Public Works (1899) Department.

G.O., No. 1809 W

DATED 13th July 1899

[Despatch Abstract.]

Overpayment:

Directing that the ——— of ~~Rs 531-12-~~ Rs 531-12-2 made to ~~a~~ contractor Garabigadoo for rock cutting on Budweed tank supply channel by Mr S. Trutwein, late Overseer, P.W.D., be written off the accounts, and that care be taken to see that persons of no means are not employed as contractors.

14/7

2 10/7

[P. W. 26. / 250—27-4-99.]

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

GENERAL.
ACCOUNT.

Government (1899) of Madras.

PUBLIC WORKS.

Recd. } 1899. *Enclosures*
Regd. } *Spare copies*

G.O., No. 1809 W., 13th July 1899.

JULY.

Overpayment

Directing that the — of Rs. 531-12-2 made to contractor Garadigadu for rock cutting on Budweed tank supply channel by Mr. S. Trutwein, late Supervisor, Public Works Department, be written off the accounts, and that care be taken to see that persons of no means are not employed as contractors.

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

General.
Account.

Read—the following papers :—

From J. C. JOHNSTON, Esq., Executive Engineer, Kurnool Division, to the Superintending Engineer, III Circle, dated 27th February 1899, No. 7312.

In continuation of this office No. 5645, dated 30th January 1899, I have the honour to inform you that the Sub-divisional officer, Nandyal, reports that Wodda T. Garadigadu of Kanchepally, against whom a sum of Rs. 586–8–7 as per judgment sent with the above, was decreed, owns no property except a small thatched hut worth Rs. 5 and that there is no probability of the amount being recovered from the contractor. Under these circumstances, steps should be taken to recover the amount from Mr. Trutwein, late Supervisor, as per paragraph 2 of G.O., No. 775 W., dated 22nd March 1898. But he having been removed from the service, his whereabouts are not known. I request the favour of your instructions on the subject.

No. 896 W.

Forwarded to the Chief Engineer, Public Works Department, for information, in reference to G.O., No. 414 W. of 9th February 1899. The undersigned is of opinion that no action would lie against Mr. Trutwein, and that even if a decree was obtained, it would be impossible to recover the money.

2. It would appear to be advisable to consult the Government law officers on the subject generally, for the inference to be drawn from paragraph 2 of the Government order is that similar proceedings should be more frequently taken in future.

Hitherto the impression in the department has been that such actions rarely lead to any actual recovery of cash; the decree is obtained, but no assets are available to satisfy it.

(Signed) W. L. C. BADDELEY, Lieut.-Col., R.E.,
Supg. Engineer, III Circle.

3rd March 1899.

From the Superintending Engineer, III Circle, dated 24th June 1899, No. 2388 W.

Order—No. 1809 W., dated 13th July 1899.

Under the circumstances brought to notice, the overpayment of Rs. 531–12–2 will be written off the accounts as irrecoverable.

2. The inference drawn by the Superintending Engineer from paragraph 2 of G.O., No. 414 W., dated 9th February 1899, is an erroneous one. There is, of course, no object in instituting proceedings against men from whom no recoveries are likely to be made. The proper course is to ascertain that fact before proceedings are instituted.

3. The Superintending Engineer will consult the local Government Pleader as to whether an action will lie against the joint family, as suggested in the Tahsildar's letter of the 19th May 1899.

4. Care should be taken to see that persons of no means are not employed as contractors.

(True Extract.)

Under Secretary to Government.

To the Superintending Engineer, III Circle.
" all other Superintending Engineers.
" the Consulting Architect to Government.
" the Chief Engineer for Irrigation.
" the Superintendent of Works, Light-house Division.
" the Examiner, Public Works Accounts.

Ex'd. T. K. Narayana Aiyangar.

P. W. DEPARTMENT.

READ the following :—

From the Supdg. Engr., III Circle, No. 846 W dated 3-3-99

" Supdg. Engr., III Circle, No. 2388 W dated 24-6-99

Circulated to H. E. the Governor

ORDER. No. 1809 W dated 13-7-99

Under the circumstances brought to notice the overpayment of Rs 531-12-2 will be written off the accounts as irrecoverable.

