[I. 1-D]
200—18-5-02.

1899
Pension (1902) Department.

ORDINARY MIS.

G.O., No. 197

DATED 23. 3. 99

[Despatch Abstract.]

Petition

Informing S. V. Arunachellam Aiyar, late Head Clerk, Head Assist. Collr's Office, Salem that the Government see no reason to comply with his requests either for reinstatement to service or for the condonation of the deficiency of 3 months in his service to enable him to draw a higher pension

BACK PAPERS.

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

FURTHER PAPERS.

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

Pension

~~Revenue~~ (1899) Department.

CURRENT No. 185

GOVERNMENT OF MADRAS. 27 FEB 1899 PENSION DEPARTMENT.

Order / ~~Endt~~ / ~~Order~~ dated 23d March 1899 No 197.

From

The Board of Revenue,
Land Revenue,
Madras.

~~Para V. (2) of the C. Petition Rules.~~

~~Date~~

The Govt. sees no reason to comply with the petitioner's requests.

(for)

Ille 20/3/99

Grace

Note

As pointed out by the Board of Revenue, the general tone of the memorial is distinctly objectionable. So it seems liable to summary rejection under para. V. (2) of the Petition Rules.

K/S 23.3.99 Yes This will only make him come up again. Submits that the petition may be rejected once for all. His retirement took place in 1895 & there is no proper explanation of the delay of 3 years in appealing Ille 4.351

E No. 7 Ref.

Dated 24 February 1899.

Received ~~28 February 1899~~.

Registered 27.2.99.

Enclosures

Spare copies

SUBJECT. Memorial submitting to Govt (from S.V. Arunachalam Aiyar, Head Clerk, Head Assistant Collectors office, Salem) praying that he may be restored to S. or that a deficiency in his service may be condoned & enable him to draw a higher pension

Papers with the 20/3/99 Ille 4.351

BACK PAPERS.

G.O.	No.	Department.	Date.
"	16	Pen	14-1-99

FURTHER PAPERS.

G.O.	No.	Department.	Date.

[75]

Reference on No. of 189 .

In replying the above should be quoted.

REVENUE BOARD OFFICE MADRAS.

(Land Revenue.)

READ Endorsement of E. B. Clegg, Esquire, Acting Collector of Salem, No. 277, dated 31st January 1899.

Reference thereon G. No. 7, d/24th Feby. 99.

The memorial of S. V. ~~Ana-~~ Annachala ~~nachella~~ Aiyar, late Head Clerk, Head Assistant Collector's office, Salem, praying that he may be restored to service or that a deficiency of three months in his service may be condoned to enable him to draw a higher pension is submitted for the orders of Government.

2. The memorialist was formerly Sub. Magistrate of Karur, Salem District, but the Collector being of opinion that he was unfit for magisterial work, transferred him

GOVERNMENT OF MADRAS
3 - DEC
PENSION DEPARTMENT.

To

His Excellency The Right Honorable

THE GOVERNOR IN COUNCIL,

FORT ST. GEORGE, MADRAS.

The humble memorial of S. V. Arunachella Iyer, Government Pensioner, residing at Chattram Street, Dharmapuri, Salem District, most respectfully sheweth :

May it please Your Excellency,

That Your Excellency's memorialist most respectfully begs to appeal against

(*a*) His discharge and retirement from the Public Service (while holding the appointment of Head Clerk, Head Assistant Collector's office, Salem) which was followed by the grant to him under G. O. No. $\frac{\text{1362, dated 15th November 1895}}{\text{Pension Department}}$ of a proportionate invalid pension of Rs. 24½ per mensem in consideration of a qualifying pensionable service of 21 years and 9 months, and

(*b*) his previous unauthorized transfer, on the eve of the introduction of Mr. Garstin's scheme affording prospects of a higher amount of pay, from a magisterial to a ministerial appointment, on the same pay as was then in force, which has been subsequently ratified by Government in $\frac{\text{G. O. No. 768 R. D.}}{\text{2nd September 1893}}$, subject, however, to the right of an appeal therein conceded to him.

II. That Your Excellency's memorialist is obliged to appeal against these twofold acts of the Collector (now the Hon'ble G. Stokes, Esquire) owing to an appreciable diminution in his pensionary allowance apart from the loss of status and pay inflicted upon him, which would not have occurred if he had continued to hold, or he had been restored to his magisterial appointment, when he was invalided and discharged from the Public Service, or if he had been even allowed to continue to hold the Head Clerk's appointment for another three years and three months for which also he was certainly not unfit as it will be shewn below. The loss suffered by him in his pensionary allowance would have amounted respectively to Rs. 6-4-9 or 10-8-0 per mensem if he had been retired as a sub-magistrate on the 8th October 1895 or permitted to retain his appointment as Head Clerk till about the 12th January 1899 in view to enable him to earn his full amount of pension as Head Clerk on Rupees 70 per mensem.

heir in the latter part of 1892 to a ministerial appointment on equal pay, viz. first as Translator, Collector's office, and then as Head Clerk, Head Assistant Collector's office. The transfer was subsequently approved by Government in para 4 of Government Order, No. 768 Revenue dated 2nd September 1893, and the memorialist continued in the appointment for three years until he was declared by the District Medical and Sanitary Officer to be permanently incapacitated for further service on account of chronic dyspepsia, heart disease and anæmia. He appears to have been accordingly retired from the Service with effect from 9 October 1895 on an invalid pension granted in Government Order, No. 1362 Pension, dated 15 November 1895, which has not been communicated to the Board.

3. The memorialist now wishes to be restored to service on the ground that he is physically fit for duty. The Board has no recommendation to make on his behalf. He has not adduced any reasons sufficient to discredit the medical certificate invaliding him, and the general tone of his memorial is distinctly objectionable.

Lumsden
Sd. Asst. Secy.

To the Secretary to Government
Pension Department,
with memorial

III. That before proceeding to set out fully the facts of his case, and the grounds on which this memorial is supported, Your Excellency's memorialist humbly begs permission to advert to the circumstance that, on the date of his retirement, his pensionable service of 21 years and 9 months fell short, by only three months, of the period required to earn for him a still slightly higher minimum amount (Rs. 25-10-8) of proportionate invalid pension than his present allowance of Rs. 24-8-0, and that he therefore ventures to assert that considerations of justice and the provisions of the Civil Service Regulations as interpreted by the orders of Government bearing on the subject, which alike suggested the advisability of retaining him in the Public Service for a longer period were somehow ignored in his case, but that he has been retired, without any solicitation from him, on the strength of a Medical Cetificate obtained by the Collector on his own motion, which, as will be shewn below, was not wholly incontrovertible or unimpugnable. Here Your Excellency's memorialist begs to urge respectfully that if the Collector had not assumed for himself powers not possessed by him to deprive the memorialist of his magisterial appointment in 1892 contrary to the orders of Government (contained in G. O. No. 396, R. D., dated 18th March 1884, embodied in the Board's Proceedings, No. 3135, dated 8th September 1884), he would have been naturally retired as a Sub-Magistrate, for there was nothing to urge against him except the charge of inefficiency which, the memorialist undertakes to shew later on, was only hit upon for the occasion to justify the Collector's action, and which, as subsequently ruled by Government (G. O. No. 815, R. D., dated 5th August 1892) ought not have been made a ground for depriving the existing incumbents of the increased emoluments sanctioned for the pay of the Sub-Magistrates. It seems also proper here to advert that, as between the memorialist and one P. Sashayyar who was appointed to succeed the memorialist as a Sub-Magistrate and whom the Collector transferred to a ministerial appointment shortly afterwards, the Collector has not hesitated to report that "no doubt it would have been better to have allowed Arunachellayyar" (memorialist) "to continue" (as a Sub-Magistrate) "and simply to have allowed Seshayyar to have returned to his own appointment" (of translatorship, *vide* paras. 10 to 29 of the Collector's letter to the Board of Revenue, No. 521 M., dated 31st March 1893.)

