

File.
Marine (1898) Department.

G.O., No. 1572

✓ DATED 23 June '88

[Despatch Abstract.]

Suit: The defence of the — brought by the repre.
sentatives of Contractor & Venkiah of the
Sudawan Estate on certain sums alleged
to be due from the Govt, sanctioned and
the draft statement, ordered to be modified
as suggested by the B^y of Revenue.

H.E. 20.6.78

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

If the soil heaps were properly sectioned, & measured soon after deposition, they should measure more than the pits from which the earth is taken. Therefore the rain which fell on them during the 6 weeks interval which elapsed before measurement had been squashed matters & the contractor has nothing to complain of. The depths of pits in flush should always be taken by levelling. Left King should have been levelling & primaried in his first shipboard means. L. H. H.

14.6.58

URGENT

S.H.W.

- (1) ~~There are~~ 9 anchors: were forwarded by the Collector of Godavari to the Board of which 5 only are noted to be returned to him. Kindly say whether the remaining anchors need to sent also.
- (2) It is submitted that the Comr. to II Circle should be I Circle.

S.H.W.
23/6/58

19c

- (1) No 5 anchor from the exception can be made to the collector. loc

N^o 188 E.

Delta Sub Division Office

Dated 28th May 1897

Des^d 20.5.97.

From

The Officer in charge
Delta Sub Division

To

The Executive Engineer,
Godavari Eastern Div.

Enclosures 4.

1 Petition of 12.2.96.

1 N. 558 & N^o 462 of 2.8.95.

1 Enclosure of 10.00.

1 Measurement Book N^o 2/7

Sir,

I have the honor to forward herewith a file connected with the claims made by the heirs of K. Venkiah, deceased, for payment of money said by them to be due for Earthwork in Samalotta Canal below Samalotta Lock carried out in 1895. The reason for the long delay is that it is only recently that the petitioners produced their certificate of heirship. The Earthwork in the reach below Samalotta Lock was measured by Supervisor Sgt. P. King twice; 1st. on the 20th May and again on the 8th July 1896. On the 1st occasion, measurements were taken in Canal bed and on the 2nd, the Spoil was measured. The difference between the two totals is considerable (100 units) and the

petitioners claim payment on the 187. or Canal bed measurements which are the greater. I was under the impression that I had given written orders to the Supervisor to measure up the spoil only, but it appears that there is no such order on record; but as there was certainly such an order given by me, it must have been verbal. My reason for giving such an order was that I considered it quite impossible to make anything like a fair measurement of the Earthwork actually done, by measuring the pits in the bed of the Canal as this portion of the Canal was all soft slush and barriers for baling (not throwies) were thrown up. The measurement of spoil is, I consider, always the fairest way to measure when there is any doubt about Canal measurements. The fact of the 187. Set of measurements being cancelled & spoil measurements being accepted by me gives no claim to the petitioners whatever, as I am justified in measuring up in the way I consider fairest. The only claim they can put forward is that the spoil measurements were taken 1½ months after the work was finished. This delay the Supervisor explains in his N^o 462 of 2.8.95. The petitioners threaten to put the matter into Court, but I think it would be preferable on all accounts to settle the matter privately by making some concession

* This is however immaterial

to the claimants which they are entitled to considering the time which elapsed between the date of completion of the work and the date of spoil measurement. The spoil is of course liable to diminution in bulk through drying and through being washed away by rains &c. I therefore report the matter to you for orders.

I have &c. &c.

Sd/ J. M. Parker

Asst. Engineer, Delta S. B. M.

Executive Engineer's Endorsement thereon: —

N^o 1615. dated 1.6.1897.

Submitted to the Superintending Engineer for orders.

I see no reason why the petitioners should object to spoil measurement. All silt clearance is measured and paid for in this manner in this Division.

The suggestion that an allowance should be made owing to rain washing is, I consider, reasonable, and would suggest 10. p. c.

