Pension (1897) Department.

ORDINARY MS.

G.O., No. 867

DATED 18th Dec/97.

[Despatch Abstract.]

Stating that the Govt is not prepared to increase the pension already granted to Mr Rajavantarayalala -

BACK PAPERS.

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

FURTHER PAPERS.

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

Telephone Message

To

The Secretary
Board of Rev.
(Land Revenue)

Your B.P. No. 3748 dtd: d/ 21. 11. 99. Confdl No. 165.

Please send copy of High Court Judgment for reference and return.

Desp. 1/12/99
DMS

1/12/99

Note

This is wanted in connection with the confidential report received from the Board regarding the conduct of M. R. Rg Bhagavantarayala, the D.Y. Tah. concerned in the compromise case, Nellore.

1/12/99

(8)

High Court Jaipur

Enclosure No.

to Letter No. 5089 GS dt

~~No.~~ *of* 1899.

[Eng.; 21-7-03.]

In the High Court of Judicature at Madras

Monday the twenty first day of November.

one thousand eight hundred and ninety eight.

Present.

The Honourable Sir Arthur J. H. Collins. Kt. Chief Justice

and

The Honble Mr. Justice Benson.

Appeal no 24 of 1898

The Secretary of State for India in Council. Appellant (Defendant).

Gundala Pichireddy — Respondent (Plaintiff)

Appeal against the decree of the Subordinate Judge's Court of Nellore in original suit no 35 of 1897 (O.S. no 14 of 1896 on the file of the District Court of Nellore).

This appeal coming on for hearing, the Court delivered the following:

Judgment: The appellant urges that the suit is barred by article 18 of Schedule 2 of the Limitation Act and also that the amount of compensation granted is excessive. We do not think that either contention can be sustained. The evidence shows clearly enough that in 1881 and 1884 the officers of Government entered into possession of certain lands of the plaintiff required for the Buckingham Canal. No steps in accordance with the Land Acquisition Act

Act were taken, but the Plaintiff's consent to the taking up of the lands was obtained by the Deputy Tahsildar stating that the lands were required by Government and would be taken under the Act if necessary. The Plaintiff repeatedly petitioned the authorities for compensation but was put off from time to time. In August 1893 the Collector restored the lands to the Plaintiff and on the 12th February 1894 finally refused to give the Plaintiff any compensation on the curiously inconsistent plea that the Plaintiff had all along been in the enjoyment of the lands. On the 4th February 1895 the Plaintiff brought the present suit for compensation for loss of produce for the time the lands were in the possession of Government. It is clear that the lands were not taken up under the Act and no rules of limitation in respect of suits for acts done under the Act have any application. The learned Government Pleader contends that Articles 17 and 18 of Schedule 2 of the Limitation Act are not restricted to suits for compensation for lands taken under the Act, but apply to such suits for lands acquired by Government for public purposes in any way such as by private negotiation or the like. If it is so, it is clear that the article has no application for the finding - and it is clearly correct - is that the acquisition was completed. Embankments were raised and a channel dug and the lands were in the possession of Government for some ten or twelve years. The acquisition was therefore completed. The fact that the lands were subsequently restored to the Plaintiff, as no longer required, cannot render the acquisition any the less a complete acquisition. Article 18 therefore has no application, nor can article 17 operate as a bar, for the amount of compensation for the lands was never determined. The plea of limitation urged before us therefore fails. As to the amount of compensation the Government Pleader urges that it ought not to exceed the sum named by the Plaintiff in his petition, Exhibit H and his father's petition exhibit D. We find that the Subordinate Judge has in fact, adopted the rate there claimed, but he has held as we think rightly that the Plaintiff on being forced to come into

Court

Court, is not bound to give up the profit for certain years, which, for some reason that does not not appear, he was willing to forgo when negotiating amicably with the Collector. The compensation allowed is we think, reasonable. The facts which have been established in this case seem to indicate that the acquisition of lands in Vellore for public purposes was carried out in anything but a satisfactory manner. We dismiss the appeal with costs.

By the Court

(Sd) J. T. Gillespie

By Registrar
Appellate side

(True copy)

(Sd) S. Subbarayudu Sastri
Superintendent

(True copy)

Lakshmikantham
Asst. Secretary

14 FEB 1899

JSG

Vellore

To

His Excellency the Right Honorable
Governor in Council Madras

1895 98

through the Honorable the Board
of Revenue -

R.L.36

The humble memorial of Bhagavanta
raya Lalu, retired Deputy Tahsildar
of Allur, Nellore District -

Most respectfully Showeth -

1 That your memorialist retired
from public service from 1st November 1895.

2 That your memorialist is according
to the rules in force entitled to a pension
of Rs 44-8-6, but he has been granted only
one half of the maximum pension admissible,
Vide G. O. No 1078 dated the 12th November 1896.
In the same order, it is stated that the
Government will not consider the question of
enhancing the grant until the recommendation
of the Collector and the Board of Revenue are
received, and that such recommendation
cannot be made until the pending suit
is decided and orders have been passed

on his connection [illegible]

3. That Your Memorialist begs to submit that the suit referred to above, was decided in August 1897, and a Copy of the Judgment is submitted for immediate perusal & reference.

4. That your Memorialist [illegible] he is suspected of having Colluded with the plaintiff in the suit & estimated the loss of produce on certain lands belonging to him at a high figure, while he was a Deputy Tahsildar of Kota. The facts are that a reference was sent to him to give Your Memorialist's opinion as Deputy Tahsildar as regards the probable loss which the owner of the lands, taken up for certain public Works, sustained by reason of his having been put out of possession for some years. Your Memorialist made due enquiries in the Village and submitted a report through the Tahsildar embodying the results of his enquiries and submitting his opinion as regards the loss of produce. This was in 1893, and after a lapse of 2 years, it is suspected that Your Memorialist Colluded with the party and proposed a high rate for loss of produce.

5. That the Sub Judge in his Judgment has clearly shown how unfounded the suspicions against Your Memorialists are. He gave Judgment after the rate recommended by Your Memorialist for certain Lands Viz, Nos 4 & 95, and for another piece of land Viz, No 52, he thought that Plaintiffs was not entitled to more than what his father once claimed some years previous with a view to come to amicable settlement with the Government. That there was no mala fide on Your Memorialists part is proved beyond doubt. The very fact that the Tahsildar proposed a higher rate of Compensation for the said numbers than which Your Memorialist as deputy-Tahsildar recommended goes to show that Your Memorialists opinion was given bonafide as the results of the local Enquiry. The papers, in which it is said that Plaintiffs father claimed only the Sarkar assessment of the land as Compensation, were not seen by Your Memorialist at the time of his Enquiry & in fact, no suggestion was made in the reference about any previous Settlement or Correspondence. Hence he could not

know any thing about it & his opinion was based solely on local enquiry & personal inspection of the lands -

6 Your Memorialist begs to submit that he served Government faithfully for 32 years and not on a single occasion was he so much as suspected of fraud, except this unfortunate case. In this case the suspension was roused several years after the event, and a Competent Judicial tribunal has found Your Memorialist Completely innocent of any fraud. Your Memorialist has waited the whole of one year after the delivery of the Judgement in the hope that orders will be passed in his case. As no orders have been passed, nor has any Explanation been called for from Your Memorialist, he has been Compelled to submit this Memorial.

7. Under these circumstances Your Memorialist submits that it is very hard that one half of his pension is still withheld though Judgement was delivered a year ago. If Your Memorialist is to wait till the result of the appeal,

while your Memorialist is given
to understand, has been preferred by the
Government in the High Court, he may
have to wait for another 2 or 3 years.
Immediately your Memorialist will have
to find it extremely difficult to follow
with the scanty pension now allowed
though he is quite innocent.

8 Your Memorialist therefore humbly
Craves the mercy of your Excellency
in Council, to allow him his full pension
together with the arrears and there-
protect him & his large family in these
hard days.

For which act of justice, your
Memorialist will as in duty bound
ever pray.

Your Memorialist begs to remain

Your Excellency's Most Obedient
& faithful Servant

Bhagwandeen Jagtpal

IN THE SUBODINATE JUDGE'S COURT OF NELLORE.

Monday, the 30th day of August 1897.