IV. The memorialist has first of all a duty to discharge which is to explain away or disprove any laches (attributable to him) to regain his position as a Magistrate before his compulsory retirement, as well as the delay on his part to take steps to cancel such retirement. In this connection he respectfully begs to state that notwithstanding that there was no time fixed then for memorialising the Government which, he believes, is the case even now, the memorialist intended to appeal soon after his transfer to a ministerial appointment in July 1892 but he was deterred from doing so by the refusal of the leave then applied for, and by what transpired between him and the Collector in the course of interviews accorded to him on two days (8th and 9th July 1892) immediately after his relief from magisterial appointment. He was confident from what was then infused into his mind that he had not only to hazard his reputation for spotless honesty gained by him by his conscientious discharge of his work as a Magistrate for nearly 16 years, but he had also to be prepared to contend with further difficulties, if he had to seek redress against the Collector's action, inasmuch as that officer went then so far as to question his honesty with an air of self-confidence, which, as the result of the secret enquiries

instituted against him, finds only a trace, very indistinct, in the contrast exhibited between the memorialist and three other Sub-Magistrates similarly dealt with (*vide* the Collector's letter to the Board of Revenue quoted above). He therefore thought fit to temporize in order to avoid further mortifications by taking what was then deemed to be an ill-advised action, and resolved to wait till the Collector could furnish him with a statement of the facts and reasons that he could urge against him, and to report them with the explanation taken from him for the final orders of Government. With this object in view the memorialist petitioned the Collector on the 8th August 1892 to reconsider the transfer in the light of the facts and arguments urged by him, or to grant him also certain copies. Without sanctioning the grant of the copies, the Collector was only then pleased to favour the memorialist with an order, dated 1st September 1892, which is here reproduced for facility of reference. "The Collector does not consider" "the petitioner fitted for a Deputy Tahsildar and Sub-Magistrate's appointment," "and he should not in the exercise of the responsibility imposed on him in the" "public interests have continued him in the position in the new scheme. The" "Collector declines to discuss the matter with him or to revise the orders already" "passed." Seeing that this order was couched in a language which neither enabled the memorialist to urge his reasons fully against his removal from a Magistrate's appointment, nor precluded the Collector from discovering or falling back upon reasons not known nor anticipated by the memorialist, he renewed his petition when there was a temporary change of the District officer with the result that the petitioner's case was also reported to the Board of Revenue by the permanent Collector for the orders of Government without, however, any statement of facts being furnished to him or any explanation being taken from him for submission to Government along with the report. He therefore subsequently specially requested the Acting Collector on the 24th April 1893 to give the memorialist an opportunity of giving an explanation and to furnish him for the purpose with a statement of facts which resulted in his being deprived of his magisterial appointment; but compliance with this request was refused on the ground of the application having been made after the departure of the permanent Collector on leave from the District. In these circumstances the memorialist had no alternative but to rely upon providential intervention and justice taking her proper course. He therefore thought to await the receipt of the orders of Government which, however, fortunately gave him the right of appeal, but, which was not communicated to him for a long time after its receipt in the Collector's Office and till many months after he had applied for such communication to him, for the application made by him for the purpose on the 10th December 1893, was not complied with till the 5th July 1894. In the meantime the memorialist had taken steps to secure for him such copies of documents as were required by him to enable him to prefer the appeal to Government, and applied on or about the latter part of May 1894 for a month's leave without allowances from the date on which he would be entitled to it, and received on the 17th June 1894 the Collector's order that "the leave applied for will not be granted at present." As the endorsement made by the Head Assistant Collector on this application for leave seemed to convey a hint that applications for leave might possibly be construed by superior officers other than himself as an attempt to evade or shirk work of an irksome character by the memorialist, he had to take the cue so as to wait a little longer and work for some time more in the capacity of a ministerial servant immediately under the eyes of covenanted officers in order to see for himself as to

how "his work" reported to be "bad" by the Collector "was properly supervised" by his superior officers or in the higher quarters before he could prefer the appeal. Suffice it to say that so far as his immediate superior officers were concerned the memorialist's work was found by all of them (Messrs. Munro, Bedford, Gillespie and Ghose) to be satisfactory, and his honesty, diligence, trustworthiness and conscientious discharge of his work have been emphasized by them; nor was the memorialist found fault with from the higher quarters, though an attempt was unsuccessfully made to bring him into trouble regarding the alleged loss of records connected with a case of the grant of a large amount of loan under the Land Improvement Act, which in the end were found in the records of the Collector's Office and sent to the Taluq. Here the memorialist would beg to submit that he was also anxious to submit his appeal before the departure of the permanent Collector from the District which was on the tapis from about the end of the first half of 1895, and he accordingly once more applied for leave about the end of August 1895, adding that it was required to enable him to look after his private affairs as well as to study for Examination (Account Test Higher Grade applied for by him) which, under the change of rules to be then soon brought into operation, rendered it necessary on his part to pass in order to qualify himself for promotion. The memorialist was, however, to his chagrin and great misfortune prevented wholly from appealing to the Government against his loss of Magisterial appointment because the Collector declined to grant the leave on the 15th September 1895, (contrary to G. O. No. 610, Educational, dated 17th August 1894 then still in force), and terminated his services by getting him invalided.

V. The memorialist cannot here omit to advert to another matter also intended to throw difficulties in the way of his getting redress, as also to signify to him the frame of mind of the Collector towards the memorialist's intention to obtain redress of his grievances. It is his inability to get back certain original letters received by him from Messrs. Wilkinson and Tremenhere, and submitted by him along with his petition, dated 29th December 1892, to the Collector. These were first said to have been sent up to the Board of Revenue and were subsequently stated to be not forthcoming in the Collector's Office without any notice being taken of their loss, concealment or even possible destruction. The Collector also refused latterly to certify to the correctness of the copies thereof submitted for his inspection. The copies now submitted by the memorialist which are correct, shew, beyond doubt, that the Collector's opinion as to the memorialist's incompetency as a Deputy Tahsildar and Magistrate could not be accepted.

VI. With regard to the delay on his part to seek to invalidate his retirement, the memorialist begs to state he had to contend against formidable odds though he was in possession of some facts calculated to prove absence of fair play towards him.

VII. The memorialist was on active duty till before the day (30th September 1895) on which he underwent examination by the Acting District Medical Officer, and there was no complaint against him that he was unequal to the work that had devolved on him; on the other hand his immediate superior officers had always backed his applications for preferment, they having been satisfied with his work and character. Apart from the ultimate opinion of the District Medical Officer unfitting him for further service which was only subse-

quently announced and not anticipated by the Collector, the refusal to grant him leave and the steps taken to retire him in the face of the objections raised by him to his medical examination were, it is humbly submitted, not justifiable. So the memorialist had to appear before the District Medical Officer who examined him by only going through the previous medical history of the memorialist maintained in his office, and hearing him, but without applying any test to ascertain his fitness for work of the kind performed by him or his ability to undergo ordinary physical exertion; and he had to return to his work on the same evening without being able to ascertain the result of the examination which he requested the District Medical Officer to inform him when he was told to go, the reason assigned for not making it known at once to him being that it would be communicated to him through the Collector. Here the memorialist most respectfully begs permission to advert to certain circumstances which transpired to his knowledge. Soon after his examination was completed at about 10 A.M. he went to the Collector's house in order to pay a visit to the Collector, and when he was waiting there outside till the peon could obtain permission and take him before the Collector, the Acting District Medical Officer came to the Collector and had a conversation which lasted for some minutes of which the particulars could not be known to the memorialist. It must be here noted that the Collector on that morning attended and presided over the District Board's meeting and was apparently not ill and the members of his family were not present at Salem so far as the memorialist could now remember. When the memorialist was immediately invalided and discharged from the Public Service he addressed the Collector and the Doctor privately to condescend to inform him that the conversation on the forenoon of the 30th September 1895 after the Medical Examination did not turn upon his case, but no reply has been vouchsafed to him by either of them although the Doctor was also reminded about it. It may, however, be said that the meeting of the two officers was purely accidental, but so long as the information sought from the Doctor (first immediately after examination and before he saw the Collector and again after the memorialist's retirement) has been withheld to him, and the Collector's action in refusing leave and sending the memorialist for medical examination was, irrespective of the result, not well grounded, the memorialist submits most respectfully that, without a fitting denial on the part of the officers concerned which can be only obtained by Government, he is unable to efface from his mind the conviction that he was unexpectedly deprived of his appointment for no fault or inefficiency on his part.