Sd/ G. F. Hancock,

Engr. G. F. Hancock

Superintending Engineer's Endorsement, thereon: —

N^o 599 G.D. dated 7th June 1897.

The fact of the spoil measurements being

So much less than the pit measurements show the latter to be very incorrect, for as a rule, they come far greater. The fact of the pits being slushy and with built up thresholds would render it impossible to obtain a correct result from their measurements.

Further, Sergt. King states that the Cady roll, at four, per one Rubee equals amount of bill, would seem to further confirm the bank measurements which will therefore be adhered to.

If there was delay, it was owing to the bank not being trimmed for measurement.

Sd/ J. C. Lammie
Suptg. Engineer, Circle.
7.6.97.

(True Copies)

Childress

Asstt. Engr. G. E. D.

0556
5026/98

27.5.98

CH
27/6

Er 7
CR 2286
1995

The following sums were outstanding as dues to Piece Worker, Karri Venkayya, from October 1895:-

V. N ^o 68. Annual maintenance of		
Cocanada Canal.		44. . . .
" 88. - do.		25. . . .
" 78. - do.		12. . . .
Petty Contract bill for Repairing		
Masonry Works on Cocanada		9.9.3
Canal		
" 158. Annual maintenance of -		
Sanealcotta Canal at obelos		22. . . .
Venkatakrishnapuram Lock.		
" 168. - do. between Sanealcotta		
and Venkatakrishnapuram		70. . . .
Locks		
Total	182.9.3	

The Sub divisional Officer, Belga, was being written to to settle these dues. He reported in his letter N^o 212E, dated 4th June '96, that the legal representatives of Karri Venkayya did not come forward for receiving the payments though several letters were written on the subject.

In reply, the Sub Divisional Officer was asked in this office no. 1181 of 12.6.96, to close the accounts and send in final bills. The Superintendent Engineer's permission was obtained, vide his no. 705 G.D. of 7.7.96, to close the accounts of the work by crediting the balance due to deposits, and this was accordingly done in the Accounts for June 1896.

A notice was also published in the District Gazette inviting the legal representatives of Karri Venkayya to produce an heir certificate and receive the amount due to the deceased. August 1896

One Mr. Venkataramalingeswarai Sarma 187 Grade Vakeel, Cocanada sent a notice to the Executive Engineer, on 2.12.97, demanding the payments of the amount due to Karri Venkayya. He was informed in this office no. 1328 L. of 7.1.98, that Canal measurements taken by Sgt. King could not be admitted as correct, that Spoil measurement is a rule in all Silt clearances where Canal measurements were doubtful and that a sum of Rs. 182. 9. 3, will be paid through him, if he can obtain signatures of payees to the bills. No reply was received. Then a notice of

having filed a suit in the District Munsiff's Court was sent.

Crushed

Asst. Engr. G. E. D. 2.

20/5/98

Not
27/5/98

CH
24/5/98

No. 2512

Ref 1385
EXECUTIVE ENGINEER'S OFFICE,
GODAVARI EASTERN DIVISION,

Donlaishivesam, 27 May 1898.

From

C. Mildred Esquire

Desp 28.

EXECUTIVE ENGINEER,

GODAVARI EASTERN DIVISION,

To

THE Collector,

Godavari

Ref:- Summons and plaint by heirs of Karri Venkayya
forwarded with your letter No 1505 of 25.9.98
to the Suptg. Engineer.

In reference to this plaint, I have the honor

Enclosures. 3

Sir,

1 Copy of Piece Work
agreement.

1. Copy of S.D.O. No 1382
28.5.98
with S.D.O. S.D.O. S.D.O.
-ments thereon.

to report as follows:-

1. Statement of amounts
due to piecework

On 29th & 30th March 1895, a piece work agreement
was taken from Karri Venkiah, to carry out "Repairs to
Earthwork, Samalotta Canal, for 1895-96." A copy of
this agreement is enclosed. The rate agreed on was
Rs. 4.12.0, per 1000 cft. including lead, lift, and sectioning
for Earthwork from Samalotta lock to just below
Venkatakristnapuram lock; and a rate of Rs. 3.1.4,
per 1000 cft. for "Earthwork from below Venkata -
Kristnapuram lock to end of the Canal," including
lead, lift, and sectioning. There is a note on the
agreement by the Sub Divisional Officer, "Spoil
must be thrown behind bank on right side of Canal
and in rear of road on left side."