2. The inference drawn by the Supdg. Engr. from para 2 of G.O. No. 414 W dated 9th Febry 1899 is an erroneous one. There is, of course, no object in instituting proceedings against men from whom no recoveries are likely to be made. The intention of the G.O. quoted is merely to show that when an excess payment has been made in error, recovery can be had at law, & that this is not such a difficult matter

The proper course is to ascertain that fact before proceedings are instituted

The Supdg. Engineer will consult the Local Government Pleader as to whether an action will lie against the Joint family as suggested

P. W. 4
1,000—14-11-98.

3 P

8799

matter ~~as is commonly supposed by subordinates.~~

Pwr Hll 29/6

1.7.99

Note – In connection with an overpayment made to a contractor for rock cutting in Budweed tank supply channel Govt: in G.O. No 775 W dated 23.9.98 flagged & approved of the Chief Engineer's recommendations

(1) that Supervisor Tutwein & Overseer Singarachari be dismissed the service

&(2) that an attempt be made to recover the overpayment from the contractor, by legal proceedings if necessary, & that, if this fails, as much as possible be recovered from Mr. Tutwein, who probably along with the contractor profited by the transaction.

2. Legal proceedings have been instituted against the contractor, & a decree for the amount overpaid plus costs has been obtained, but it is now found that the contractor owns no property, except a thatched hut worth Rs 5. The contractor's brother owns sufficient property, moveable & immoveable, & the Tahsildar of Gumsur proposes that steps should be taken to see whether any recovery can be made from him, but this suggestion is unworthy of consideration. As regards Mr. Tutwein, he is ~~sai~~ reported to own no property in Ganjam, where he is at present, except a few chairs.

3. Under these circumstances nothing can be done but to write the overpayment off the accounts.

4. It was considered desirable

in the Tahsildar's letter of the 19th

Care should be taken to persons of no means are not as contractors.

To 10

The Supdg. Engr.,
All other Supdg.
The Consg. Architect
" Chief Engr. for
& " Supdt. of Works,
2nd ~~M~~ Examr. P.W. Acc

Note for W. Kindly see H.E's mark against para 3 of the S.E's endorsement (Flag A)

No action needed

A.Williams made 9.6

Would not an action against the joint family lie, as suggested in the Tahsildar's letter of the 19th May 199?

I suppose the Dept. does not, if it can help it, accept a man of straw, as a contractor?

A.S.H.
8.7.99

× G.O. 414 W
d 9.2.99

desirable to circulate the
udgment to the dept. to
emove the mistaken im=
pression which now exists among
bordinates that it is a
natter of difficulty to recover
t law excess payments
made in error. The Supdg.
Engr., III Circle, draws the
erroneous inference from this
that similar proceedings
are in future to be taken
whether there is any likeli=
=hood of recovery or not. Such
a conclusion is wholly un=
=warranted, & the Supdg. Engr.
is accordingly so informed
in the draft G.O. submitted
for approval.

Rur..

H.C.
29/6

1.7.99

amount

Public Works (1899) Department.

CURRENT No. 5046

1807 W

Order

From The Supdg: Engineer,
III Circle,
Bellary

No. 2388 W.

Dated 24 June 1899.
Received
Registered 26.6.99
Enclosures 1
Spare copies

SUBJECT.

Mr S. Igatwein late Supervisor D.P.W.—
Forwarding copy of letter from the Tahsildar of Cumbum, re- the property of and contractor Garadigadoo—

o L 5246 11/12/7

BACK PAPERS.

No.	Data.
1509 C	13-3-99
414 W	9-2-99
175 W	19-1-99
2171 W	26-8-98
3587 C	17-8-98
3497 C	9-8-98
3190 C	16-7-98
1485 W	14-6-98
2841 C	13-6-98
2615 C	23-5-98
2614 C	23-5-98
2202 C	20-4-98
2085 C	5-4-98
1746 C 13	21-3-98
775 W	22-3-98 & file

FURTHER PAPERS.

