

P. W. CURRENT No. 7661

Govt. of {1892} Madras.
REVENUE.

Issued

30.8.92

Recd.

27. vii. 92

Encl.

G.O., 29th June 1892, No. 669.

JUNE.

Assistant Inspector of Salt and
Abkari Department.

Passing orders on Board's Proceedings sub-
mitting certain remarks on Government Order
ordering fresh inquiry into the case of an —.

Ord. E. vii
25/7

with order

No 2108.W. 29 July 92

Communicated to
Communicated to
Officers of the P.W. Dept
Officers of the P.W. Dept

OUR

23-7-92

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(6)

C.E. for J ✓

C.E. for J ✓

C.E. for J ✓

S. Engrs ✓

C.A. to J ✓

S. of W.P.P. ✓

Exr. P.W. Accts 20/7/92

Exr. P.W. Accts.

12 copies to 20/7/92

J.C. 1/8

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GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

2108
5 July

READ—the following Proceedings of the Board of Revenue (Separate Revenue), dated 9th May 1892, Mis. No. 1714 :—

C. S. CROLE, Esq., C.S.

Read—G.O., dated 25th April 1892, Mis. No. 2101, Revenue :—

Resolution—dated 9th May 1892, Mis. No. 1714.

Communicated to the Assistant Commissioner, Chingleput, who will make a fresh inquiry into Mr. — case as ordered by Government and report the result to the Board.

2. As this is not the first instance in which a case which the Board had deemed to be complete as far as the circumstances permitted has been referred back by Government for re-investigation, the Board would respectfully ask His Excellency the Governor in Council to lay down some further instructions by which it may be guided in dealing with charges of misconduct against public officers in future.

3. It will be observed from Board's Proceedings, dated 6th February 1892, Mis. No. 360, that the misconduct in respect of which Mr. — was dismissed occurred on the 12th January last, and that on the 13th idem he was ordered by his Inspector to submit his explanation in writing. This request had not been complied with up to the 20th January, when the matter was taken up by the Assistant Commissioner, though Mr. — (who alleged he was sick) had been able to attend office in the meantime and had on the 17th received a reminder from the Inspector. The matter having by this time been reported to the Assistant Commissioner, the latter first sent Mr. — a notice to attend an inquiry which he proposed to hold on the 20th January, and when Mr. — alleged his inability to comply, an order to attend on the 21st or else to produce an adequate medical certificate of his incapacity to do so. Mr. — having failed to comply with either alternative, the inquiry was conducted in his absence. Again on the 21st January the Board, on a report from the Assistant Commissioner, ordered Mr. — to explain his conduct either in person or by letter by the 25th instant. The only notice taken of this was a short letter (copy enclosed) which is really no explanation at all, since it merely states that Mr. — was not intoxicated on the occasion under reference, and which, though dated 25th January, did not reach the Board till some days later. Under these circumstances, the Board considered itself justified in assuming that Mr. — had no valid explanation to offer and in dealing with the case on the evidence sent up to it by the Assistant Commissioner.

4. The purport of the existing orders in regard to the dismissal of public servants is that the charges against the culprit should be clearly set forth; that he should have full opportunity of making his defence which must likewise be recorded; and that these should be carefully considered before orders are passed. The Board has always endeavoured to comply with these instructions in so far as lies in its power and has caused its subordinates to do the like; but it has considered itself entitled to assume that when an officer has had due opportunity afforded to him of defending himself and

neglects to do so he must bear the consequences. The procedure in personal inquiries such as that which the Assistant Commissioner held in the case of Mr. _____ is modelled on that of the Judicial Courts of the country, and no Civil Court would delay the disposal of a case when one of the parties was absent without due cause. The suit would be decided on the evidence already produced, or that which the other side might offer, although the consequences of the defaulter might be quite as serious as dismissal to a Government servant. A Criminal Court would procure the attendance of a defaulting defendant by means of a warrant, but this power the Board and its subordinates do not of course possess.

5. If the policy the Board has hitherto adopted is wrong, it would seem that the best course which an officer charged with misconduct which he is unable to rebut can pursue is to refuse to appear and answer the charges against him, since in this case either the inquiry will be indefinitely prolonged or some months afterwards a fresh inquiry will be ordered, while, in the meantime, the memory of the witnesses will have grown rusty through lapse of time or means may be found to successfully tamper with them. For these reasons, the Board begs respectfully to ask the favour of instructions as to the course to be pursued in order to avoid delay in disposal and miscarriage of justice in such cases as the one under reference.

(A true Copy and Extract.)

(Signed)

W. S. MEYER,
Acting Secretary.

To the Secretary to Government, Revenue Department, with
copies of Board's Proceedings, dated 6th February 1892, No. 360,
and Mr. _____ letter referred to in paragraph 3.
" Assistant Commissioner, Chingleput, with the records (paragraph 1).
" Deputy Commissioner, Central Division (paragraph 1).

ORDER—dated 29th June 1892, No. 669, Revenue.

Miscellaneous.

With reference to paragraphs 2 and 5 of its Proceedings read above, the Board will be informed that the Government has necessarily be dealt with in his absence, and this is what occurred in Mr. _____. It case, for the Board sent him due notice to appear in person or to furnish a written explanation before the 25th of January and was justified, when he failed to do either, in dismissing him for contumacy, disregard of orders and general misconduct. The Government ordered a re-inquiry to be held in Mr. _____ presence not because it took exception to the procedure adopted by the Board, but because it thought fit, in the exercise of its discretion, to give Mr. _____ a further chance of defending himself.

(True Extract.)

Chaiton
Secretary to Government.

To the Board of Revenue (Separate Revenue).