VIII. Now the disease in consequence of which he has been unfitted for further service is "chronic dyspepsia due to heart disease." When the memorialist as Deputy Tahsildar and Sub-Magistrate of Harur was granted by Government sick leave for four months between 10th October 1888 and 9th February 1889 (*vide* G. O. passed in the early part of 1889), the disease diagnosed by the permanent District Medical Officer Dr. Rodgers Harrison was pure dyspepsia, the words "Heart disease" entered by the memorialist's medical attendant (Hospital Assistant Arogyasawmy) in his statement furnished to the memorialist having been scored out by the Doctor. This sick leave and a subsequent furlough of a year and ten months availed of by the memorialist restored him to his health so as to excite the surprise of Dr. Harrison, when he met the memorialist at Tirupatur in 1893 and afterwards. With the precautions taken by him since

1889, the memorialist has been able to maintain always good health and undergo any ordinary amount of physical exertion, an instance of which is furnished by the memorialist walking on foot tolerably long distances with the late Mr. Frank Levy—a former Head Assistant Collector—when he was then touring in the Uttankarai Taluk to report upon the prospects of the season in September 1891, and he, thereby apparently desired to test the memorialist's physical fitness. The memorialist begs to submit that even professional men mistake cases of pure Dyspepsia for Heart disease owing to the sympathetic or irregular action of the heart including palpitation in such cases, and, whatever may be the difference of opinion between them or by one of them at different times, there was no ground whatever in the case of the memorialist for a refusal to sanction prolongation of his service for a period only necessary to qualify him for a full pension or even for a shorter period especially when he was in a good state of health at the time which has been certified by the permanent District Medical Officer (Dr. Harrison) at the request of the memorialist, three weeks after his retirement, in the course of a private examination. Here the memorialist begs to state that in consequence of the certificate granted by the permanent District Medical Officer he was able to secure, for 16 months under the Jaghirdar of Arni private employment as a Commissioner involving outdoor work and the performance of duties, not less onerous, nor less responsible than those of an executive or a judicial officer under Government employment, and whereby his emoluments together with his pensionary allowance placed him in a position similar to that of a Deputy Tahsildar and Sub-Magistrate. This affords a further proof of his capacity for work as also to bear or undergo bodily hardships consistent with his employment and ways of life, and supports rather Dr. Harrison's than Dr. Hacket Wilkin's opinion who was only the former's *locum tenens* at the time.

IX. Again heart disease has been held to afford no adequate ground for refusing Life Assurance, (*vide* Gribble's Treatise on Medical Jurisprudence) but although it may be considered to debar admission into the Public Service it cannot justify termination of an employment already too long held. When the memorialist was first enrolled in the Police Force in 1868 the truth of which, he requests, may be tested, if necessary, by reference to the Police Records of this District, Dr. Roberts was then unable to discern heart affection and debar the memorialist's admission into the Force. The memorialist has for years survived the statement communicated to him of his being subject to heart disease in the face of instances, that may be quoted, of deaths being accelerated by such communications, and since then no physical endurance was ever avoided by him whenever necessary either in public or private life. Sudden deaths in the case of Public Servants has been generally attributed to heart disease, although symptoms of such disease had not been discerned during life sometimes even by professional men. The memorialist therefore submits that there were no adequate grounds for Doctor Wilkin's opinion which ended in his retirement and discharge from the Public Service.

X. It will thus be seen that the memorialist deferred taking steps to seek his reinstatement till he was able to shew as well as he can good reasons against the tenability of the medical opinion which incapacitated him for further service.

XI. The memorialist has now to explain away only the statement of incompetency and sly references to his reputation and mental calibre urged against him by the Collector. In this connection he respectfully submits that positive assertions and general suggestions, exaggerations, inaccuracies and fallacies combined with a little playing upon words have helped the Collector to condemn and discredit the memorialist's work as also to underrate his reputation for unblemished character. For the sake of convenience an Appendix (Enclosure A) is added to this memorial on this part of the case against him which, the memorialist earnestly prays, may be patiently gone through and taken into consideration by Your Excellency in Council.

XII. Though the Collector has reported to the Board of Revenue that he had ostensibly no desire to prevent any wrong done to the memorialist being set right by his superior authorities if redress had been sought for by the memorialist in time by way of appeal, it will be scarcely permissible to him, nor will it serve any useful purpose, to attribute motives to the Collector's actions unless the memorialist is particularly asked about them, but he is unable to refrain from obtruding upon the consideration of Your Excellency in Council that he has been unjustly ruined by the Collector despite his competency and rectitude of conduct. He has in vain sought for a decent employment under the Court of Wards on three occasions, and under Municipal administrations on two occasions after the cessation of his service at Arni which, it is submitted, was not due to physical unfitness nor to doubtful character. He has not even been allowed by the District Magistrate to practise as a private legal practitioner before the Criminal and Revenue Courts in the Sub-Division.

XIII. The provisions of the Civil Service Regulations allow re-employment of persons invalided on fresh proof of their capacity for work which, the memorialist begs, may be now ascertained if considered to be necessary.

XIV. He therefore implores that Your Excellency in Council may be graciously pleased to go through the entire records herewith submitted and those that may be called for from the Board of Revenue, and render him justice by restoring him

(*a*) again to his position as a Deputy Tahsildar Sub-Magistrate either in actuality, or *pro forma* prior to his retirement, so as to entitle him to the increased emoluments then sanctioned alike to all incumbents of Sub-Magistrate's appointment, over his pay as Head Clerk of the Head Assistant Collector's Office, from the date of the introduction of Mr. Garstin's scheme (1st October 1892) to the date of his retirement and discharge from the Public Service (8th October 1895) thus enabling him to earn a higher amount of pension and to acquire his status as a retired Deputy Tahsildar Sub-Magistrate ; or

(*b*) to his ministerial appointment as Head Clerk Head Assistant Collector's Office without loss of service and emoluments to be foregone to the extent of his earnings between the dates of his retirement and reinstatement now prayed for, till such time only as may be necessary to complete his service of 25 years, to qualify him to earn his maximum pension as such Head Clerk ; or

(*c*) if service during the period he has been without Government employment cannot be allowed to count towards pension also to retain him in service till such time as he could himself wish to retire on or before attaining his fifty-fifth year of his age; or

(*d*) failing any one of the three, or in addition to the first two concessions prayed for as above, to pass such orders as may be thought meet, proper and adequate by condonation of the deficiency of the three months' service referred to in para. 3 *supra*.

XV. The records submitted herewith for the perusal and consideration of Your Excellency in Council are particularised in the accompanying list and to guard against any further loss of enclosures or original documents some of which are missing or have been tampered within the Collector's Office the memorialist has procured the attestation of two witnesses to the list.

For which act of justice the memorialist shall, as in duty bound, ever pray.

Pensioner

DHARMAPURI,
24 - December 1898

Appendix to the Memorial submitted by S. V. Arunachala Iyer, late Head-clerk, Head-Assistant Collector's Office, Tirupatur, Salem District.

I. It will be better and more convenient to quote extracts from the Collector's letter, Board's Proceedings and other papers setting out the facts and reasons urged for the removal of the memorialist from a magisterial to a ministerial appointment and attempt to explain them away or refute them, the extracts and the explanation or refutation being written in juxtaposition.

II. (PARA. 3) OF THE COLLECTOR'S LETTER.

"But the fourth" (case) "relates to "Arunachala Iyer, (the memorialist) who "was reverted to the post of Translator "in the Collector's Office by order, dated "14th June 1892, No. 1927."