No.	Date.

Letter No. $\frac{1008}{\text{Rev}}$ of 99 dated 21.4.1899 fr
H. D. Taylor Esquire I.C.S Acting Collect
of Ganjam, to the Superintending Engin
III Circle, Bellary.

With reference to your letter No. 1158 dated 21.3.1899, I have the honor to inform you that Mr. Trutwein possesses no property in this District except a few chairs required for daily use.

True Copy.

Baddeley
Lieut. Col. R.E.
Superintending Engineer
III Circle Bellary
24-6-99

23-6-99

Letter No. 1008/Rev of 99 dated 21.4.1899 from H. D. Taylor Esquire I.C.S. Acting Collector of Ganjam to the Superintending Engineer III Circle, Bellary.

Sir,

With reference to your letter No. 1158 dated 24.3.1899, I have the honor to inform you that the Contractor possesses no property in this District except a few Cattle required for daily use.

I am &c

23.4.99

Ind. Col. D.W.

To the Superintending Engineer III Circle Bellary

2.6.99

PWD / 5006(8)

Letter No. D Dis [illegible] of 99 dated 19th May 1899. from the Mahaldar of [illegible], to the Deputy Collector of Narsapur:—

Adverting to your S.R.C. No. [illegible]/Collr of 99 dated 28.3.1899 herewith resubmitted, I beg respectfully to state as follows.

2 Inquiry having been made by the Revenue Inspector of the Firka regarding the status of the Contractor T. Saradigadu of Kanchipalli (vide Revenue Inspector's [illegible] dated 18.5.1899 with enclosures herewith submitted) the Revenue Inspector contends that the man has no other property except a thatched house worth about 5 or 6 Rupees, and that he has a brother Thimmanaboyadu who has sufficient property moveable and immoveable, which Thimmanaboyadu contends as self acquired property solely belonging to him. No partition deed, the Revenue Inspector says, is produced by this Thimmanaboyadu and that in consequence he considers this Thimmanaboyadu as responsible for the liability of his brother and that his property is liable to attachment. I doubt whether the Revenue Inspector's suggestion to proceed against the property of Thimmana-boyadu can be safely acted upon. But I consider the D.P.W. may issue a notice to this Thimmanaboyadu to prove to their satisfaction his contention about his property if such a step is advisable, as without proof that the property is either joint or self acquired by the defaulter, it is not advisable to sue in a Civil Court. It is not known whether any security or

Surety

surety was already taken. I doubt whether the Registration Department can be paid from Government, search fees, if I apply in this case to search whether the defaulter transferred any property to any other. Even if any such thing is found in search it is doubtful whether that transfer will be now inoperative and the Government can have superior claim after that transfer to the previous receiver.

No D Dis No. $\frac{631}{Rev}$ of 99 dated 23.3.99.

Copy submitted to the Collector with reference to his No. Endorsement dated 24th March last on the Superintending Engineer's letter No. $\frac{1159}{21.3.99}$ herewith returned.

Signed B. Kristna Rao
for Deputy Collector

No. 2388W Dated 24 June 1899 Enclo 1

Copy forwarded to the Chief Engineer P.W. Department for information with reference to his Memo No. 1509 dated 13th March 1899.

2. The undersigned most strongly disapproves of the proposal of the Tahsildar of Cumbum to drag the brother of the Contractor into the case.

3. A proceeding of the nature contemplated would inevitably lead to oppression and injustice and it is altogether unworthy of serious consideration.

But why?
A.S.H.

4. The wisest plan in this and the majority of similar cases is to accept the first loss and not throw good money after bad.

5. The Collector of Ganjam has reported that Mr. Trutwein possesses no property except a few chairs.

W. Baddeley
Lieut. Col. R.E.
Superintending Engineer
III Circle, Bellary

23.6.99

Public Works (1899) Department.