Copy to the other Heads of Departments under the Revenue Secretariat.
" " other Departments of the Secretariat.

Exd. S. J. Pereira.

200 Copies.

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Exp

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Abkari Department.

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Ass. E. 25/7

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S. Engrs ✓
C.A. to Govt ✓
S. of W.P.P. ✓
Enr. P.W. Dept 29/7/92 ✓
Enr. P.W. Dept ✓

12/7/92

2. C. 1/8

29th JUNE 1892, No. 669, REVENUE.

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

READ—the following Proceedings of the Board of Revenue (Separate Revenue), dated
9th May 1892, Mis. No. 1714 :—

C. S. CROLE, Esq., C.S.

Read—G.O., dated 25th April 1892, Mis. No. 2104, Revenue :—

Resolution—dated 9th May 1892, Mis. No. 1714.

Communicated to the Assistant Commissioner, Chingleput, who will make a fresh
inquiry into Mr. — case as ordered by Government and report the result to
the Board.

2. As this is not the first instance in which a case which the Board had deemed
to be complete as far as the circumstances permitted has been referred back by Gov-
ernment for re-investigation, the Board would respectfully ask His Excellency the
Governor in Council to lay down some further instructions by which it may be guided
in dealing with charges of misconduct against public officers in future.

3. It will be observed from Board's Proceedings, dated 6th February 1892,
Mis. No. 360, that the misconduct in respect of which Mr. — was dismissed
occurred on the 12th January last, and that on the 13th idem he was ordered by his
Inspector to submit his explanation in writing. This request had not been complied
with up to the 20th January, when the matter was taken up by the Assistant Com-
missioner, though Mr. — (who alleged he was sick) had been able to attend
office in the meantime and had on the 17th received a reminder from the Inspector.
The matter having by this time been reported to the Assistant Commissioner, the latter
first sent Mr. — a notice to attend an inquiry which he proposed to hold on the
20th January, and when Mr. — alleged his inability to comply, an order to
attend on the 21st or else to produce an adequate medical certificate of his incapacity
to do so. Mr. — having failed to comply with either alternative, the inquiry
was conducted in his absence. Again on the 21st January the Board, on a report from
the Assistant Commissioner, ordered Mr. — to explain his conduct either in
person or by letter by the 25th instant. The only notice taken of this was a short
letter (copy enclosed) which is really no explanation at all, since it merely states that
Mr. — was not intoxicated on the occasion under reference, and which, though
dated 25th January, did not reach the Board till some days later. Under these
circumstances, the Board considered itself justified in assuming that Mr. — had
no valid explanation to offer and in dealing with the case on the evidence sent up to
it by the Assistant Commissioner.

4. The purport of the existing orders in regard to the dismissal of public servants
is that the charges against the culprit should be clearly set forth; that he should have
full opportunity of making his defence which must likewise be recorded; and that
these should be carefully considered before orders are passed. The Board has always
endeavoured to comply with these instructions in so far as lies in its power and has
caused its subordinates to do the like; but it has considered itself entitled to assume
that when an officer has had due opportunity afforded to him of defending himself and

neglects to do so he must bear the consequences. The procedure in personal inquiries such as that which the Assistant Commissioner held in the case of Mr. _____ is modelled on that of the Judicial Courts of the country, and no Civil Court would delay the disposal of a case when one of the parties was absent without due cause. The suit would be decided on the evidence already produced, or that which the other side might offer, although the consequences of the defaulter might be quite as serious as dismissal to a Government servant. A Criminal Court would procure the attendance of a defaulting defendant by means of a warrant, but this power the Board and its subordinates do not of course possess.

5. If the policy the Board has hitherto adopted is wrong, it would seem that the best course which an officer charged with misconduct which he is unable to rebut can pursue is to refuse to appear and answer the charges against him, since in this case either the inquiry will be indefinitely prolonged or some months afterwards a fresh inquiry will be ordered, while, in the meantime, the memory of the witnesses will have grown rusty through lapse of time or means may be found to successfully tamper with them. For these reasons, the Board begs respectfully to ask the favour of instructions as to the course to be pursued in order to avoid delay in disposal and miscarriage of justice in such cases as the one under reference.

(A true Copy and Extract.)

(Signed)

W. S. MEYER,
Acting Secretary.

To the Secretary to Government, Revenue Department, with
copies of Board's Proceedings, dated 6th February 1892, No. 360,
and Mr. _____ letter referred to in paragraph 3.
" Assistant Commissioner, Chingleput, with the records (paragraph 1).
" Deputy Commissioner, Central Division (paragraph 1).

ORDER—dated 29th June 1892, No. 669, Revenue.

Miscellaneous.

With reference to paragraphs 2 and 5 of its Proceedings read above, the Board will be informed that the Government has necessarily be dealt with in his absence, and this is what occurred in Mr. _____. It is clear that if a subordinate will not attend to have his case investigated he must case, for the Board sent him due notice to appear in person or to furnish a written explanation before the 25th of January and was justified, when he failed to do either, in dismissing him for contumacy, disregard of orders and general misconduct. The Government ordered a re-inquiry to be held in Mr. _____ presence not because it took exception to the procedure adopted by the Board, but because it thought fit, in the exercise of its discretion, to give Mr. _____ a further chance of defending himself.

(True Extract.)

(Signed)

C. A. GALTON,
Secretary to Government.

To the Board of Revenue (Separate Revenue).

Copy to the other Heads of Departments under the Revenue Secretariat.
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(2d) J.P.

W

Ch: Eng for Inspr
Comm Eng for Rys
Supts. Engs
C.A. to Govt
S. of W. P. P.
Exr. P.W. Accts
Exr. Dy Accts.