This is not fully accurate. The memorialist was holding the Magistrate's appointment from the latter half of 1874 till towards the end of 1886 when he was offered the Translator's appointment by the late Mr. McWatters, with promise of reversion to a Deputy Tahsildary in order to suit his intended arrangements. The memorialist accepted the Collector's offer in hopes of preferment but having been disappointed he pressed his claims to be sent back as a Magistrate which was readily granted at the first opportunity (*vide* Correspondence ending with G. O. (R. D.) No. 5164, dated 30th August 1887. The omission to note the entire period for which the memorialist held the appointment of a Sub-Magistrate could not have been unintentional as service as a Magistrate for 16 years would "per se" disprove the allegations of incompetency without additional proof of a series of blunders or perversity on the part of the memorialist.

(PARA. 7) OF THE COLLECTOR'S LETTER.

"In regard to Arunachala Iyer alone it is "not usually asserted that he 'is corrupt' "(in contrast to three other Sub-Magistrates "named and reported to be 'notoriously "corrupt'.")

The phraseology employed here affords an intrinsic evidence of an unwillingness to recognise a man's good character. The memorialist never forfeited his reputation for honesty, which he continued to preserve till the end of his service and which has been the guiding principle of his actions even subsequently. His statement is borne out by the testimonials, letters and endorsements contained in the accompanying printed copy thereof. Any doubt which personages now well disposed towards the memorialist may entertain about it, is set at rest byMr. McWatters' letter to the Board embodied in G. O. quoted in para. 2 above wherein nothing is reported against him when there was a question expressly raised by the Government as to the reasons of the memorialist's transfer to the Translatorship towards the end of 1886 after service as a Magistrate for nearly 12 years.

(PARA. 15) OF THE BOARD'S PROCEEDINGS.

"There is no charge of dishonest dealing against him."

AGAIN (PARA. 7) OF THE COLLECTOR'S LETTER.

"But he is looked upon as not quite right in his head."

(PARA. 15) OF THE BOARD'S PROCEEDINGS.

"The late Mr. McWatters stated in "April 1889 'that Arunachella Iyer was

Against this is to be set off the opinions expressed by 4 Head Assistant Collectors and previous District Officers and particularly that of Mr. J. P. Bedford, who supervised the work done by the memorialist for two years and who has finally endorsed his opinion from Ongole on a petition addressed to him,

"quite off his head addicted to eating ashes "and tearing up *official correspondence*.'"

after the retirement of the memorialist that "he is shrewd in matters of business," besides emphasizing his opinions previously expressed that the memorialist's work was "satisfactory" and that he was "hard-working" and "conscientious." What the late Mr. McWatters wrote to the District Surgeon in April 1889 was that the memorialist "was reported to be quite off his head, addicted to eating ashes and tearing up official covers." The quotation made in the Board's office is misleading and highly injurious inasmuch as there is a good deal of difference between tearing up "official covers" and "official correspondence." Mr. McWatters knew the memorialist too well to give credence to any such statements which being false and worthless in their nature and scarcely calling for notice were made with a view to find some pretext for retiring the memorialist at his request made at a time of sudden and serious illness and subsequently retracted on recovery. The fact that Mr. McWatters did not finally act upon them but that he thought fit to recommend furlough to the memorialist on receipt of a report from the memorialist after returning from the District Medical officer's office in 1889 shews that he did not consider the petitioner to be then unfit for work except on the score of his illness not affecting his brain. As the memorialist is conscientious there was nothing indiscreet on his part in first requesting to retire and then in withdrawing it after recovery.

This shows that upon mere inspection the Collector was unwilling to allow the memorialist to rejoin his appointment on the expiration of his leave, however much he desired to do so, more on account of prejudices imbibed and entertained against the memorialist during his absence on furlough on information probably derived from sources neither reliable nor untainted. Matters could have been then alone set right by sending the memorialist for medical examination or by insisting upon the production of a health certificate that had already been secured by the memorialist.

It would have been very fair if the memorialist had also been allowed a chance of quoting cases in which his decisions have been upheld with approval chiefly after his return from furlough. The memorialist solicits the indulgence of searching the Revenue and Criminal records of the Harur Sub-Magistrate's office to select for his part, if necessary, judgments affording proofs of his appreciation of evidence and of his disinterested efforts towards meeting out justice in spite of the indifference and misdirected sympathy on the part of those whose duty it was to see that justice was not miscarried. The memorialist would, however, quote here two important cases of theft in which the Postal and Forest Departments were interested, and in which there was a mass of

(Para. 54) of the Collector's Letter.

"His leave expired about July 1891, and I permitted him to rejoin his appointment at Harur as I had no grounds on which to prevent it."

"I was not at all convinced from my inspection of him that it was desirable to allow him to return."

Again (Para. 54) of the Collector's Letter.

"I had soon considerable reason to be dissatisfied with his work generally. The facts of this matter can be ascertained from a scrutiny of all the Calendars of his Court which will be submitted if the Board desires to verify my statement. I quote here two important cases in which his unfitness for the duties of a Magistrate is, I think, demonstrated."

conflicting evidence, to be sifted and appreciated by the memorialist. The convictions and sentences appealed against in these cases have been affirmed with approval. In criminal appeal case No. $\frac{56}{1891}$ against the conviction in case No. $\frac{193}{1891}$ the appellate court has observed: "I am of opinion that the Lower Court has rightly found that there was a theft and that the appellant was guilty of it," the circumstances connected with the case giving room for a weighty argument that no theft at all was committed by the accused, but by another Post Office employee. In criminal appeal case No. $\frac{39}{1892}$ against the conviction and sentence in case No. $\frac{101}{1892}$ the appellate court has decided that "this was a carefully planned theft of wood in charge of a public servant and there is no ground for discrediting the mass of evidence for the prosecution." A portion of this mass of evidence was not forthcoming till the memorialist had pointed out to the officer conducting the prosecution (Station House Officer), the desirability of securing this evidence also. The memorialist begs that the records connected with these cases both in the Lower and Appellate Courts may be sent for and perused in order to form a notion of the memorialist's way of discharging his work and appreciation of evidence. Again the memorialist begs to quote, from recollection, the conviction, mainly through his efforts, of a village Munsiff (Neyyamalai) who aided and abetted thefts of sandalwood so rife in those parts, owing to the connivance of persons responsible for safe guarding the interests of State Revenue which the memorialist had, at times, tried to expose as much as possible. This case was not even appealed against and affords a convincing refutation of the positive assertions made by the Collector. The memorialist begs that the records of this case may also be sent for and perused in order to form an opinion as to the appreciation of evidence by the memorialist.

The Board writes in this strain on the 7th July, 1893, when the Collector was J. Andrew, Esq., who refused to furnish the memorialist with a statement of facts reported against him and to allow him an opportunity for an explanation. This shows that he desired to support the permanent Collector's action and the memorialist is at a loss to understand on what basis the above statement has been made to the Board whether officially or demi-officially. The memorialist is sanguine that no such intimation could have been given to the Collector by Mr. J. P. Bedford who was then Acting Head Assistant Collector. Mr. Andrew should have obtained this information from equally untrustworthy sources. It is scarcely possible that if the memorialist's non-recovery had then been a matter of fact, he was able to work hard and give satisfaction to his superior officer, *viz.*, the abovenamed Head Assistant Collector under whom the memorialist served over a

Again (Para. 15) of the Board's Proceedings.

"He was accordingly granted furlough and the *present* Collector considers that even now he has hardly recovered."

(Para. 54) of the Collector's Letter.

"In the Buddireddypatty murder case, by his want of promptitude and want of judgment and knowledge of his position as a committing Magistrate, he materially contributed to a very grave miscarriage of justice; a memo. setting out the material facts of the case is enclosed together with reasons for non-committal, of the sub-Magistrate and of mine recorded when committing the accused to the Sessions."

"This was early in 1892."

Extract from the District Magistrate's Preliminary Register:—

"They" (the two sons and the widow of the deceased) "are discredited by the Mahazar but the sons say that they had no confidence in the Station House Officer and therefore refused to say anything to him, and looking at the nature of their statements, I am not prepared to say that this is not a good and sufficient reason. From my experience of natives I should be surprised if they had spoken *rather than at their denial*. The contradictions in their statements are not such in my opinion as to shew them not credible witnesses. Certain entries in the Police record are said to be made with the object of bolstering up the case. Even if the Police misconducted themselves, it will not, in the absence of any proof of conspiracy, tend to discredit the witnesses; but there is no proof that the Police have misconducted themselves to bolster up the case. What they have done, they knew, must, if it had any effect at all, have that of breaking down the case. It is very questionable whether the entries are not sufficiently accounted for."

period of two years and his successors for a period of one year prior to his retirement.