CURRENT No. 1926

No: 1509 C of 13-3-99

C

From The Superintg Engineer
3rd Circle
Bellary

~~Order~~ Memo

With reference to his No 896 W of 3rd March 1899, the Supty. Engr., III Circle, is requested to be so good as to consult the Collector of the district, if he has not done so already, as to whether the contractor owns any property besides the hut.

2. The Collector of Ganjam will be similarly be able to advise whether any recovery is likely to be made if legal proceedings are instituted against Mr Tintwin who was in Berhampore in November last, in the employ of the Rajah of Kallikota & is possibly still there.

APK
8.3.99.

Dr

9/3/99
10/3

No. 896 W

Dated 3 — ~~4~~ 3 — 99

Received
Registered } 4. 3. 99

Enclosures

Spare copies

SUBJECT.

Rs 586—8—7 overpaid to a Contractor in the Kurnool Dn:

Reporting the circumstances under which the amount of —— is irrecoverable

To
The Supty. Engr., III Circle

14/3

BACK PAPERS.

No.	Date.
414W	9.2.99
175W	19.1.99
2171W	26.8.98
3587C	12.8.98
3497C	9.8.98
3190C	16.7.98
1483W	14.6.98
2841C	13.6.98
2615C	23.5.98
2614C	23.5.98
10 papers	

FURTHER PAPERS.

No.	Date.

18 -

Letter No. 7312 dated 27th February 1899 from John C. Johnston Esqre. Executive Engineer, Kurnool Division, to the Superintending Engineer, III Circle, Bellary.

In continuation of this Office No. 5645 dated 30th January 1899, I have the honour to inform you that the Sub Divisional Officer Nandyal reports that Wodda T. Garidigadu of Kanchepally against whom a sum of Rupees 586-8-7 as per judgment sent with the above, was decreed, owns no property except a small thatched hut worth Rs. 5-0-0 and that there is no probability of the amount being recovered from the Contractor. Under these circumstances, steps should be taken to recover the amount from Mr. Tretwein late Supervisor as per para 2 of G. O. No. 776W dated 22nd March 1898. But he having been removed from the service his whereabouts are not known. I request the favour of your instructions on the subject.

No. 896W dated 3 March 1899

Forwarded to the Chief Engineer P. W. Department, for information in reference to G. O. No. 414W of 9th February 1899. The undersigned is of opinion that no action would lie

lie against Mr. Treutewein, and that even if a decree was obtained, it would be impossible to recover the money.

2. It would appear to be advisable to consult the Government Law Officers on the subject generally, for the inference to be drawn from para (2) of the G. O. is that similar proceedings should be more frequently taken in future.

Hitherto the impression in the Department has been that such actions rarely lead to any actual recovery of cash; the decree is obtained, but no assets are available to satisfy it.

W. Baddeley
Lieut. Col. R.E.

Supdty. Engineer, III Circle.

RG
2/3

Perfectly unnecessary.
The G.O. is as clear
as day & was simply
intended to cover the
common error of subor-
dinates that if an over-
payment is made, recovery
is impossible.

This is not the point at all, it
being obvious common sense
that it is useless to try and
recover from men of straw

P.W. DEPARTMENT.

owing :—

, III Circle, No. 896 W of 3.3.99

1509C

R.

Under the circumstances
ought to notice, the overpay=
ment of Rs 531-12-2 will be
itten off the accounts as
recoverable.

The inference drawn
the Suptg. Engr., from para 2
G.O. No. 414 W dated 9th Febry,
9 is an erroneous one. There
would
no object in instituting=
ceedings against men from
m no recoveries are likely
be made. The intention
te G.O. quoted is merely
how that when an excess
pment has been made in
r, recovery can be made
law, and that this
ot such a difficult matt
de

Should not S.E. consult Collector in this question – perhaps the man has more property than S.E. thinks.

Curl
7/3/99

DW

The assumption is that the P.W. officials must have consulted the Village officials, ~~before~~ & that it was elicited from inquiry that the contractor owned nothing but a thatched hut. But if W. thinks further inquiry must be made, the S.E. may be told to consult the Collector.

