

Public Works (189)) Department.

G.O., No. 3652

DATED 12 Nov 1897

[Despatch Abstract.]

Suit, sanctioning the payment to the Court
and the Govt Pleader of the sum of Rs. 926-3-8
in satisfaction of the decree of the Sub Court in a case
(West) and also Lawyer's fees in ~~the~~ respect of
the - brought by the late contractor of the Supulijan
bridge at Vempandi, for recovery of certain
amount.

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in July 1893 the ~~revised~~ rates of the revised estimates were allowed with the following proviso:-

"The rates will be subject to the approval of the Chief Engineer and be paid only on condition that the work is fully completed in all respects by the 20th September 1893, failing which payments will be made according to the rates originally made upon as given in the contractor's order of April 1891."

Notwithstanding the repeated warnings and the concession granted in the shape of extensions of time and increased rates, there was very little progress of the work owing to want of diligence and preparations on the part of the contractor due apparently to want of sufficient funds as expressed in his petition for an advance of Rs 1000. As there was a lot of work left undone in the latter part of August 1893 and as there was no chance of the contractor completing the work within the stipulated time and as he wanted an advance of Rs 1000 for proceeding with the work, his contract was cancelled on the 19th August 1893. The cancellation of the contract was also approved by the Chief Engineer. The work done by

the contractor was measured and final payment was made to him in November 1893, but he accepted the payment under certain reservations, viz exclusion of his claims for increased rates and refund of deposits and held amounts. The depts with ^{case} lodged by the contractor Rs 700 to Court.

The contractor is credited ^{of one,} Court in the Westa suit against for recovery of Rs Court of Madras shown below:- 10 - 4 - 0

Deposit with interest up to date of plaint — Rs 848 - 10 - 0

Amount not allowed as per rates provided in the revised estimate — 4,765 - 0 - 0
Total Rs. 5,613 - 10 - 0

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The defence of the suit was sanctioned in S.O. No: 3689 Wd/28 December 1896.

The case was heard on the 30th July 1897. The Court considered that the Executive Engineer was not justified in cancelling the contract on the 19th August 1893 under the terms of the first agreement inasmuch as that agreement ceased to exist on that date and as the second agreement which was then in force allowed time till the 20th September 1893 and decreed for the refund to the contractor of Rs 784 being the security deposit and interest thereon.

The claim of Rs 4,765 for increased rates preferred by the Contractor was disallowed by the Court.

The Suptg. Engineer applies for sanction to the payment of Rs 926-3-8 as shown below to the Court and the order who defended the suit, the work

Respects to	Refund of security deposit with interest	Rs 784-0-0
Less made	Deduct net costs to be paid by the ally plaintiff	130-0-0
	Balance due	Rs 654-0-0

To the Court. Pleader. ^{See stamps}
 972-3-8
 Total Rs. 926-3-8

The security deposit which has been credited to Court. will be refunded. The only expense that the Court. has been put to in defending the suit is Rs 142-3-8, but there is a saving of Rs. 4,765 which would have been paid to the contractor if he had completed the work before the 20th September 1893.

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Submitted for orders with reference to his order note. The contract was cancelled in August because it found that the work could not be completed by 20th Sept 1893 - vide S.D. letter of 14th Sept 93.

The Ch. Secy. approved the cancellation of the contract in sum. by 3162 C 57 22.9.93 (filed A) It will be seen from this paper that the Contractor in August 93 declared his inability to complete the work by 20th Sept. unless he was granted an advance of Rs 1000.

The great point now is to issue the

Requesting to obtain sanction to defend suit brought by Contractor Savanmulla Mahan.

A concise history of the case is given by the Executive Engineer.

The case seems a strong one, but there is one point on which it may go against Govt.

It appears that the time of the original agreement terminated on 15th March 1893. The Contractor was allowed to go on with the work. A revised estimate was in the meantime sanctioned & apparently a new agreement entered into with the Contractor in July 1893 with this proviso "The rates to be subject to the approval of the Chief Engineer & be paid on condition that the work is fully completed in all respects by 20th Sept 1893 failing which payments will be made according to the rates originally agreed upon as specified in the contract agreement dated 27th April 1891."