The "very grave" miscarriage of Justice adverted to here has reference to the acquittal of the accused concerned by the Sessions Court which, in a case of the kind first threwn out by a Subordinate Magistrate, but taken up and committed to the Sessions by the District Magistrate, would not have overlooked any dilatoriness on the part of a Subordinate Magistrate really at fault, nor would it have spared him any reflections on his conduct, character, or judgment, that he would have actually deserved. The Collector and District Magistrate has quoted no extracts from the Sessions Court's Judgment, nor has any reliance been placed upon it in support of the animadversions that have been cast against the memorialist by the District Magistrate. It is therefore respectfully submitted that the Collector's observations are not warranted. At the same time the memorialist humbly begs leave to vindicate himself.

The accused were discharged by him because the evidence was considered to be assailable on account of the misconduct of the Police Officers in making interpolations and interlineations in the inquest report (Mahzar) which, beyond doubt, to use the Collector's language, had the effect of "breaking down the case."

These interpolations and alterations were found by the memorialist to have been purposely made to let in evidence which, but for them, was actually shut out by the tenor of the statements originally made by the sons of the deceased as recorded in the inquest report stripped off the above interpolations. The memorialist begs here to quote passages from the Preliminary Register sent up by the District Magistrate when committing the accused to the Sessions, as also from the Preliminary Register submitted by the memorialist after discharging them.

Extract from the Preliminary Register sent up by the Memorialist:—

"The internal evidence afforded by the writing shews that these lines were written at some other place after its completion (Mahazar referred to) at the place of inquest." * * *

"Though a similar mistake—only one—is to be seen it refers to the correction of the hour of the night when the deceased's eldest son went to the field-hut and but for the correction the deceased's sons would be precluded from giving evidence of their identification of the prisoners in moon-light. Assuming they * * (the deceased's sons) did not like to accuse the Munsiff in his face they were wrong in not informing the Station House Officer (Court's witness) of what has been subsequently told to the Inspector of Police. The credibility of the evidence now

given by them, during the enquiry is impeachable unless the interpolations in the Mahzar was not due to the turn the case may be said to have taken subsequent to the Police Inspector's interference." In the face of such suspicious facts, the memorialist was required by the prosecution to believe the evidence given by the two sons of the deceased of their recognition of the accused in moon-light, at a distance of, from 40 to 57 ft. although they had failed to mention this fact to the Station House Officer during the inquest.

The Sessions Court has, however, taken no notice of the interlineations and alterations in the Mahzar though they were much commented upon by the memorialist and were tried to be explained away by the District Magistrate when making the commitment. It is because of the non-examination before it of the Station House Officer (Court's witness) which is probably due to the Court's opinion that the evidence adduced before it was unsatisfactory. Permission is, therefore, sought to quote also portions of its Judgment with a view to afford complete information which is so much required in this case in order to help a correct decision as to the memorialist's action.

"But the only direct evidence in the case is that of Lakshman's (deceased) two sons and the value of it depends upon the probability of their having clearly recognized the accused (in the moon-light). * * *

"But according to the first witness the moon would only shine on the path taken by the murderers for 4 or 5 yards (he points out the distance) from the shed, the rest of their way being under the shadow of the trees." * *

"$\frac{\text{The 2nd witness}}{\text{Prosecution's}}$ contradictory statements unsupported as they were by immediate mention of the names of the accused to his mother or by his mention of them to the 4th witness, form, even when taken with the 1st witness' retracted statement to the Magistrate, an insufficient basis for conviction. The case is suspicious, and it is possible the witnesses have been "got at" but as it stands I am unable to find sufficient reliable evidence."

It will thus be seen that the incredibility of the evidence for the prosecution (no evidence for the defence was even called for) was the sole reason for the acquittal or discharge of the prisoners in the Sessions Court or by the Sub-Magistrate, though the Sessions Court did not think fit to adopt the same reasoning as that of the Sub-Magistrate (memorialist), its work having been much facilitated by the retraction before it of the statement before the Sub-Magistrate by the deceased's eldest son, who, it is earnestly urged, thereby only adhered to his original version before the Station House Officer by which no one had been incriminated by him.

If there had been no retraction by the deceased's eldest son before the Sessions Court, the defence conducted by a Barrister who was engaged from the beginning would have surely drawn attention to, and elicited evidence as to the interpolations and the deceased's eldest son's original statement, and established the falsity or the untrustworthiness of the evidence for the prosecution. But the trial was not protracted simply because the case "was suspicious." The memorialist, therefore, respectfully submits that no grounds existed for ascribing to him want of judgment.

Again the District Magistrate says, that the memorialist was ignorant of his position as a committing Magistrate and quotes a Bombay Ruling from the Indian Law Reports which the memorialist confesses he was not aware of, and had no occasion or means to have had knowledge of it. It is the only authority for the position maintained by the District Magistrate; nevertheless the memorialist's procedure in weighing the evidence before it in such a case was in consonance with his course of conduct in his official career as a Sub-Magistrate for which no objection had ever been taken by the superior Courts. The procedure adopted by the memorialist and taken exception to by the District Magistrate has since been expressly sanctioned by the new Criminal Procedure Code and had generally been observed by Subordinate Magistracy used to make a searching enquiry.

The memorialist has only to establish the groundlessness of the assertion made against him as to his want of promptitude which, it is surmised, has reference rather to the inquest held by him than to the duration of the preliminary enquiry before him after his receipt of the Police Charge Sheet, though in both matters he has not been wanting in expedition.

The murder was committed on the night of the 12th November, 1891, (not 11th strictly speaking) at about 2 A.M., and the Station House Officer received a report in the matter at about 1 P.M., on the same date, although the Station House where he was at the time was only about 3½ miles. The Inspector of Police was then at or very near the Station House, but the Station House Officer proceeded to the spot alone and held the inquest before that evening.

The memorialist's Head-Quarters (Harur) is about 12 miles from the scene of offence (Buddireddipatty limits) or the village site bearing that name, and the Village Munsiff's report in the matter was, as it has been reported by him to the Head Assistant Magistrate on the 13th November, did not reach the memorialist's hands till that afternoon when he had started from his Head Quarters to the scene of offence at the request of and along with the Police Inspector who, a few hours before, had returned to Harur either

from Kadathoor or from the scene of offence. The memorialist with the Inspector of Police arrived at the scene of offence at about sunset and inspected the locality and took measurements at once on the same day. The PoliceInspector's communication said to have been addressed from the scene of offence or Kadathoor on the previous day which was mentioned to the memorialist at Harur by the Inspector of Police was not also then received, and as it was late in the night and it was represented that the memorialist should receive it before commencing to inquire into the cause of death, the enquiry was postponed to and completed on the following morning.

The memorialist's version will be borne out by the reports submitted by him to the Head Assistant Magistrate, and the interest taken by him in the case will be established by his having recommended the offer of a grant of a reward to any one furnishing information towards the detection of the case. The reasons for such recommendation being the suspected tampering up of the evidence that was supposed to be forthcoming. He does not, therefore, deserve the aspersions made on him.

Again in Para. 54 of the Collector's letter: "This (the Buddireddipatty murder case committal) was early in 1892. After this his work still continued very unsatisfactory till finally in June the records of the Thumbal Forest case came under my notice. This was an important Forest case in which in a Judgment which must be perused to be appreciated he acquitted the Village Munsiff who was the originator and prime-mover in the whole matter, convicting the 3rd accused on the very identical evidence. This case showed him so utterly incapable of grasping and weighing evidence, if nothing worse, that I felt myself compelled for the safety of the public to transfer him to an appointment of equal pay where his work, if bad, could be properly supervised."