Rar
8/3/99

S.A.W

Send memo to S.E. to consult Collector, if he has not already done so

ACW
8.3.99

C No. 1921

as is commonly supposed by subordinates.

ASK
3.3.99.

7/3/99

Note - In connection with an overpayment made to a contractor for rock cutting on Bud-weed tank supply channel, Govt. in G.O. No 775 W dated 22.3.98, flag G, approved of the Chief Engineer's recommendations

(1) that Supervisor Trutwein & Overseer Singarachari be dismissed the service

&(2) that an attempt be made to recover the overpayment from the contractor, by legal proceedings if necessary, & that, if this fails, as much as possible be recovered from Mr. Trutwein, who, probably along with the contractor, profited by the transaction.

Legal proceedings have been instituted against the contractor, & a decree for the amount overpaid plus costs has been obtained, but the Supdg. Engr., III Circle, now reports that the contractor owns no property ~~but~~ except a thatched hut worth Rs. The Supdg. Engr. is also of opinion that it will be impossible to recover anything from Mr. Trutwein who has been dismissed the service.

Under these circumstances nothing can be done but to write the overpayment off the accounts.

It was considered desirable to circulate× the judgment to officers of the Dept. to remove the mistaken impression which now excists ~~th~~ among subordinates that it is a matt of difficulty to recover at la excess payments made in error. The Supdg. Engr., III Circle, draws the erroneous inference from this that simil proceedings are in future

× G.O. No 414 W dd 9.2.99 Flag K

To
The Supdg. Engr., III Circle
All other Supdg. Engrs.
The Consg. Architect to Govt.
The Chief Engr. for Irrigation
" Supdt. of Works, LH Divn
" Examr, P.W. Accts.

to be taken whether there is any likelihood of recovery or not. Such a conclusion is wholly unwarranted, & the Supdg. Engr. is accordingly so informed in the draft G.O. submitted for approval.

ALK
2.3.99.

7/3/99

The S.E.'s remarks are exceedingly wide of the mark, & he has put a wholly impossible interpretation on G.O. 414 W, which is perfectly clear & cannot be held to point to the obvious reductio ad absurdum he is at such pains to infer.

ALK
6.3.99.

This is all that can be done

DW

With reference to G.O. No. 414 W dy 9.2.99, the Supdg. Engr., III Circle, reports that the Contractor against whom Rs 586-8-7 was decreed owns no property except a small thatched hut worth Rs 5, & that there is no probability of the amount being recovered from him.

2. Under para 2 of G.O. No. 775 W dy 22.3.98 flag. proceedings should now be taken against Mr. Trutwein, but he has been dismissed the service & the Supdg. Engr. thinks that it will be impossible to recover the money.

3. Apparently nothing can be done but to write the overpayment off the accounts as irrecoverable.

4. The Supdg. Engr. thinks it advisable to "consult the Govt. law Officers on the subject generally

generally for the inferen[illegible]
to be drawn from para 2
of G.O. No. 414 d/ 9.2.99 is
that similar proceedings
should be more frequently
taken in future. Hitherto the
impression in the Dept. has
been that such actions
rarely lead to any actual
recovery of cash; the decree
is obtained but no assets
are available to satisfy it"

For orders

R.R.
4.3.99.

S.A.W.

Please draft in accordance
with above remarks.

A.C.K.
6.3.99.

[illegible] notice G.O. 414 was never sub-
mitted to Govt. It certainly should
have been, as it is not a mere
[illegible] matter.

→ Yes. I think
so. It did not occur

No such inference can
be drawn, nor is there
any object in pur
into Court men of the
from whom no recov-
eries are likely to be
made. All that the G.O.
does is to call attention
to the fact that, where
an excess payment
has been made in error,
it can be recovered at
law, provided of course
the Contractor is not,
as in this case, abso-
lutely impecunious

The C.E. should be
informed that he has
made a wrong inference.
It was only intended
to give an example
& to show that
recoveries could be
made at law.

Draft as proposed by
D.W.

[illegible]
6/3/99

4 P