The increased rates were not approved by the Chief Engineer so the contractor has no claim for them but he may claim that he was not given time to complete the work under the original rates, as the contract was cancelled in August, while ~~he was claiming~~ that this clause gave him an extension of time to 23rd Sept. - This portion of clause apparently has nothing to do with the approval of the Chief Engineer -

The Executive Engineer suddenly proposed to cancel the original contract in June 1893, but evidently this was not done until August when endorsement opposite Flay H..

The Contractor ought to have been served with a proper notice ^{on a certain date} calling him on him to attend to the work measured at ~~the~~ ^{contract} date.

If this point is thought of no importance the case is a strong one & sanction to defend it given.

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19.12.96.

SAW.

Please ascertain why the note to accompany Draft order on C No. 9656 was sent through the under (3/4) the under Sec's distribution of work.

copy

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ow

The note should have been sent through the

work

small see that small papers are sent to you in future.

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11/11/97

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I have signed the order as it has been passed by Col^l Campbell & H.E.

copy

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W.H.
11.11.97



Copy of letter from the Government pleader Madras to the Executive Engineer Madras Division dated 12 September 1897 No. 383.

Sourimathur Mudaly

v.

The Secretary of State for India in Council.

Enclosure one bundle 3.

I have the honor to forward herewith copies of the decree and judgment in the above suit together with the other papers connected therewith. The Court has dismissed the plaintiff's claim except as regards the security deposit which the Court directed us to return to the plaintiff with interest. If the Government wishes to appeal from the decree, the appeal must be preferred in the High Court at Madras and the papers sent to the Government pleader there for necessary action. I do not however consider an appeal advisable. I would suggest that if the plaintiff appeals the Government may file memo of objections to the decree so

So far as it relates to the security de-
posit within 30 days from the date of
service of notice of the appeal.

I enclose herewith a means of sums
due to me in connection with the suit
and I request you will be so good
as to remit the same to me.

A. Joyce

Executive Engineer
Madura Division

11/6/97

21.9.97

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posit within 30 days from the date of
service of notice of the appeal.

I enclose herewith a means of sums
due to me in connection with the suit
and I request you will be so good
as to remit the same to me.

A. Joyce
Executive Engineer
Madura Division
21.9.97

From A. Joyce Esquire, Executive
Engineer, Madras Dn, To the Superin-
tending Engineer, Madras, No. 336 P.E.
dated 21 September 1897: —

With reference to your Endorse-
ment No. 1623 D.S. of 30 December 1896,
on G.O. No. 3689 W of 28 December 1896,
sanctioning the defence of the suit —
brought by Contractor Savorie Brothers
Inuday of Veerapandy Bridge, I have
the honor to forward herewith the copies
of the decree and judgment passed by
the Subordinate Judge of Madras West
and to inform you that from the enclosed
copy of letter No. 383 of 12 instant from
the Government Madras, it
will be observed that it is not advisable
to prefer an appeal in the High Court
against the judgment.

2. The claim of the Contractor for
Rs 5,613 - 10 - 0 is however dismissed
with the exception of security deposit
Rs 784 - 0 - 0 which has been ordered
to be returned to him with interest
thereon at six per cent from date of

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due to date of realization & cost &c as shown in the margin.

3. The deposit of the Contractor which was invested in the Savings Bank has been withdrawn and credited to Government on the 25 January 1896.

4. I request therefore that you will be good enough to obtain necessary sanction for payment of the amounts due to the Court and to the Government Pleader.

Amount decreed by the Court - Rs 784-
Costs to be paid as per decree - 112-7-2
Total Rupees 896-7-2

Deduct cost to be paid by Plaintiff to Government as per decree - 242-7-2
Balance Rs 654-0-0

Amount due to Govt. Pleader as per Memo enclosed for defending the suit - 272-3-8
Total Rupees 926-3-8

plus the amount of interest that may be due on Rs 784 @ 5% from date of decree to date of payment.

payment of the sums referred to in the foregoing letter, to the Court & to the Government Pleader.

W. A. Dwyer Esq. Lt. Col. R.E.
Superintending Engineer
Civil

Encls: 4.

[Handwritten signature]

No. 1358. L.S. D/25th September 1897.

Copy, with the enclosure, is submitted to the Chief Engineer, P.W.D. for information, with reference to No. 3689 D/28 December 1896 and with a request that sanction of Government may be obtained for the

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