In this important forest case 12 accused were tried by the memorialist, but the 3rd alone was found guilty and received the maximum punishment provided for the offence. The date of the judgment was 31st August 1891, and the appeal preferred therefrom by the convicted person (3rd accused Pethanna Chetty) was decided on the 2nd December 1891. The Collector in his office proceedings, Reference on No. 64, dated 4th January 1892, passed on a perusal of the judgment of the Appellate Court (the Lower Court's Judgment had been sent to his office so far back as September 1891) called upon the District Forest Officer to report if any further steps should be taken in the case and was informed on the 18th January 1892 that the High Court might be moved to set aside the acquittal (in its entirety). In these circumstances the Collector's statement to the Board of Revenue that the records of this "important" case came to his notice only in June 1892 or nearly six months after receipt of the Appellate Court's Judgment in his office or just a week after the date of the order of the memorialist's transfer to a ministerial appointment, is therefore not true, and intended to cover the omission to appeal to or even move the High Court to set aside the order of acquittal for which there was ample time between the 18th January 1892 and 1st March 1892, when the time to prefer the appeal expired and the powers of revision by the High Court could still be invoked.

It is humbly submitted that if the acquittal had been set aside by the High Court on appeal or on revision, the Collector and the memorialist would alike be concluded by its decision; so long as no exception is taken by the Appel-

late Court or by the Collector to the acquittal of the accused other than the 1st accused (Village Munsiff), the memorialist has apparently to account for, or explain his action only with reference to the observations made thereon by the Appellate Court and the Collector; but the circumstances of the case are such as to warrant the other accused's conviction or acquittal as a necessary consequence of the 1st. accused's conviction or acquittal. When the Appellate Court and the Collector have both acquiesced in the acquittal of all the accused except the Village Munsiff the case against the latter person (Munsiff) was, of course, as weak and unreliable as that against his co-defendants also acquitted along with him. The reason of the disapproval of only the Munsiff's acquittal by the Appellate Court and the Collector is very unfortunate. Whether it may be due to travelling out of record on the part of the superior officers, who, by virtue of their position, can safely decry a subordinate officer who is always at their mercy, or to "utter" incapability "of grasping and weighing evidence" on the part of the memorialist after 16 years' experience as a Sub-Magistrate, it has to be decided by Government alone on a consideration of the reasons urged on BOTH sides, when the High Court's decision thereon has not been sought owing either to neglect or to an anticipation, not unwarranted by the merits of the case, of its order refusing to set aside the acquittal on appeal or revision.

A reference to the fact of the case is therefore rendered necessary in view to a correct decision being arrived at by Government. This, to the memorialist's misfortune, has not been done either by the Collector or by the Board of Revenue.

Now the Appellate Court's Judgment shews that the Village Munsiff's guilt was established by his collection of sandalwood in the forests, and by the constructive possession held by him of such wood seized by the Forest Guard when it was brought into the village from the forest.

The direct evidence given by the 2nd to 4th. $\frac{\text{witnesses}}{\text{prosecution}}$ as to the collection of wood incriminated not only the Village Munsiff, but also the 2nd to 5th accused who were present with him and busily engaged in sawing and storing it. Again the Village Munsiff was shewn to have brought sandalwood from the forest over the heads of the 6th to 12th accused, who were said to have threwn it down in front of the Village Munsiff's father's house, the Village Munsiff residing separately from his father, but still occasionally visiting his father. Such is the tenor of the evidence for the prosecution. The memorialist does not see why the evidence for the prosecution should be disbelieved, as regards 2nd and 4th to 12th accused, and believed against the Village Munsiff (1st accused) alone, by the Appellate Court.

(PARA. 21) OF THE APPELLATE COURT'S JUDGMENT.

"But with respect to the seven head-loads which the 1st accused was discovered bringing or having brought from the Government Forests, the case against him is in the same platform with that against the 3rd accused (appellant). The wood is similarly identified to be Government wood and the evidence of possession cannot be believed against one and disbelieved as regards the others. If I thought that the acquittal of the 1st accused could be supported, I should have no hesitation in quashing the conviction of the appellant."

Again (Para. 4), thereof.

* * * * * * *

"It appears to me that his conviction would be annulled if the direct testimony as to the collection of the wood in and removal of it from the Government Forest has to be deemed a concoction and the outcome of a conspiracy on the part of the Forest Subordinate and Police Officers."

The memorialist therefore begs permission to quote in support of his contention a few passages side by side from his Judgment and that of the Appellate Court.

The wood of which possession is said to have been held by the 1st and 3rd accused was not the same. The latter had to account for what was taken on search instituted into his house, while the case against the former rested chiefly on the constructive possession said to be held by him by reason of his having led a party carrying head-loads of wood and of their having been left by them in his father's house which he is said to have entered at the time.

Further, as against the 3rd accused, the evidence of the alleged collection of the wood by him in the Forests along with the 1st accused was wholly discredited by the memorialist, and dismissed from his consideration—the *rationale decidendi* in the case against him being that "Sandalwood is a reserved wood solely cut departmentally from Government Forests" and is not permitted to be felled by private persons in Government Forests—and that under section 56 of the Forest Act which deals with private as well as Government Forests one had to account for his possession of the wood and that such possession was not satisfactorily accounted for by the 3rd accused.

This view of the Law as understood and acted on by the memorialist has since received confirmation from the High Court in Criminal appeal No. $\frac{451}{1896}$, disposed of on the 20th January 1897. The Judgment therein which has been published in the Forest Sheet of the Salem District Gazette dated 1st April 1897 is also herewith submitted with other records for His Excellency in Council's perusal.

The statement made by the Collector that the 3rd accused was convicted "on the very identical evidence" that was disbelieved against the 1st accused is therefore quite untenable. If a reference is made to the Collector's and District Magistrate's proceedings No. $\frac{1998}{\text{Magistrate}}$ dated 24th November 1890 of which a copy has been refused to the memorialist in connection with the memorialist's case, it would seem clear that the Collector's statement to the Board referred to above was made with a knowledge of its being at variance with his previously expressed opinion about the burden of proof in prosecutions under the Forest Law communicated to all Magistrates for future guidance. In this view it is also humbly submitted that the Appellate Court went out of its way in scrutinizing the reasons for the 1st accused's acquittal merely to uphold the conviction and sentence passed against one of his co-defendants $\frac{\text{3rd accused}}{\text{appellant}}$ when it agreed with the Lower Court that possession of the wood was not satisfactorily accounted for by him; and therefore its observations on the 1st accused's acquittal

(Para. 15) of the Appellate Court's Judgment.

"The 1st, 2nd, 5th and 6th prosecution witnesses surprised a party bringing sandalwood in the village. It was a dark night and the only member of the party who was satisfactorily identified by all the four witnesses was the 1st accused (Village Munsiff) who led those carrying wood in advance."

The Appellate Court says in (Para. 9) of its Judgment.

"This" statement (taken by the Forest Guard from $\frac{\text{the 2nd witness}}{\text{Prosecution.}}$, the informant) is "Exhibit C." "I think the Lower Court has somewhat over-valued this document in calling it the groundwork of the prosecution but taking it as it is, it strengthens the oral depositions very materially." * * * "It bears date the 2nd of May 1898, the figure 2 being a correction of a first entry of 1. It has also an interpolation, which is that of the date of return of $\frac{\text{2nd witness}}{\text{Prosecution}}$ from the Chittary Hills, *viz.*, 1st May."

In (Para. 10.)

"Again the corrections themselves seem perfectly innocent. As far as can be judged from appearances they are as old as the document itself and there is no attempt at concealment."

In (Para. 12.)

"It" (Exhibit III) "is a very meagre document and contains an ambiguous entry about "half a mile" capable of a double application and the precise meaning of which is not clear. The substance of Exhibit III is in no way contradictory of the oral evidence of the 3rd witness but shows that the enquiry made by the Forest Ranger was very superficial."

In (Para. 13.)