PRESENT:—M. R. RY. U. ACHUTAN NAIR AVERGAL, *Ag. Subordinate Judge.*

ORIGINAL SUIT No. 35 OF 1897.

(O. S. No. 14 of 1895, on the file of the District Court, Nellore).

Gundala Pichi Reddy. ... ... PLAINTIFF.

Versus.

The Secretary of State for India in Council. ... ... DEFENDANT.

This cause coming on for hearing, the Court delivered the following

Judgment:—

The suit is to recover Rs. 21,000 being compensation for loss of produce of the lands mentioned in the plaint for the period during which the plaintiff was kept out of possession of the said lands.

2. Plaint sets forth that the Buckingham Canal officers took possession of No. 4, $\frac{2}{3}\frac{5}{2}$ and $\frac{2}{3}\frac{5}{3}$ lands belonging to plaintiff's family and measuring 35 acres 67 cents in the village of Kothapatnam, Gudur Taluq, in the year 1881, raised an embankment in lands Nos. $\frac{2}{3}\frac{5}{2}$ and $\frac{2}{3}\frac{5}{3}$ and dug a channel in land No. 4; that the said officers took charge of plaintiff's No. 52 land measuring 65 acres 32 cents, in the year 1884 and marked a line for the diversion of the canal; that the collection of the assessment of the said lands was suspended from the time the said officers took charge of them; that in Fasli 1299 an order for the collection of the assessment till then suspended, having been issued by the Collector and the moveables in plaintiff's house having been attached, plaintiff's father presented several petitions to the Collector stating that the lands were in the possession of the Canal Officers and requesting that the lands with compensation for loss of produce might be restored to him and the order for the collection of assessment might be cancelled, that thereupon the Collector passed an order that the arrears of rent should be paid and that the amount of loss of produce would be settled thereafter; that relying on the above order, plaintiff's father paid the assessment and presented several petitions claiming land and loss of produce; that after plaintiff's father's death in 1892, plaintiff also applied for settlement of the amount and the grant of other lands in lieu thereof, but the Collector merely held out promises; that in 1893 the Collector issued an order to the Tahsildar of Gudur to make over possession of the lands to plaintiff and to submit proposals for the grant of compensation and in accordance with the above order the Deputy Tahsildar of Kota to whom the matter was referred by the Tahsildar, made over possession to plaintiff on the 30th August 1893 and after due enquiry settled the amount payable to the plaintiff; that when the amount was found to be pretty large, the Collector with the intention of evading payment, passed an order on the 12th February 1894 to the effect, that the lands had always remained in the enjoyment of plaintiff and that he was not entitled to compensation for loss of produce or to the refund of assessment; that though the amount of profit derivable from the lands for the period during which he was out of possession is 30,738 yet from inability to pay stamp duty plaintiff is content with Rs. 21,000 the amount estimated by the Revenue Authorities. The cause of action is said to have arisen on the 12th February 1894 the date of the Collector's order refusing compensation and the suit is said to have been brought after the notice prescribed by section 424 of the C. P. Code.

3. The defendant denies that the officers of the Buckingham Canal took possession in 1881 of plaintiff's lands No. 4, 95/2 and 95/3 and raised a bund in Nos. 95/2 and 95/3 and dug a canal in No. 4 and states that in connection with the proposed Swarnamuki diversion, plaintiff's No. 52 land was entered upon and the line for the diversion was marked through it, but the line having been changed in 1885, the proposal to acquire that land fell through; that plaintiff or his father was never kept out of possession of this or the other lands; that plaintiff's father having withheld payment of cist and having claimed compensation on the false plea that he was kept out of possession, correspondence went on between the Collector and the Public Works Department, that in the meantime the Collector passed orders directing the immediate payment of cist and promising payment of compensation in case the plaintiff had a valid claim, that similarly in order not to prejudice the plaintiff's right to get land in lieu of money compensation if any, due to him, the Collector postponed the sale of certain lands in Viswanadhapuram Kandrika; that when these orders were passed the Collector was not aware whether plaintiff's allegations were true or false and that they do not therefore amount to an acknowledgment of plaintiff's right; that plaintiff's father having represented that he was out of possession the Collector ordered the Tahsildar of Gudur to formally put him in possession and to submit a report as to what compensation the plaintiff would be entitled, if his claims were valid, that from facts which subsequently came to the Collector's notice it appeared to him that a careful investigation regarding plaintiff's claim was necessary and he accordingly deputed the Head Quarter Deputy Collector to make a thorough and searching enquiry, the result of which was that the Collector was satisfied that the plaintiff's allegations were untrue; that plaintiff and his father were in possession of the lands for which compensation was claimed and that plaintiff was attempting to perpetrate a fraud on Government at the instance of Nallapa Reddy Subba Reddy, a rich and influential resident of Kota and accordingly rejected his application for compensation; that the suit is barred by limitation and that the amount claimed is extravagant.

4. The following issues were framed on the 12th April 1897, viz :—

(1) Whether the lands in question had been taken possession of by the officers of Public Works Department on behalf of Government and had remained in their possession till the 30th August 1893 as alleged by plaintiff?

(2) Whether the suit is barred by limitation?

(3) What amount, if any is due to plaintiff as damages?

5. This is a claim for compensation for loss of produce of 3 lands in the Kothapatnam Village of Gudur Taluq alleged to have been taken up, two in 1881 and one in 1884, by the officers of the Buckingham Canal and retained by them in their possession till the 30th August 1893, the date on which they were restored to the plaintiff. I shall first deal with the lands said to have been taken possession of in 1881, viz., Survey Nos. $\frac{95}{2}$ and $\frac{95}{3}$ and No. 4. The defence as regards these lands is that they were not taken possession of by the officers of the Canal Department. In the face of the overwhelming evidence to the contrary, I am constrained to hold that this defence is not true and that the Collector has not been correctly informed of all the facts connected with the case. It appears that in the year 1881 the officers of the Buckingham Canal Department entered upon certain lands in the Zemindary Village of Siddavaram and in the Government Villages of Pamanji Vagorru and Kothapatam and did some work in connection with the Swarnamuki diversion without sending to the Huzur Office a schedule of the lands required for the purpose and without settling the compensation payable in respect of them. The Raja of Venkatagiri was the first to complain of this act to the Collector who on receipt of it, wrote to the Executive Engineer on the 18th June 1882 to stop the work pending settlement of disputes. On the 4th July 1882, the Engineer reported that the work had been stopped. It does not appear from this whether the work was stopped on the lands of those who did not complain, but it appears to me that it was not stopped, for in October 1882, the Raja again complained that an extent of 58 cents was taken up by the Canal Officers. The Collector again wrote to the Executive Engineer and the result of the correspondence was that the latter submitted to the former a schedule of the lands required for the Swarnamuki diversion which schedule included, among others, the lands required in the Government Village of Kothapatam. This schedule is not forthcoming but it appears that it included the lands Nos. $\frac{95}{2}$, $\frac{95}{3}$ and 4 measuring 34 acres and

53 cents (vide paras 5 and 4 of Exhibit V). After this schedule was sent to the Tahsildar of Gudur for the settlement of compensation, the Executive Engineer wrote to the Collector on the 26th December 1882 not to take steps to acquire the lands in that schedule as he proposed sending a revised schedule. This revised schedule, which however was not submitted till the 7th April 1884 (also not forthcoming) does not, it is said, contain the lands above referred to and it may be so. When it is found that the lands were once taken up, the burden of proving that they were restored to the owner lies on the defendant. There is no evidence of such restoration before the 30th August 1893. On the contrary there is a good deal of evidence to show that they were not restored.

6. After the first schedule was countermanded and before the revised schedule was submitted by the Engineer, the Tahsildar of Gudur brought to the notice of the Collector on the 16th March 1884 that certain ryots of Kothapatam including the plaintiff's father withheld payment of land revenue from Fasli 1291 on the ground that their lands had been taken up by the Canal Department and submitted a statement prepared by the Village Curnam, showing the lands taken up with their extent and the arrears of Revenue left uncollected with a request for orders to write them off. Lands Nos. 4, 95/2 and 95/3 with their extent and the arrears of revenue are found in this statement. On the 22nd March a reference was made to the Executive Engineer to state whether the lands had been taken up, but there is nothing to shew what reply was received from him (see para 6 of Exhibit V). No order for remission was passed and the matter was lost sight of till 1890. If the lands had remained in the possession of plaintiff's father it is most unlikely that the Tahsildar and the village officials would have allowed the arrears to accumulate for a period of 9 years or asked for permission to treat them as irrecoverable.