This is the agreement referred to in para 5,
of the Plaint and wrongly called a "Contract."

28.5.98
28.5.98
28.5.98

The work to be done was the clearance of silt from the bed of the Canal. The silt was removed while there was still water in the Canal and is therefore entered in the measurement book (old) P. 97, as "Slash".

On the completion of the removal of the silt measurements were taken on 20th May, by Sergeant Peter King, the Supervisor in charge, by measuring the pits in the Canal bed. By these measurements he obtained "248,583" cft. of Earthwork; vide old measurement book, P. 97.

The Sub Divisional Officer did not approve of these measurements and had ordered the Supervisor to measure the Spoil Earth thrown on the banks.

The Supervisor measured this Spoil on the 8th July and obtained "148,995" cft., and on these measurements, the bill was made out for Rs. 707.11.7. The Sub Divisional Officer's reasons for accepting these measurements in preference to the first, are fully explained in his letter N^o 188 E of 28.5.97, to the Executive Engineer (Copy Enclosed) together with the orders thereon of the Executive Engineer and the Superintending Engineer. This disposes of para 5 of the Plaint.

Para 6 of the Plaint. No moneys were deposited by K. Venkiah, but 10 per cent of the amount of the bill was withheld for sectioning. These amounts are not disputed.

Para 7. The amounts were withheld as stated above, and payment has not been made upto this, because, the legal heirs of the deceased K. Venkiah did not come forward to receive payment.

Paras 8, 9 & 10, require no remark.

Para 11 (a) The rate agreed on was Rs. 4.12.0, as stated above, and not Rs. 4.10.6, as claimed by Plaintiffs.

(b) and (c). The amount due is $(90.9.3 + 92.0.0)$ or 182.9.3, and this is not disputed.

The defence may be founded on the following.

- (1) Although the 187 measurement was taken by Sergt. P. King, the Executive Engineer is not bound to accept those measurements and may have the measurements taken in the manner he deems most accurate.
- (2) It is the custom in the Public Works Department when excavations have been made under water, or when there is any likelihood of the depths of "tundloos" having been tampered with, to take measurements of the Spoil Earth. In this case, bunds had been thrown across the Canal for baling purposes and it would have been quite impossible to judge the depth of excavation.
- (3) A piecework agreement only stipulates the rates to be paid for work, and differs from a

From

THE EXECUTIVE ENGINEER,
Godavari Eastern Division.

To

THE

Dated

Despatched

Received

}

189

NO.

ENCLOSURES

SUBJECT.

Contract agreement which is for
a specified quantity to be
carried out in a certain time

I have the honor to be,

Sir,

Your most obt. servt.

Chudhree

Asst. Engr. G. E. D.

COLLECTOR

30 MAY 1898

GODAVARI.

MR
27.5.98

CS
27/5/98

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5026/58

02256
96

Ref. on Cur. No. 1585-Rev. of 98.

Godavari District, Collector's Office,
Dated, Cocanada 4th June 1898.

From

V. A. Brodie Esquire,

Collector,

Godavari District.

To

The Secretary to the Commissioners of

Land Revenue,

Madras.

Sir,

I have the honour to enclose the summons and plaint served
on me in O.S. 188 of 98 on the file of the District Munsiff, Cocanada
and to state as follows.

The plaintiffs in the suit are the legal representatives of one --
Karri Venkiah for sometime a D.P.W. contractor and have filed the suit
for the recovery of Rs. 834-4-2 alleged to be still due to the deceased
contractor from the Public Works Department. A clear report furnished
to me by the Executive Engineer, Eastern Division is enclosed. The only
point at issue is what are the correct measurements for which payment
ought to be made.