"Hardly anything appears in the Judgment of the Lower Court about the evidence of the 4th prosecution witness (a money-lender and ryot) which is quite ~~mistaken~~ in itself. It is merely remarked that "it stands alone is not corroborated as expected" and taken by itself is of little use to the prosecution. It is elsewhere observed that it was indiscreet on the part of the 3rd and 4th prosecution witnesses to have adverted to the name of the 11th prosecution witness in their evidence as was naturally to be expected he contradicts the 4th prosecution witness and is no doubt partial to the 1st accused."

cannot have any bending force as a criticism on the memorialist's Judgment or to avoid it.

(Para. 16) of the Memorialist's Judgment.

"The darkness which prevented the witnesses from identifying the followers would have equally prevented them from singling out the defendants who were also not to be seen behind their back, when they were carrying the loads. Further Exhibit D. (1st crime report) shews that the only witness who identified the defendants No. 1 and 6 to 12 was the informant Hyder Sahib $\frac{\text{2nd witness}}{\text{prosecution.}}$ His evidence of identification is open to the same objection as those of the other witnesses. He had no conversation with any of the accused at the point so as to be able to recognize them by their voices."

Here the memorialist begs to urge that the Appellate Court cannot believe the evidence of identification against the Munsiff alone, and reject it against the 6th to 12th defendants. As this evidence is, however, connected with the seizure of wood produced at the trial, more cogent reasons for distrusting the seizure have been given with reference to documentary evidence adduced in the case, in paras. 11 to 15 of the memorialist's Judgment which are too long to be extracted here. The memorialist most earnestly beseeches a perusal of it.

(Para. 10) of the Memorialist's Judgment.

To the right understanding of the oral evidence adduced for the prosecution the documentary evidence adduced on both sides needs careful scrutiny. I shall first take Exhibit C.* * * * * filed after considerable struggle for its production by the accused's pleader. "It * * * * * * is said to destroy the fabric raised by the prosecution." * * * If there had been no alteration of the date nor interlineation in it, it shows that the informant returned from the Hills on the 28th April 1891. * * * * * "But this oral evidence is contradicted by Exhibit D, the first crime report submitted by the Guard which shews that he and the informant began to lie in wait for the wood from the 2nd May 1891."

(Para. 18.)

"The evidence of the 2nd witness for the prosecution is not borne out by Exhibit C. even with the alteration and interpolation on it. He says to have returned home on the 2nd day whereas it appears from Exhibit C. he remained for 5 days between the 28th April and 1st May. If his evidence be true he must have seen the cutting himself and he does not say at all."

(Para. 19.)

The evidence of the $\frac{\text{3rd witness}}{\text{Prosecution}}$ is contradicted by his previous statement before the

(Para. 15) of the Board's Proceedings.

"The Collector merely considers him to be incompetent, as a Sub-Magistrate, and has submitted the records of two cases dealt with by him for perusal. The Board has carefully perused the records in these cases and considers that the Sub-Magistrate has failed to grasp the facts and to weigh the evidence properly. The Head Assistant Magistrate observes that in one case (Thumbal Forest case) the Sub-Magistrate's Judgment is so involved that it is difficult to ascertain what was the finding or whether there was any finding at all *as to the main points of the case.* The Collector also considers the Judgment to be unsatisfactory and states that it must be perused to be appreciated."

Ranger. He had seen the cutting of sandalwood by a number of Malayalees and the 1st to 5th accused were at a distance of half a mile from them. The $\frac{\text{2nd witness}}{\text{prosecution}}$ ascertained from the 5th accused that the Malayalees were cutting the wood for them. The witness now corroborates the $\frac{\text{2nd witness}}{\text{prosecution}}$ and his evidence is therefore useless."

The memorialist begs to submit that when the evidence of the 2nd and 3rd witnesses, (prosecution) was discredited, the evidence given by the $\frac{\text{4th witness}}{\text{prosecution.}}$ whose statements were contradicted by the $\frac{\text{11th witness}}{\text{prosecution,}}$ stood "alone" and was "of little use" when taken by itself. This needs no further elucidation.

Though the Head Assistant Magistrate has remarked that the memorialist's Judgment was "involved," passages therefrom have been freely quoted in the appeal Judgment, and whereas the said Judge has merely adverted to the difficulty of ascertaining the or to the want of a finding as to the ownership of the sandalwood said to have been removed by the 1st and 4th accused, the Board has been pleased to take it for a finding "as to the main facts of the case" which is quite a different thing. The finding said to be wanting by the Head Assistant Magistrate was unnecessary so long as the accused (1st and 4th) were not found to have held exclusive possession of the sandalwood.

The allusion as to the misappreciation of evidence by the memorialist or to his inability to grasp facts was one fit to be adjudicated upon in the circumstances of the two cases by the High Court in one case or by the Sessions Court in the other. It was not done by the Sessions Court, and all opportunities were threwn away to obtain it from the High Court. At the same time the memorialist admits his diffidence and want of boldness to challenge the opinions expressed by such high and eminent authorities as the Collector and Board of Revenue, though they have evinced a reluctance to make allowance for an honest difference of opinion in his case. He will therefore conclude by saying that Authority clothed with Superiority is able to maintain its ground under any circumstances, but that he has been victimized more on sentimental considerations which, he believes, if disclosed, will only be disproved, and that justice has not even been tempered with mercy in his case.

Dasnapury
24th December 1898

List of records accompanying the memorial submitted by S. V. Arunachela Iyer, Government Pensioner, residing at Chattram Street, Dharmapuri, Salem District.

1. Printed copy of the Proceedings of the Board of Revenue, No. 527 (Land Revenue), dated 11th September 1893, bearing Collector's Endorsement of communication dated 5th July, 1894.

2. Certified extract of the Collector's letter to the Board of Revenue, No. $\frac{521}{M}$, dated 31st March 1893 (paras. 3, 7, 53, 54) containing seven sheets.

3. Certified copy of the Proceedings of the Board of Revenue, dated 7th July, 1893 No. $\frac{3996}{Mis.}$, (three sheets).

4. Certified copy of Petition No. 1492, dated 8th August 1892, addressed to the Collector of Salem, (six sheets).

5. Collector's order No. $\frac{1884}{General}$, dated 1st September 1892 (one half-sheet).

6. Certified copy of Petition No. 787, dated 24th April 1893, addressed to the Collector of Salem with the Head Assistant Collector's Endorsement thereon (two sheets).

7. Certified copy of the Collector's Proceedings No. $\frac{1016}{General}$, dated 22nd June 1893, (one sheet).

8. Certified copy of Petition No. 2149, dated 10th December 1893 with the Head Assistant Collector's Endorsement thereon (three sheets).

9. Uncertified copy of an Endorsement by the Head Assistant Collector of Salem, on Petition No. 236, dated 28th March 1894 (one sheet).

10. Certified copy of a Petition, addressed to the Collector of Salem on 27th January 1895, with the Head Assistant Collector's Endorsement thereon (two sheets).

11. Certified copy of a Petition addressed to the Head Assistant Collector of Salem, on the 27th May 1894 (two sheets).

12. Certified copy of Collector's Memorandum No. $\frac{1177}{General}$, dated 8th June 1894, addressed to the Head Assistant Collector, with his Endorsement thereon (one sheet).

13. Certified extract from the Service Register kept in the Collector's Office containing the opinion recorded by Mr. Longley, in December 1898 (one sheet).

14. Original Certificate granted by Mr. J. H. Munro, on 28th January 1893 (one quarter sheet).

15. Original Certificate granted by Mr. Gillespie, on 15th April 1895 (two quarter sheets).

16. Original Certificate granted by Mr. Ghose, on 17th October 1895 (two quarter sheets).

17. Original Petition addressed to J. P. Bedford, Esquire, Acting Sub-Collector of Nellore, dated 19th October 1895 with his opinion endorsed thereon (one sheet).

18. Printed copy of testimonials granted in the form of letters sent to or by way of endorsement made on Petitions addressed by the memorialist, as also of extracts from the Collector's report and other papers relating to his retirement.

19. Ref. order No. $\frac{1216}{\text{Petn.}}$, dated 30th September 1893 in original (one half sheet—this is important).