7. There is another circumstance which most unambiguously shows that the canal officers had taken possession of these lands. The plaintiff asserts in the plaint that a bund was raised on Nos. $\frac{95}{2}$ and $\frac{95}{3}$ and a canal was dug in No. 4 by the Canal Department and that those permanent works of their occupation still remain on the lands. At the instance of the parties a commission was issued to T. Nayana Sastri, a first grade pleader, to report on their existence. His report which is Exhibit LL shows that there is a bund in Nos. 95/2 and 95/3 which has a length of 1782 feet, a height varying from 2 feet to 5½ feet and a width between 3 and 4 feet at the top and between 13 and 60 feet at the base. In No. 4 land he reports that there is a diversion canal the length of which is 495 feet and breadth 40 feet. Both the bund and the canal are marked in the plans produced by the defendant at the instance of plaintiff. It is apparent that none but the Public Works Department could have executed such gigantic work. These works were indeed necessary to protect the old canal which is also marked in the plan. The land would be submerged when there was flood in the Swarnamuki river owing to a large volume of water finding its way through the *challa caluva* also marked in the plan. The diversion canal was necessary to prevent the rush of water and the bund was necessary to prevent the inroads of water on the old canal. They became however unnecessary, when the old canal was abandoned and the new canal, also marked in the plan, was opened. These permanent works of gigantic proportions lead me to think that the Public Works Department did take possession of the lands and keep them in their possession. Their works have also rendered the lands unfit for cultivation without repairs. The defence witness admits that the bund was raised by the canal officers but deny that the canal in No. 4 was dug by them. They say that it is a breach caused by the river, but it is false, for it is described in S as the old silted diversion.

8. I shall now refer to No. 52 land as the evidence which I am going to set forth in the subsequent paras, applies to all the three lands. When the abandonment of the old canal was decided upon, it was first proposed to open the new canal through No. 52, for it is admitted that No. 52 was entered upon with this object and locks-pitted in 1884 (vide plan S). It is also admitted that the first schedule of lands required for the purpose forwarded by the Executive Engineer contained this land though that schedule also is not forthcoming. In 1885 the line was changed and the revised schedule forwarded by the Engineer on the 21st March 1885 in supersession of the first is said not to contain this land. It is therefore clear that Public Works Department did take possession of the land in 1884.

9. Assuming that these lands were temporarily occupied by the canal officers it is argued on the defendant's side, that the moment they did not want them, the ryots of the village who

were aware of the change of the line being at liberty to enter upon them, must be supposed to have so entered. It is doubtful whether this argument will hold good even in the case of a private individual. But when the Government enter upon the lands and execute works at a large outlay of labor and capital, the ryots will be afraid to go near them, before they are formally reinstated in possession or a written order permitting them to enter on possession is given. In the present case it is not pretended that any permission to enter on the land was given to plaintiff or his father before the formal delivery of possession on the 30th August 1893. Their conduct also affords the best evidence that they were out of possession. Exhibit A, dated 11th March 1888 is the first petition presented by plaintiff's father to the Collector requesting remission of the assessment of No. 52 land from fasli 1294 on the ground that it was marked for the diversion of the canal in that year and that he had not cultivated it since. The other lands were not included in this as the Tahsildar's report for treating their revenue as irrecoverable was then pending before the Collector. This petition is said to have been referred to the Tahsildar for report, but there is nothing to shew what the report was. On the 4th October 1889 plaintiff's father presented another petition (B) requesting delivery of possession of his lands taken by the Canal Department and subsequently relinquished by them. In this petition he waived his right to compensation, undertook to execute the necessary repairs to make the lands fit for cultivation and agreed to pay cist from fasli 1299 provided the arrears up to fasli 1298 were remitted. This was also referred for report to the Tahsildar who in July 1891 recommended the refund of the assessment if Public Works Department admitted that they had held possession (R). The Deputy Tahsildar to whom this petition had been referred by the Tahsildar examined plaintiff's father and the village officials regarding possession and their statement leads to the inference that possession was not with plaintiff's father (M and N). In 1890 prompt measures were taken to collect the arrears of revenue and plaintiff's father's moveables were attached. Exhibit C, dated 3rd June 1890, was then put in by plaintiff's father representing the injustice of the order for attachment and requesting withdrawal of it. On the 6th June 1890 the Collector passed the following order.—"The petitioner must at once pay up the arrears held back on account of compensation dispute respecting lands taken up for the Buckingham Canal. If the claims for compensation are shown to be valid petitioner will be paid the same." After the payment of arrears in compliance with the above order, plaintiff's father put in petition D, dated 10th September 1890 requesting the payment of Rs. 2,149-0-0 for loss of produce from Fasli 1291 to Fasli 1299. This petition was forwarded to the Engineer for report whether the failure to cultivate was due to any action on the part of his department. The Engineer stated that the lands had always remained in the possession of plaintiff's father except in the year 1884. This opinion it appears is found on surmises. This was followed by petition E for the refund of assessment collected from plaintiff's father. On the 21st November 1891 he presented Exhibit F for permission to cultivate his lands and for the payment of compensation for loss of produce or at least refund of the cist already collected by him. The plaintiff's father having died in the meantime plaintiff presented petition G requesting that certain lands in the Viswanadhapuram Kandrika which were then being sold for arrears of revenue might be granted to him in lieu of the compensation due to him for loss of produce. This petition was first rejected by the Collector but on a second application (H) by plaintiff to reconsider the matter, the Collector ordered postponement of the sale. In November 1892, a communication was addressed to the Executive Engineer to state distinctly when plaintiff's lands were first occupied and when restored to him (Exhibit O). On the 25th February 1893 the plaintiff put in petition J requesting an early settlement of compensation making specific reference to the lands taken up in 1881. This petition was also forwarded to the Executive Engineer with the plans for remarks. He replied as before that No. 52 land was entered upon and lockspitted in 1884 and abondened in 1885 when the line was changed, that there were no documents to show when the land was restored to the owner but that cattle, presumably belonging to the owner of the land, were grazing on it since 1885 and suggested that formal delivery of poseession might be made (P). As regards Nos. 4 and 95 he said that they were not required, that there were no records to show the extent taken up and that the Revenue Inspector and Village Karnam might be deputed to verify the extent (Q). The Collector thereupon directed the Tahsildar of Gudur to take evidence as to possession and to submit a report, The Deputy Tahsildar ef Kota to whom the matter was referred by the Tahsildar, reported after examining the village officials and ryots, that possession was not with plaintiff and the Tahsildar submitted it to the Collector with his own report (Exhibits T, U, EE_1 and

EE_2). On receipt of this report, the Collector ordered formal delivery of possession and the submission of proposals for compensation (W). Exhibit Y is the Deputy Tahsildar's compensation statement, GG_1 GG_2 and GG_3 the statements of plaintiff, the village officers and the ryots and AA the Tahsildar's report to the Collector, enhancing the rate fixed by the Deputy Tahsildar. Not satisfied with the rate recommended by the Deputy Tahsildar and the Tahsildar, the plaintiff put in petitions K and L to the Collector for enhanced rates of compensation.

10. While the matter was pending bofore the Collector he received certain anonymous petitions to the effect that the lands had all along remained in the possession of plaintiff and had been used by him for grazing purposes. Action was taken on these petitions and the Head Quarter Deputy Collector was sent to make enquiries on the spot. He examined the Village Munsiff's father and the Karnam's gumastah's brother and reported that the Public Works Department had not prevented plaintiff's enjoyment of the lands, that his cattle had been grazing on the lands and that one Nallappareddy Subbareddy, an influential ryot of Kota village had put forward the plaintiff to defraud Government. The anonymous petition writers seeing that their endeavour had met with success, openly came forward and presented a petition (Exhibit KK) to the effect that the lands in question are pasture lands and had never before been cultivated but had always been utilized as pasture ground, that plaintiff and his father had grazed their cattle on them until Fasli 1303 (1893-94). Advantage was taken of this and the Head Quarter Deputy Collector was again sent to make another local inspection and to examine the petitioners, who of course, supported the allegation made in their petition (Exhibit IV). It must be borne in mind, that the enquiries by the Deputy Collector were conducted behind the back of the plaintiff, who when he heard of the Deputy Collector's report, presented a petition to the Collector to the effect that his opponents were men of no position, and that they had been set up by Komari Veeraraghavulu, his enemy and the chief among them. The Collector accepted the report of the Deputy Collector as true and rejected plaintiff's claim for compensation on the 12th February 1894 (Exhibit BB).

