code refers to criminal as well as civil proceedings, and inform me that the sanction of Government has been applied for through the Chief Engineer for the institution of a complaint against Sreenivasa Iyengar referred to above, and for the defence of the complaint brought by him, and therefore ask the case to be allowed to stand over till the sanction is received.

9. I am of opinion that para. 405 of the Public Works Code refers only to civil suits. If sanction has to be applied for in every petty criminal case of the kind, great delay in their disposal will necessarily result. I have, therefore, the honor to request the favor of instructions as to whether it is necessary to obtain the previous sanction of Government in such cases.

Referred to the Public Works Department for the favor of remarks.

(By Order.)

15th June 1888.

(Signed) A. G. CARDEW,
Ag. Under-Secretary.

7TH JULY 1888, No. 2050 W., PUBLIC WORKS.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

General.
Establishment.

READ—again the following:—

G.O., dated 30th May 1888, No. 1580 W., Public Works.

Read—the following letter from Major A. W. SMART, R.E., Executive Engineer, South Arcot Division, to the Superintending Engineer, V Circle, dated Cuddalore, 7th March 1888, No. 114:—

I have the honor to inform you that the Subdivisional officer, Chidambaram, forwarded, with his letter No. 114, dated 24th ultimo, a report received from Rungasawmi, head lascar, Coleroon Rajahvoikal, complaining of assault by Nadamuni Sreenivasa Iyengar and others of Kangankollai village, Chidambaram taluk. The case is this, that while the head lascar and other lascars tried to take to the pound in the Kondayaruppu village about 150 cattle, which were grazing nanal in the Coleroon padugai in the limit of Kangankollai on the evening of 19th February 1888, the above-mentioned individuals (Nadamuni Sreenivasa Iyengar and others) illegally obstructed the lascars from driving the cattle to the pound, and also assaulted them. Notwithstanding this interference, the head lascar succeeded in pounding 9 cattle as per receipt enclosed. I intended to have prosecuted the offenders before the Magistrate, as there appears to be sufficient ground to do so and also sufficient proof to establish the case; but, in the mean time, the Subdivisional officer, Chidambaram, intimated in his letter No. 129, dated 28th February 1888, that the head lascar had been summoned to appear before the Sub-Magistrate of Mannargudi on the 3rd March 1888, on a charge brought against him by Nadamuni Sreenivasa Iyengar for wrongfully impounding cattle, whereupon the Subdivisional officer was asked to request the Sub-Magistrate to postpone the case till the counter-case can be brought. I therefore request that you will obtain the sanction of Government to the case brought against the head lascar being defended at the public expense, as also to the institution of the counter-case against Nadamuni Sreenivasa Iyengar and others.

No. 717.

Forwarded to the Chief Engineer, Public Works Department, with recommendation that sanction be given under Code para. 405, to the defence of the charges brought by the villagers against the lascar, and to the prosecution of the counter-charge by the lascar against the villagers being conducted at the public expense.

BANGALORE,
19th May 1888.

(Signed) H. M. VIBART, Colonel, R.E.,
Superintending Engineer, V Circle.

Order—dated 30th May 1888, No. 1580 W., Public Works.

The defence of the suit brought against head lascar Rungasawmi, and the prosecution of the counter-charge, at the expense of the State, is sanctioned. It does not appear why the papers were delayed by the Superintending Engineer from the 7th March to the 19th May. The result of the cases should be reported.

(Signed) W. L. C. BADDELEY, Captain, R.E.,
Under-Secy. to Govt., P.W.D.

OFFICE OF THE SUPERINTENDING ENGINEER,

6TH CIRCLE.

Trichinopoly 20th August 1888
Depd 22nd

No. 11367

From

J. W. Randall Esq.
The Superintending Engineer,

6th Circle.

To

The

Secretary to Government
P.W.D.

Sir,

ENCLOSURES.

I have the honor, with reference to G.O. No. 2549 W. of the 8th inst., to state that G.O. No. 499 W. of the 11th February 1888 is not one to which I can send a reply.

2. Para 2 of the G.O. calls for an explanation from Colonel Pennington, the matter is personal relating to that Officer, & not to his successor in the post Superintending Engineer, 6th Circle.

3. I therefore request permission to omit this G.O. from future lists of unanswered references.

4. It was not brought into

The circle list for the above reasons.

I have the honor to
Sir
Your most Obedt^h Serv^t

L. W. Randall
Supp. Capt. 6th Liek

Am.

8433

Dw

Colonel Pennington
has not submitted the
report called for in
in para 2 of So. No
So m of 31.1.88.

For orders whether
his attention shall
be called to the
matter -

Cu
24.8.88

Yrs.
Wm
24.8.88

B. No 499 W. 11.2.88
" 2549 W. 18.8.88
" 2349 W. 2.8.88
G. 6.188 W. 17.1.88.

P. W. D. 6TH CIRCLE.

(12)

From

The Superintending Engineer,
6th Circle.

To

The Secretary to Govt.
P. W. D.
Madras.

No. 1136 of

Dated

20th / 22nd / 24th /

August 1888

Enclosure.

File

Requesting permission
to omit G.O. 499 W / 11-2-88
from
future lists of unan-
-sured references for
the reasons assigned.

With order

With order

On

No. 2708 W. 31st August

B

(12)

G.O. No 499 W

dated 11th Feb 1888 may be
omitted from the return
of unanswered references
in the VI Circle.

The attention of
Col. Pennington R.E.
will be drawn to
para 2 of the order
to which he has not
yet replied.

Wm
27.8.88

Jm
28/8/88

S.E. VI Circle

Col. Pennington R.E.

with spare copy of the G.O.

7/9/88

8579