The measurements of the pits taken by Sergeant Peter King the Super-
visor in charge on 20-5-95 gave 248,583 c.ft. of earthwork for which
plaintiff demands payment. The pit measurements were however held by
the Superintending Engineer, 1st Circle, to be incorrect and the measur-
ments of the spoil earth taken on the 8th July 95, viz., 148,995 c.ft.
were relied on by the Executive Engineer for purposes of payment. The

other

her facts alleged in the plaint are not denied.

The Executive Engineer seems to be perfectly justified in adopting the measurements of the spoil earth as he did and has certainly in no way violated para 2 of the piece work agreement - copy of which has been submitted by him.

The amount due to the contractor according to the later measurements is Rs:182-9-3 as shown in the margin. ----- Value of 148,995 c.ft: of earth work at Rs: 4-12-0 per 1000 c.ft: ----- 707-11-7.
The rate Rs:4-10-6 given in the plaint is evidently wrong. Plaintiff is not entitled to any interest as the Executive Engineer was prepared to pay the amount due to the legal representatives of the contractor & also published an advertisement in the District Gazette - vide District Gazette for August 98 -

Deduct amount advanced ----- 637-11-7
Amount withheld on account of Cocanada canal repairs. -- 90-9-3.
Do do Samalcota canal. 22-0-0.

182 - 9 - 3.

but no application was made to him until 2-12-97. The defence statement proposed by the Executive Engineer being in the nature of a memo of arguments, I enclose another for the approval and sanction of Government. As the suit stands posted to the 20th June for hearing, I request, that the sanction of the defence be communicated to me by wire.

I have the honor to be,

Sir,

Your most obedient servant,

(Sd) V. A. Brodie.

Collector.

for Collector.



Proceedings of the Board of Revenue (Land Revenue).

NO.1537 Misc.Dated 13th June 1898.

Read letter from V.A.Brodie Esqre., Collector of Godavari to the Secretary to the Commissioners of Land Revenue, Madras, Ref.on Cur.No.1585-Rev., dated 4th June 1898.

Resolution

Submitted to Government in the Public Works Department with the request that the defence of the suit may be sanctioned and the draft written statement approved with the following modifications:-

(1) Para 3. As it appears from the report of the officer in charge of the Delta sub.division disposed of in the Superintending Engineer's endorsement No.599 G.D., dated 7th June 1897 and from the Memorandum drawn up by the Assistant Engineer, Godavari Eastern Division, on the 28th May 1898 that the plaintiffs demanded payment of the ~~money~~ amount due to the deceased Karri Venkiah on the 12th November 1896 and 2nd. December 1897 and that the delay in discharging their claim is really attributable to the unwillingness of the plaintiffs to receive the amount admitted to be due by the Public Works officers, the following should be substituted for para 3:-

No interest is allowable as plaintiffs did not apply to the defendant for payment until November 1896 although several letters were written by the Sub.Divisional officer, Delta, on the subject of the settlement of the amount due to the deceased Kari Venkiah and a notice was also published in the District Gazette for August 1896

and

and as the defendant has all along been ready and willing to pay the amount admitted to be due in para 2 above.

(2). At the end of para 4, add the words "which has now been deposited in ~~the~~ court". The Executive Engineer should be instructed to pay the sum of Rs. 182.9.3 into court so that Government may be freed from liability to pay the interest that will otherwise accrue up to the date of the decision of the suit.

2. A copy of these Proceedings will be sent to the Collector of Godavari. As the suit is posted for hearing on the 20th instant, the Board requests that ^{the} orders of Government may be communicated direct to the Collector by wire.

(True Extract)

James Davidson
Ag. Secretary.

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To the Secretary to Govt., R.D., with the Collr's letter & enclos. in original.

-- ~~the~~ the Collector of Godavari.

Q.B.