11. The persistent efforts made by plaintiff and his father to obtain compensation and to recover possession conclusively show that they were out of possession. In Exhibit B the plaintiff's father even undertook to waive his right to compensation and to execute the necessary repairs at his own expense, provided he was restored to possession and the arrears of assessment from date of dispossession till Fasli 1299 were remitted. From this it is evident that he had no intention to defraud the Government. The same request he repeated in Exhibit F and yet no notice was taken of it. It is contended that in Exhibit D, the plaintiff's father having asked only for the profit of 1884 in respect of No. 52 land, he must be supposed to have been in possession of that land since 1885. There is no room for this supposition when it is distinctly stated, in that and the other petitions, that he was out of possession. He claimed the value of the produce of 1884, because the crop raised by him in that year was damaged by the canal officers and did not claim compensation for subsequent years, because he had not raised crops and had not incurred expenditure. The fact that he was willing to make a large sacrifice to obtain an amicable settlement, cannot be urged as an argument against him. In Exhibits B and F which preceded and followed D, he went so far as to give up all claim for compensation. It cannot be inferred from them that he was not divested of his possession.

12. The oral evidence also preponderates in plaintiff's favor. His first witness who is his gumastah proves that the canal officers entered on Nos. 4, 95 and 52 lands, that a canal was dug in No. 4, a bund was raised in No. 95 and the diversion of the canal was marked in No. 52, that plaintiff and his father were out of possession and that they used to plant casuarina trees and raise ragi, indigo, green gram &c., on these lands while they were in possession and that portions of No. 52 were let to tenants. The 2nd witness who was the late Deputy Tahsildar of Alloor and Kota, states that he inspected the lands, held an enquiry, took the statements EE_1, EE_2 and submitted the report T and that the statements made in T are true. He also proves that the compensation account Y was submitted by him with reference to the statements GG_1 to GG_3 and the leases CC, DD, HH_1, HH_2 and that it is correct. The 3rd witness corroborates the evidence of the 1st witness and states that himself and P. Potha Reddy (plaintiff's 5th witness) were lessees of portions of No. 52 land, that CC is the cowl to them and HH_2 is their muchilika and that he gave evidence before the

Deputy Tahsildar to this effect. The 4th witness is the lessee of another portion of No. 52 with one Subbiah (15th witness) and proves DD and HH_1. He is another of the witnesses examined by the Deputy Tahsildar and supports the evidence of plaintiff's 1st and 3rd witnesses. This 5th witness gives the same evidence as the 3rd witness and the 6th witness who is the Village Munsiff proves that plaintiff was out of possession and that the canal officers were in possession. The 7th witness is the writer of CC and HH_2 and proves his handwriting. The 8th, 9th, 10th, 11th, 12th and 13th witnesses support the evidences of the 1st, 3rd to 6th witnesses. The 14th witness Polugadu who is admitted by both parties to have been a maistry in the canal department till recently, proves the plaintiff's case and states that under order of Mr. Endright, he prevented men and cattle from trespassing on the lands, and that before Government took possession, the plaintiff's father had raised indigo, oil-seeds, ragi and green gram on the lands. The 15th witness supports the 4th witness and proves DD and HH_1. The 16th witness a neighbouring cultivator says that before the Government took possession, the plaintiff's father had raised indigo, ragi, oil-seeds and green gram on the lands and that himself had leased a portion of No. 52 from plaintiff's father. This is the oral evidence for plaintiff which, supported as it is by the documentary evidence, I see no reason to disbelieve.

13. The defendant has examined 13 witnesses of whom the chief is Komara Veeraraghavulu (defendant's 1st witness). He and his band voluntarily came forward to protect the interest of Government not from any sense of duty as honest citizens, but from a desire to wreak their vengeance on an old enemy and to get some reward for their services. The 1st witness says that a flood-embankment was raised on No. 95, that similar embankments were raised on other lands also including his own, that No. 52 was locks-pitted, that no canal was dug in No. 4, that the Government told the owners to take charge of their lands when they were no longer required, that plaintiff's lands are pasture lands, that he grazed his cattle on them and that their rent is from 4 annas to 1 rupee an acre. He admits that himself and the people of his village and another village held a consultation and sent the petition KK to the Collector and that the cause of it was plaintiff's preventing their cattle from passing through his lands. This is not the only cause of enmity for he says that plaintiff's father had brought a complaint against him some 6 or 7 years ago. It is evident from this, that he and his colleagues were actuated by malice in sending KK and giving evidence before the Deputy Collector and in this suit since the date of KK, it is admitted, there have been numerous civil and criminal cases between him and plaintiff and his men. Since the restoration of the lands to plaintiff it is admitted that he has planted casuarina trees over a portion of No. 4 land and that he raised gingely and indigo over the remaining portion in the year. The 1st witness says that gingely and indigo did not take root, but it is falsified by the evidence of the commissioner, who saw stumps of indigo plants cut. There are tanks in Nos. 52 and 4 and I agree with the plaintiff's witnesses that they are capable of being utilized for purposes other than cattle grazing. The 2nd witness supports the 1st witness because he and his brother are indebted to him and bear ill-will towards plaintiff. He has moreover been convicted of theft. His evidence that KK was sent at the instance of the late Village Munsiff is certainly false. The 3rd witness who is a resident of a different village and owns no land near the plaint lands says that he used to see them when going from his village, that plaintiff's father was in possession because the putta stood in his name and because he saw some cattle, said to belong to plaintiff's father, were grazing on them. He admits that he does not know whether the Government kept possession of the lands. His evidence is absolutely worthless. The 4th witness also knows nothing about the lands for he has no lands near them and is not able to say who owned the adjoining lands. He says that on his way from his village he saw some cattle grazing on the plaint lands which alone are known to him and that he concluded them to be plaintiff's cattle because the watchmen who tended the cattle were plaintiff's men. He is indebted to the 1st witness and is under his influence. The 5th witness gives the same evidence and betrays the same ignorance as the 4th witness. He is also indebted to the 1st witness. The 6th witness while stating that Government was not in possession admits that there was a canal in No. 4 and states that it was silted up by the flood in the Swarnamuki and that he does not know when it was dug by Government. He further admits that there is indigo raised on No. 4. The 7th witness says that plaintiff's father was in possession, that he does not know whether Government was in possession and that indigo is raised in No. 4. The 8th witness says that plaintiff's father

was in possession and grazed his cattle because his cultivator told him that the cattle belonged to his master. The 9th witness says that they are pasture lands, that plaintiff's father was in possession and that his cattle grazed on them. It is doubtful whether this witness has seen the lands, for he denies that there is any embankment in No. 95. The witness admits that during the trial of this suit he sent another petition with the other witnesses to the Collector not to pay compensation to plaintiff. The 10th witness says that when tapping a palmyra tree he saw plaintiff's father's cattle graze on the lands which are pasture lands and that he does not know whether Government was ever in possession. He is a relation of defendant's 1st witness. The 11th witness who also gave the same evidence is indebted to the 1st witness. If possession had been with plaintiff's father and not with Government much better evidence than that offered by this Veeraraghavulu and his colleagues would have been forthcoming. It is significant that neither the canal officers nor any other officer of Government has been called to speak to possession.

14. My finding on this issue is that the canal department took possession of the lands in suit and did not restore possession to plaintiff before the 30th August 1893.