20. Order No. $\frac{1843}{\text{genl.}}$, dated 30th August 1894 in original (one half sheet —this is also important).

21. Order No. 1326, dated 4th April 1895 (one sheet).

22. Certified extract from the list of enclosures forwarded to the Board of Revenue, with Salem Collector's letter No. $\frac{521}{\text{M.}}$, dated 31st March 1893.

23. Certified copy of Judgment in case No. $\frac{132}{1891}$, on the file of the Harur Sub-Magistrate (Thumbal Forest Case, disposed of by the memorialist).

24. Certified copy of the Judgment in Criminal Appeal, No. 64 of 1891, on the file of the Head Assistant Collector and Magistrate of Salem (Thumbal Forest Case).

25. Printed copy of the Judgment of the High Court, dated 20th January 1897 in Criminal Appeal, No. $\frac{451}{1896}$, published as Supplement to the Salem District Gazette (Forest Sheet No. 4, dated 1st April 1897).

26. Printed copy (private) of Salem District Magistrate's Proceedings, dated 24th November 1890, No. $\frac{1998}{\text{Magis.}}$

27. Collector's order No. $\frac{1062}{\text{General}}$ in original, dated 22nd May 1894 (one half sheet).

28. Certified copy of the Salem Joint Magistrate's Judgment, dated 10th September 1881 in Criminal Appeal No. $\frac{18}{1881}$, against the conviction and sentence passed by the memorialist, (two sheets).

29. Copy of the Proceedings of the Court of the District Magistrate of Salem, No. $\frac{1001}{\text{M}}$, dated 22nd June 1892 with the Head Assistant Magistrate's endorsement thereon (two sheets).

30. Certified copy of the Preliminary Register No. 1 of 1892 on the file of the District Magistrate of Salem, (Buddireddipatty murder case) five sheets).

31. Certified extract from a report submitted by the memorialist to the Head Assistant Magistrate, on or about the 18th November 1891.

32. Uncertified copy of the Preliminary Register No. 5 of 1891 on the file of the Sub-Magistrate of Harur, (the above murder case) sheets.

33. Uncertified copy of the Sessions Court Judgment in Case No. $\frac{13}{1892}$, in the above case of murder committed by the District Magistrate (sheets).

34. Certified copy of the Service Register with entries of several appointments held by the memorialist (four sheets).

35. Extract from the Pension Application submitted on behalf of the memorialist by the Collector (one sheet).

36. Certified copy of a Petition addressed to the Head Assistant Collector on the 28th August 1895 (two sheets).

37. Copy of the Collector's Memorandum Ref. on No. $\frac{1609}{\text{Sub.}}$, dated 15th September 1895, sent to the Head Assistant Collector of Salem, with endorsement of communication to the memorialist (one sheet).

38. Note for the Head Assistant Collector, dated 21st September 1895 with Mr. Ghose's order thereon, dated 22nd September 1895.

39. Note for the Head Assistant Collector, dated 24th September, 1895 with Mr. Ghose's order thereon, dated 28th September, 1895.

40. Certified copy of the Pension Certificate (medical) dated 1st October 1895 granted by Dr. Hacket Williams, the Acting District Medical Officer of Salem.

41. Original Certificate of health, dated Salem 31st October 1895 granted to the memorialist by Dr. Harrison, permanent District Medical Officer, after private Examination (one half sheet).

42. Certified copy of the Statement of personal observation by the memorialist's Medical Attendant, dated 3rd December 1888 countersigned by the District Medical Officer (Dr. Harrison), two sheets.

43. Printed copy of a letter dated 29th October 1895, addressed to Dr. Hacket Williams by the memorialist.

44. Printed copy of a letter dated 29th October 1895, addressed to Dr. Harrison by the memorialist.

45. Certified copy of the Proceedings of the Madras Government No. 1362, dated 15th November 1894, granting an invalid pension to the memorialist.

46. Certificate of posting granted by the Ammapett Post Office, gummed and attached to Enclosure No. 43.

47. Proceedings of the Court of Wards, dated 27th May 1897.

48. Salem Collector's order No. 3299, dated 17th August 1898.

49. Salem Collector's order Ref. on No. $\frac{1875}{\text{Petn.}}$, dated 27th October 1898.

50. Proceedings of the Board of Revenue dated 7th May 1894, refusing to grant copies of certain paras. of Collector's letter.

24 December 1898

Government Pensioner.

Examined at Darmapury.
18 January 99 and correct.

We hereby certify that we have examined this list with the enclosures and find them to be correct. Enclosures Nos. 5, 14, 15, 16, 19, 20, 21, 27, 41. have been bundled and stitched together. Enclosure No. 46. is gummed and attached to No. 43. Enclosures No. 37, 38, 39 have been stitched together.

D. Lakshmanan of Bilianoor Agraharam.
D. Venkataramanayya of Dharampuri.

BOARD OF REVENUE
4 FEB 1900
LAND REVENUE DEPT.
MADRAS

Enclosure to sales
Coll's letter No 5
dy 31. 1 99.

RL. No 519

PAGES 29 ~~TO~~ & seq
50 Enclosures separated
by Dn.

SUBSTITUTE FOR DETACHED ENCLOSURE.

P. Revenue DEPARTMENT.

G.O., No. 197 dated, 23 - 3 ~~1900~~ 1899.

FORWARDED TO THE Pdt. S.V. Arunachala Aiyar

WITH The G.O., mentioned above.
G.O., No. R 51, dated 12 - 6 1902

DATE 13 - 6 1902.

EXAMINER'S INITIALS

When given for copying
When copied
When examined
When signed
} 190 .

READ AGAIN G.O., No.
190 , DATED

CURRENT No.

ENCLOSURE TO C. No.

ORDER OF GOVERNMENT.	A A A A A A A
LETTER OF GOVERNMENT.	
STATEMENT WITH DITTO.	
PAPER NOT FIELD UP; BEING MEANT FOR DESPATCH IN ORIGINAL.	

N.B.—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.

~~Revenue~~ (1899) Department.

CURRENT No. 190

From The Board of Revenue,
Rev. Sett. L.R. & Agri.,
Madras.

No. 1133 Mis.

Dated ~~24~~ 24th February 1899.
Received 28.2.99
Registered 28.2.99
Enclosures —.
Spare copies —

SUBJECT.

Requesting Government to forward to this office the application for gratuity on behalf of N. Gopalakrishniah, a head classifier, submitted along with letter No. 2943/48 dated 7th December 1880.

Order d/23rd March 1899 No 178.

Ordered accordingly.

15.3.99

20/3/99

To

The Bd of Rev
R.S. L.R. & A.
with one enc.

G.O.	No.	Department.	Date.
"	382	Jud	2-498

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Pens

(Sett. 13—2,000—25-4-98.

REVENUE BOARD OFFICE MADRAS

Proceedings of the Board of Revenue

(Revenue Settlement, Land Records and Agriculture),

Dated 24 th February 1899 189 .

No. 1133 Mis.

READ the following letter from M.R.Ry,M.Adinarayana Iyah Garu, Deputy Commissioner of Revenue Settlement Party No. III, No. 122 dated 15th February 1899:—

With reference to the Board's Proceedings, No. 298 Routine, dated 6th instant, I have the honor to point out that the document now forwarded to me with the Board's Proceedings is not the gratuity roll but a copy of the G. O. sanctioning a gratuity of Rs. 144 to Head classifier N. Gopalakrishnayya on the abolition of the late Ganjam Party. The document wanted in my letter no. 62/28-1-99 is the application for gratuity containing the history of the services of the individual prepared in Form No. 15 referred to in article 990 of the Civil Service Regulations and submitted to Government for sanction through the Accountant-General. As this gratuity application will be required for reference in preparing the pension application of the Head Classifier, I request that a copy of it may be obtained from the Government Office and supplied to me.

Resolution.

The Board requests that the application for

gratuity

	Date.
	2-490

gratuity on behalf of N. Gopalakrishniah, submitted to Government with the letter of the 2nd member of the Board of Revenue in charge of Settlement No. 2943/48 dated 7th December 1880, may be sent to this office for reference.

(True Copy and Extract)

R. B. Srinivasan

Secretary.

To

The Secretary to Government, Revenue Department.