15. *Second issue.*—It is contended that the plaintiff's claim for compensation for loss of produce if any is due to him, is barred by limitation. To decide this point it is necessary to discuss the mode in which the Public Works Department obtained possession of the lands. Their possession was clearly not as trespassers. If they had taken forcible possession the plaintiff's father would have come into Court at once. The omission of the Revenue officials to collect cist for a series of years, the promise by the Collector to pay compensation if the claim was valid, the ascertainment of the amount of compensation through the Tahsildar of Gudur and the order for stay of sale of the Viswanadhapuram Kandrika lands to meet the plaintiff's request for a grant of lands in lieu of compensation should his claim be found good, show that possession was not acquired by trespass. Nor can it be said to have been acquired under the provisions of any law. Under section 4 of the Land Acquisition Act, a preliminary notification is necessary for the purpose of entry and survey and under section 6 another notification for the purpose of acquiring the land. As there was no notification of any kind in this case, the provisions of the Land Acquisition Act do not apply. I do not think that the only mode of acquiring land for public purposes is by enforcing the provisions of the Land Acquisition Act. Under the Act the owner is bound to part with the land whether he will sit or not. If the plaintiff had resisted entry on his land the provisions of the Act would certainly have been enforced by the Collector. If the owner consents to give up his land the Collector or other officer concerned can make his own arrangement with the owner independently of the provisions of the Act. It is not said that the formalities required by the Act have been gone through in the case of lands acquired in the neighbourhood of the plaint land for the purpose of diversion of the Buckingham Canal. The entry on plaintiff's land is therefore under an implied promise of payment of compensation. Tht defendant's pleader contends that it is not so alleged in the plaint; but the plaintiff has set forth the facts from which the promise may be implied and that is enough. There was no denial of plaintiff's right until the 12th February 1894 the date of BB and the suit is therefore within time. The case at 1 *p* of 11 Weekly Reporter is not to the point. There the case in the Courts below was one of dispossession and the Land Acquisition Act was set up for the first time only in the High Court.

16. *Third issue.*—There is no evidence on defendant's side as to the amount of damages. His witnesses simply say that the lands in question are pasture lands and had not been utilized for any other purpose, but the cowl produced by plaintiff both in this Court and before the Deputy Tahsildar as also the oral evidence recorded by him and by this Court show that ragi, casuarina, pulse, indigo &c., had been raised on the lands. It is admitted that since re-delivery of possession the plaintiff has planted casuarina trees in No. 4 and raised indigo and gingely and the commissioner also says that there are casuarina trees and stumps of indigo plants cut on No. 4. It is useless to say that the plaintiff raised them for the first time after redelivery of possession, to support his claim for a large compensation and that the idea of making such profitable use of the land had never before occurred to him or his father. The Deputy Tahsildar who has since retired from the service, after a careful enquiry and inspection of the lands, fixed the rate of profits at Rs. 6 per acre in Nos. 4 and 95 and Rs. 25 per acre in No. 52 but he is suspected of being privy to the fraud which the plaintiff wished

to perpetrate and one half of his pension has been withheld on that account. The Tahsildar thought that the rate fixed by the Deputy Tahsildar was too low and raised it to Rs. 8 and Rs. 30 respectively per acre. It must be remembered that the rates fixed by the village officers was more than this viz., Rs. 8 and Rs. 40 respectively. I cannot for a moment believe that the Tahsildar, the Deputy Tahsildar and the village officers entered into a conspiracy to defraud Government of a very large sum of money. I do not say that it is impossible to conceive of such a case but I say that such a case has not been made out. The Deputy Collector's enquiry was held behind plaintiff's back and his report is one sided and based on the evidence of persons who are inimical to plaintiff. His opinion that the lands bore no marks of having been cultivated does not shew that they are pasture lands but shew that plaintiff was out of possession. The fact that the father of the Village Munsiff and the brother of the karnam's gumasta gave evidence different from that given by the Village Munsiff and the karnam leads to the inference that the latter were not unwilling to support Government but being bound by their previous statements which they could not retract with safety to themselves were compelled to adhere to them. It must be noted that the Village Munsiff's father's statement in Exhibit IV is opposed to his previous statement N. It is contended that the plaintiff's father himself had not claimed such a large amount. It appears from para 15 of Exhibit V that plaintiff's father had put in a schedule shewing the details of his claim along with his petition D. That schedule is now missing but its existence is proved by the Huzur Sheristadar and by defendant's pleader Venkatrama Iyer. The Huzur Sheristadar further proves that the details as given in that schedule are correctly stated in para 15 of V, and I fully believe him. From this, it appears, that plaintiff's father had claimed Rs. 190 for Nos. 4 and 95 for fasli or 5½ Rs. per acre in addition to the refund of assessment which is Rs. 34-8-0. The rate of Rs. 6 per acre recommended by the Deputy Tahsildar is therefore reasonable. For No. 52 he had claimed only the produce of 1884 viz., Rs. 129-0-0 which is equivalent to Taram assessment. It is not explained why he was satisfied with a small sum while it is in evidence that this land is infinitely better than the other lands. The probability is that a greater portion of it had been used by him as a pasture ground. This is confirmed by the fact that plaintiff also has used it as pasture ground for the last 3 years. The amount fixed by the Deputy Tahsildar is what he would have realized if he had cultivated the whole area. This he is not entitled to recover, for neither he nor his father had cultivated the whole. I reduce this to Rs. 129 per Fasli being the sum claimed by plaintiff's father. The fact that he claimed only one year's rent to obtain an amicable settlement does not debar him from asserting his full right when that settlement was not obtained and when the matter came to be litigated in a Court of justice. He is entitled to recover Rs. 1,161-0-0 in respect of No. 52 at Rs. 129 per year for 9 years and Rs. 2,691 in respect of Nos. 4 and 95 for 13 years at 6 rupees per acre per annum or Rs. 3,852 in the aggregate.

I decree payment of Rs, 3,852-0-0 with 6 per cent. interest from the date of plaint and proportionate costs with similar interest from this date till date of payment. The claim for the rest is dismissed and plaintiff is directed to bear his costs and to pay defendant's costs with 6 per cent. from this date till date of payment on the amount disallowed.

Pronounced in open Court this 30th day of August 1897.

(Signed) U. ACHUTAN NAIR,
Ag. Subordinate Judge.

(True copy.)

PRINTED BY N. SREENIVASACHARLU AT HIS S. R. V. PRESS:—NELLORE. (17—11—97).

C. No.

Pension Department.

S GOVERNMENT.

ad again G.O. 1078 Pens: 3/12-11-96
also
AD the following paper

21st Nov. 1899, No. 3748mis / Coll. No. 165

18th Dec. 1899 No 867.

In the circumstances recommended by
the Board of Revenue
prepared to excuse
not recover the pension of Rs 22-4-
in K.K. Rs,
ntled to Bagavantarayalala
again
above.

from order

15/12/99.

CONFIDENTIAL.

B.P. No 3748, 21.11.99
Noted in connection with G.O. 1078 Pens. 3 12. 96

CONFIDENTIAL.

B.P. No 3748, d 21.11.99

& notes connected with F.O No 867, Pers. d 15.12.99

Confidential

Revenue (1899) Department.

Pension

CURRENT No. ~~7627~~ 1013

Confidential No 193

From Board of Revenue
Land Revenue

~~Order~~

~~Encl~~

Transferred to the Pension Department.

Illegible
25/11/99

No. 3748 Mis
Confl Nr. 165

Dated 21st November 1899

Received 23rd do

Registered do

Enclosures file

Spare copies

SUBJECT.

Submitting a report regarding the conduct of Bulusu Bhagavantarayalala, the Dy. Tahsildar concerned in the Kottapatnam compensation case, Nellore, & the amount of pension that may be awarded allowed him.

To the Pension Deptt, Mis. No 769 dt 28.11.99

Note.

With reference to G.O. No: 1078 Pen dt 12-11-96 (Slip 1) and para 11 + 12 of the B.P, it is thought that the paper has to be dealt with in the Pension Deptt.

2. The petition referred to in para 12 of the B.P. is not in the files sent up by the Board. A telephonic message calling for the petition is submitted for approval.

P.E.
24/11/99.

Pension Deptt. 29.11.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Current No. 1013

CONFIDENTIAL.

REVENUE BOARD OFFICE MADRAS

Proceedings of the Board of Revenue

(Land Revenue)

No. 3748 Misc. Dated 21st November 1899.

Confl. No. 165.

The Hon'ble Mr. J. Sturrock.
The Hon'ble Mr. F. A. Nicholson. C. I. E.

Resolution

slip!

With reference to G.Os.No.1078 Mis.Pension,dated - 12th November 1896 and No.829 Mis.Rev.dated 23rd February 1899,-- the Board submits the following report as to the conduct of the -- Deputy Tahsildar (M.R.Ry.Bhagavanta Raja Lala) concerned in the Kottapatnam compensation case,Nellore.The conduct of the Tahsildar (M.R.Ry. T.Raja Rao) need not be considered as he died on the 20th September last.

2. In 1881 the Public Works Department entered upon - measuring acres 55.67: ~~fields~~ fields 4,95/2 & 95/3 belonging to -- " acres 65.32: one Ramachandra Reddi of Kottapatanm and -- in 1884 they also entered on field No.52 belonging to the same --- ryot.For various reasons no compensation was given for the lands - entered upon and in O.S.No.35 of 1897 in the Sub-Court of Nellore, Pichi Reddi son of Ramachandra Reddi,filed a suit for Rs.21,000 as compensation for the loss of produce on the plaint lands up to August 1893 when they were restored to the plaintiff.The Sub-Judge - found that the plaintiff had been kept out of possession of the -- land for the above period and the High Court has confirmed the --- finding.As regards compensation,the plaintiff claimed Rs.21,000 -- though asserting that his proper claim was Rs.30,738.The Sub-Judge

decreed

decreed Rs.3852, viz., Rs.2691 at Rs.6 per acre per annum for 13 years on fields Nos.4 & 95 and Rs.1161 at about Rs.2 per acre for 9 years on No. 52. The High Court has also confirmed this award.

3. The Tahsildar was desired by the Collector in 1893 to enquire into the plaintiff's claims. This order was passed on to the Deputy Tahsildar who enquired in the village and in a very brief paper recommended Rs.17,316 as the proper compensation viz. at Rs.6 per acre on Nos.4 & 95 and at Rs.25 per acre on No.52. This was less than what was claimed by the plaintiff and the Tahsildar considerably raised the amount. On receipt of this demand and of certain petitions, the Collector ordered the Dy.Collector to make a local enquiry the result of which was that the Dy.Collector reported the whole claim as a fraud. Thereupon the Collector examined the whole papers from the beginning and refused all compensation. Hence the suit and the award above mentioned.

4. As regards fields Nos.4 & 95, the Sub-Judge decreed compensation at the same rate ~~proposed~~ as that proposed by the Dy.Tahsildar, viz Rs.6 per acre, and this rate, considering the repairs necessary to render the fields cultivable, seems equitable. The conduct of the Dy.Tahsildar need therefore be discussed as regards field No.52 only.

5. Field No.52 of 65 acres is a wholly dry field assessed at 12 annas per acre and described in the Settlement Register as "arenaceous sand". It appears by the Dy.Tahsildar's report, to have had two ruined wells in it and one of these was in existence in 1893. It is not alleged however, that they were in use when the field was entered upon by the Public Works Department; the crops previously raised are said to have been ragi, indigo, oil-seeds, green gram, &ca., and the land is said to ~~have been~~ be fit for casuarina plantations. Prima facie dry sandy soil assessed at Rs.0.12.0 per acre does not produce crops which will yield a net profit of Rs.25 after deducting all expenses, for cultivation, assessment, &ca; still less is this probable on a continuous succession of 9 years over the whole of a large field. Hence it rests with the Deputy Tahsildar, a man of long experience, to explain why he recommended this extraordinary compensation. Moreover, since the plaintiff and his father had been petitioning the Collector ever since the land had been entered upon but had either claimed no compensation or had asked only forgery moderate sums not exceeding Rs.2149 at most up to 1893 when this immense claim was suddenly made the necessity for explanation becomes still more obvious.

6. The Deputy Tahsildar explains that he took local evidence from the plaintiff, village officers and ryots, who all declared that the land had been cultivated with valuable crops prior to the entry of the Public Works Department in 1884, and that documentary evidence in the shape of lease deeds and Muchilkas were produced, which showed that portions of the field were leased to certain ryots at Rs.40 and upwards per acre; he states that he knew nothing of the former petitions on the subject or that the plaintiff's father had been awarded Rs.10 per acre as the sale value of similar lands and of about 20 acres of this very field in 1887, or that the plaintiff's father had in 1890 and 1891 claimed a maximum compensation of Rs.2149 for all the fields. He also states that he did not consider that there was any occasion for ascertaining the sale-value of the lands since he was only told ~~the~~ to estimate compensation for mesne profits.

7. When such heavy claims were put forward it was the duty of the Deputy Tahsildar to sift them with the utmost care, to ascertain beyond doubt what crops had been grown, to find out the reason why land of this quality produced such extraordinary results, to enquire ~~whether~~ why if the net income from single field was so great as Rs.1600 per annum the claimant had remained quiet for 9 years before raising his claim, and, if he had not remained quiet, what the nature of his previous claims had been. Obviously also in the case of lands producing a net annual income of Rs.25 per acre, an enquiry into the market value was of the first importance, since at 20 years' purchase the market-value would reach the incredible rate for such lands of Rs.500 per acre. The Dy.Tahsildar made none of these enquiries. As to crops he took oral evidence and that of two doubtful leases which moreover covered only 7½ acres of the field, but he did not call for the adangals and cultivation statements; and he accepted the alleged net profits as a matter of course. He says that he knew nothing, and obviously he did not enquire, as to prior petitions or claims by the party or the reasons for there being no such claims or petitions, and he paid no attention to the sale-value. This is not the mode of conducting a very serious enquiry.

8. But the Dy.Tahsildar's statement that he knew nothing of - previous records or of the plaintiff's father having been given Rs.10 per acre is regrettably untrue.The particular petitions in which Ramachandra reddi claimed compensation of Rs.2149 may not have reached him;but other petitions had been sent to him and had been reported upon by him and it is he himself who negotiated with the claimants in 1887 and also proposed Rs.10 per acre as the out right sale-value of the land including over 20 acres in No.52.Several petitions from the plaintiff's father were sent by the Collector to the Tahsildar for report.One of these was in 1887 when Ramachandra reddi gave a deposition(17th September 1887) before the Dy.Tahsildar stating that he would be satisfied if compensation for the lands themselves were given him at Rs.10 per acre and the Dy.Tahsildar made out a tabular statement on the 19th idem on those terms for 20 acres in No.52 being apparently the strip of land - actually lockspitted for the canal, which however was never made along that line.Similarly in June 1888 and November 1889,other petitions --- were sent by the Collector to the Tahsildar and by him to the Dy.Tah-- sildar and were reported on in October 1890 and on 23rd July 1891.In the petition of November 1889 the claimant is said to have waived all ---- claims for compensation and to have asked only for the land and the refund of the assessment which he had paid.The Tahsildar in his arzi of 25rd July 1891 replying to these references and several reminders expressly states that he referred the matter to the Dy.Tahsildar and in the margin of his arzi he recites the fields under discussion which include - Nos.4,95 & 52;in that arzi nothing is said about any compensation.When therefore the Dy.Tahsildar states that in 1895 he was not aware of previous records,he is not stating the truth,for it is impossible that in 1895 he could have forgotten his enquiries of 1887,1890 and 1891.

9. As regards the crops on the land,the Dy.Tahsildar has also failed in his defence.He alleges that he took oral evidence in 1895 as to the crops grown prior to 1884 and was satisfied with it.But in his enquiry in September 1887 he proposed a sale-value of Rs.10 per acre - which is obviously inconsistent with the growth of valuable crops,and though his arzi accompanying his tabular statement is missing,the ---- English statement drawn up by the Dy.Collector in the next month(October) and based on the Dy.Tahsildar's statement recites that certain -- lands marked A-which include the 20 acres in No.52- are valued by the ryots as pasture land since there is no free grazing ground in the village and that their sale-value is accordingly fixed at Rs.10 - per acre.This corroborates the finding of the Sub-Judge who,though he found most of the issues in favour of plaintiff and disbelieved that there was any conspiracy to defraud Government,expressly finds that "the probability is that a greater portion of it (No.--52) had been used by him as a pasture ground",and that the plaintiff is not entitled to recover compensation for alleged loss of - produce on the whole area "for neither he nor his father had cultivated the whole".In fact he accounted for the moderation of the plaintiff's father's claims for compensation by the probable fact that the land was used chiefly for pasture before 1884;and in --- this he was doubtless right.It is practically certain therefore that No.52 was not cultivated to any appreciable extent be-- fore 1884-nor has it been,says the Sub-Judge,since 1895-, that the evidence as to its cultivation was worthless,and that -- the Deputy Tahsildar either knew it to be worthless or might have known it had he used common sense and care.

10. In these circumstances the Board considers that,apart - from the question of fraud,the Dy.Tahsildar failed to act in ---- good faith in the interests of Government in that he acted with-- out due care and attention,that by such want of due care he nearly caused a loss to Government of Rs.13000 and that his de-- fence is disingenuous and even untrue.

11. The Dy.Tahsildar is entitled by the rules to a pen-- sion of Rs.44-8-6 but pending the disposal of the suit and of the matters dependent thereon,he has been allowed to draw only half - that amount.The Collector considers that the Deputy Tahsildar may be leniently dealt with since his proposals have been partly admitted - by the Court and the Sub-Judge disbelieves that there was any attempt at fraud.He accordingly recommends that the Dy.Tahsildar's pension may be fixed at Rs.35.In this recommendation the Board -- does not concur and it would only allow a maximum pension of Rs. 30 per mensem,the increase of Rs.7.11.9 taking effect prospectively.

12. A petition⊗ addressed to Government by the Deputy --- Tahsildar on the subject of his pension is submitted herewith --- together

Go 1078 Revenue 12.11.96 (8 slips)

Wd Mr. Mullaly para 21 of his letter dtd 23

⊗ This is not found in the files Sent up by the PO. with the current only the Dy. Tahsildar's letter (Slip 6) requesting the transmission of the petn. is in the files.

together with a report by the Collector and the connected records.

/True Extract/

Ag.Secretary.

To the Secretary to Government, Revenue Department, with papers in original (to be returned).

W.T.W.
21.11.99.

Confidential.

No. 1458 R / Ver

confidential No 4.

Vellore Collector's office
Dated 12: August 1899.
Desp^d 14: —do—

From

C. M. Mullaly Esq^r.
Collector of Vellore.

To

The Secretary to the Board
of Revenue, Land Revenue,
Madras.

Sir,

I have the honour to reply to para 2 of Board's Proceedings Ref: A. No 16 dated 14: February 1899 calling on me to report on the conduct of the Tahsildar and Deputy Tahsildar concerned in the Kottapatam compensation case.

2. The facts of the case are already before the Board - vide - Board's Pro: No 3969 / confl 1888 dated 10: August 1895, but for the sake of convenience they

they are briefly reproduced below.

3. In the year 1881, the officers of the Buckingham Canal department marked certain lands in the Village of Kottapatam as required for a diversion of the canal. This was done by the Canal department without either obtaining the consent of the parties or the permission of this department. The Rajah of Venkatagiri whose lands were similarly occupied having complained of this, the attention of the P.W.D was drawn to the impropriety of occupying lands before they were formally acquired. In December 1882, a schedule was received from the Executive Engineer for lands (35.67 acres) including fields nos 4, 95/2, and 95/3 of Kottapatam. While the then Tahsildar was negotiating with the ryots concerned, the schedule was recalled in January 1883. In April 1884, a revised schedule was received and the fields above named were not included in the second block.

4. Similarly in the year 1884, an extent of acres 65.32 in No 52 of Kottapatam was marked for acquisition, but there having been a diversion in the canal, the lands were not acquired. From a perusal of the records it was believed that the party was at no time dispossessed of the land. He, however, managed to withhold payment of the Government assessment until 1890 alleging as a general excuse, the acquisition of the lands by Government. In the year 1890, however, he was ordered to pay up the arrears without prejudice to the compensation claim, if any. The amount was collected and the party presented several petitions claiming not only remission of assessment for Faslies 1290 to 1300 during which, he said, he was kept out of the lands, but also compensation for loss of produce during those years. The varying nature of the petitions was

was such that the party first claimed refund of assessment only and on another occassion, compensation for loss of crop equal to the assessment of the land. On a third occassion, he said he would be satisfied if the lands are made over to him after refund of assessment.

5. As the claim was uncertain, a lengthy correspondence ensued between this office and the Executive Engineer, Buckingham Canal Division, with the result that that officer was not able to say definitely whether the lands under reference were or were not actually kept out of the possession of the party. With reference to the above correspondence the Tahsildar was directed to report if there was evidence to show that the lands were in the possession of the party. The Deputy Tahsildar, Bhagavantaraya Zala, to whom the matter was referred obtained evidence to show that the lands were

were not in his possession. Having regard to these facts, an order was sent to the Tahsildar of Gudur asking him to formally hand over the lands to the party and to report to what compensation he was entitled. The lands were accordingly handed over in August 1893.

6. The Tahsildar of Gudur (T. Rajalu), who was asked to propose compensation, sent the paper on to the Deputy Tahsildar of Kota (Bhagavantaraya Zala). The party (Gundala Pitchi Reddy) advanced a claim of Rs 30945/- as Compensation for loss of produce in spite of the fact that the lands were handed back to him. The Village officers estimated the compensation at Rs 27,000/-. The Deputy Tahsildar (Bhagavantaraya Zala) recommended the large sum of Rs 17,316 as compensation for loss of produce. The Tahsildar through whom the papers were sent took no steps to inspect the lands or ascertain their market value &c. He simply sent for the party and raised the amount of

of compensation to Rs 21,138, on the ground that the party did not agree to the Rs 17,000/- proposed by the Deputy Tahsildar. The bona fides of the claim and the several recommendations were at once suspected and the Head Quarter Dy: Collector, the late Mr. C. Ramaswami Iyer, was deputed to inspect the lands and report on the claim. He visited the village twice, took evidence from 32 persons that the lands had always been in the possession of the party and denounced the claim as a "bold attempt to defraud Government". The claim was accordingly rejected.

7. The party having brought a suit against Government, the Sub-Judge who enquired into the case found by the evidence of a special Commission appointed for the purpose that in fields nos $\frac{95}{2}$ & $\frac{95}{3}$ an embankment 1782 feet long and in no 4 a canal were found and observed as

as follows:- Vide Judgment of Lower Court

"There is another circumstance which
"most unambiguously shows that the
"Canal officers had taken possession
"of these lands. The plaintiff asserts
"in the plaint that a bund was raised
"on nos $\frac{95}{2}$ & $\frac{95}{3}$ and a canal was dug in
"no: 4 by the Canal Department and
"that those permanent marks of
"their occupation still remain on
"the lands. At the instance of the
"parties a commission was issued
"to T. Narayana Sastri, a 1st grade Pleader,
"to report on their existence. His re-
"-port which is Exhibit L L shows that
"there is a bund in nos $\frac{95}{2}$ and $\frac{95}{3}$
"which has a length of 1782 ft., the
"height varying from 2 feet to 5½ ft.
"and width between 3 and 4 feet at
"the top and between 13 and 60 feet
"at the base. In no: 4 land he reports
"that there is a diversion canal the
"length of which is 495 feet and breadth
"40 feet. Both the bund and the canal
"are marked in the plans produced
"by the defendant at the instance of

"of Plaintiff. It is apparent that none
"but the Public Works Department could
"have executed such gigantic work."

× × × × × ×

"These permanent works of gigantic pro-
"portions lead me to think that the Public
"Works Department did take possession
"of the lands and keep them in
"their possession. Their works have also
"rendered the lands unfit for culti-
"-vation without repairs. The Defence
"Witness admits that the bund was raised
"by the Canal officers but denys
"that the canal in No: 4 was dug
"by them. They say that it is a breach
"caused by the river but it is false;
"for it is described in Sas the old silted
"diversion."

8. The existence of this bund and Canal went against Government and the Sub. Judge decreed an amount of Rs 3852, as compensation. On appeal the High Court confirmed the Judgment and remarked that the acquisition of lands in Vallore for public purposes was carried out in anything but a satisfactory manner.

9. The Deputy Tahsildar and the Tahsildar

Tahsildar concerned in this case are
M R Ry Bhagavanta raja Rao and
M R Ry T Rajadoss. The former has
since retired as Deputy Tahsildar
of Attur and Government in its
order No 1078, dated 12: November 1896
sanctioned a moiety of the pension
due to him pending disposal of
this case. The latter was in charge
of Gudur Taluk, formerly III grade
on Rs 200/- He was however reduced
in 1894 by one grade for delay
in bringing certain lands of Mettur
under charge for water. He is now
the IV grade Tahsildar of Kavali
on Rs 175.

10. The case having been finally
disposed of by the High Court, I have
been called upon in Board's Bo:
Ref A No 16 dated 14: February 1899
to report on the conduct of these
two officers and to recommend
what pension should be granted
to the Deputy Tahsildar. With re-
-ference to this, I issued interroge
-tories to both these officers. The

following

following were put to the Deputy Tahsildar Bhagavantaraya Lale:-

(1) Why he did not report the existence of the embankment and canal in fields nos $\frac{95}{2}$, $\frac{95}{3}$ and 4 as has been proved by the Commission.

(2) Why he did not make enquiries as to the market value of the lands when he made such preposterous recommendations.

(3) Why he did not consult previous records which show that in the years 1882 and 1884 Gundala Ramachendra Reddi (Petitioner's father) was given Rs 10 per acre for exactly similar lands of his, acquired permanently.

(4) Why in spite of the above facts, he recommended, as compensation for loss of produce, an abnormally large amount of Rs 17,000, Ramachendra Reddi himself never having claimed more than Rs 2,149 and the Sub Judge who has passed a decision in favour of the party not having thought fit to award more than Rs 3852/-

The explanation of the Deputy Tahsildar is enclosed.

Collrs Ex. E1

11. As regards point (1) he explains that he remembers having mentioned the fact of the existence of the embankment and canal in his yadast to the Tahsildar. A copy of this report dated 30: August 1893 with translation is enclosed, but for convenience of reference an extract of para 4 is given here.

Collrs Ex. E2

"The Petitioner Gundala Pitchi "Reddi having been enquired "about the lands referred to, he deposed "that the lands no: 1 marked in red "ink in the statement were taken "possession of by the canal department "in Fasli 1290, that a canal was dug "in no: 4 and an embankment raised "in nos $\frac{95}{2}$ and $\frac{95}{3}$ &c &c &c".

It will be seen that here mention is made of the canal and embankment in the recital of claimants story but it was apparently lost sight of in this office as they were not mentioned either by the P.W. Department or the Head Quarter Deputy

Deputy Collector who inspected the lands twice. The existence and magnitude of these works ought to have been prominently brought to notice but beyond the casual reference above quoted nothing was said. In this respect the D.C.R. and the Head Quarters Deputy Collector seem more to blame than the Deputy Tahsildar. The only explanation for the omission I can suggest is that the lands were used for grazing and that these works did not interfere with the enjoyment. The Sub-Judge himself says "This is confirmed "by the fact that Plaintiff also has "used it as pasture ground for the "last three years."

12. As regards (2) the Deputy Tahsildar states that there was no occasion for his giving the market value of the lands as the instructions given him were to make over the lands to the party and submit proposals for compensation. The explanation speaks for itself and shows to what extent the Deputy Tahsildar was able to realize his own responsibility. If he had ascertained the market value he would have at once seen the unreasonable nature of his recommendations and would have considered twice before making such proposals. It would have shown that his recommendations for mesne profits were nearly 17 times the market value.

13. As regards (3) the Deputy Tahsildar disclaims all knowledge of the existence of previous records; but he was himself the officer who, in 1887, negotiated with the parties including the present claimant, and settled outright compensation at the rate of Rs10 per acre for certain dry lands of the village including Sy. No. 52 (now in question) for which, he, in the present case, proposed compensation for loss of produce at Rs 25 per acre per year. This is a strong point against him. Apart from this it cannot be believed that

Deb to be Met which must be to the
that he was unaware, at any rate,
of the fact that owing to the diversion
lands other than those under dispute
were acquired for the canal in
the village. The canal itself is a
living proof of this and it would have
occurred to any one of ordinary Common
sense to have enquired what com-
pensation was given for lands
occupied by the Canal.

14. Regarding (4) he likewise says that
he was not aware at the time, of the
existence of previous record or of
petitioner's father having claimed
no more than Rs 2149. He adds:-

"In fixing the amount I had simply
"to be guided by the evidence of the
"witnesses whom I enquired and
"by the evidence as to the profits
"derived by the owner of the lands
"by leasing them out to other ryots.
"My enquiry on these points was, I
"submit, full and was not defective
"in any way and this is also stated
"in para 6 of the Sub Judge's decision."

In support of the Deputy Tahsildar's state-
-ment is the following extract from para 6
of the Sub-Judge's judgment:-

"The Deputy Tahsildar who has since retired
"from the service after a careful enquiry
"and inspection of the lands fixed the
"rate of profits at Rs 6 per acre in nos 4 and
"95 and Rs 25 per acre in no 52 but he is
"suspected of being privy to the fraud
"which the plaintiff wished to perpetrate
"and one half of his pension has been
"withheld on that account. The Tahsildar
"thought that the rate fixed by the Deputy
"Tahsildar was too low and raised it
"to Rs 8 and Rs 30 respectively per acre.
"It must be remembered that the
"rates fixed by the village officers was
"more than this; viz. Rs 8 and Rs 40
"respectively. I cannot for a moment
"believe that the Tahsildar, the Deputy
"Tahsildar and the village officers
"entered into a conspiracy to defraud
"Government of a very large sum of
"money. I do not say that it is impossible
"to conceive of such a case, but I say
"that such a case has not been made
"out. The Deputy Collector's enquiry was held
behind

Why not? opinion depends on the facts disclosed.

(not in any)

"behind plaintiff's back and his report
"is one sided and based on the evidence
"of persons who are inimical to Plaintiff.
"His opinion that the lands bore no
"marks of having been cultivated does
"not show that they are pasture lands
"but shew that plaintiff was out of possession."

Further on the Sub-Judge goes on to say:-

"The amount fixed by the Deputy Tahsildar
"is what he would have realized if
"he had cultivated the whole area.
"His he is not entitled to recover
"for neither he nor his father had
"cultivated the whole. I reduce this
"to Rs 129 per fasli being the sum
"claimed by plaintiff's father."

15. The above remarks show that the Sub-Judge approved of the Deputy Tahsildar's proposals, but this is inconsistent with his award of Rs 3,852 as against Rs 17,660 proposed by the Deputy Tahsildar. The following table compares the rates we adopted by these two officers and the difference between the two amounts:

Field No	Extent		Rate adopted by		Total amount proposed by		Difference
			Deputy Tahsildar	Sub Judge	Deputy Tahsildar	Sub Judge	
4	5	09					
95/2	5	92					
95/3	23	52					
	34	53	Rs 6 per acre	Rs 6 per acre	Rs 2691	Rs 2691	
52A	21	41					
52-1	4	64					
52A-2	3	51					
52B-3	4	50					
52-4	4	65					
52-5	4	84					
52-6	12	42					
52-7	4	80					
52A-3	4	28					
	65	32	Rs 25 per acre	Rs 129 per annum or about 2 Rs per acre	14967 (14625)	1161	13,806

It will be seen from the above table that the difference between the amount arrived at by the two officers occurs solely in respect of the compensation for loss estimated for the 1884 block. The Deputy Tahsildar proposed a large compensation at Rs 25 per

per acre while the Sub-Judge allowed Rs 129 per year or about Rs 2 per acre the Sub-Judge would perhaps have allowed all that the Deputy Tahsildar recommended, were it not for the fact that it was brought in evidence that the party had filed a statement claiming only Rs 129 for one year for this block. The original statement itself was missing and its existence had to be proved by the evidence of the Huzur Sheristadar. Thus Government was saved a loss of Rs 13,806.

17. The correspondence shows that the party had put in several petitions of a varying nature about his compensation. His first petition was dated 12th March 1888 in which he applied for a refund of the assessment already collected from him. It made no mention of any compensation. This petition was sent to Tahsildar on 13th June 1888. Again on 7th November 1889 the claimant put in another petition waiving all claims for compensation and applying for the surrender of the lands as well as the refund of assessment. This petition was sent to the Tahsildar for report and in turn to the Deputy Tahsildar. Their reports are contained in their arzies nos 427 and 4357 dated 18th February 1890 and 23rd July 1890. These officers should at least have been aware of this petition which contained the petitioner's wishes. Again in his petition dated 11th September 1890, Petitioner claimed compensation for loss of produce of a sum of Rs 2149 and in his petition dated 21st November 1891, he requested that he might be paid the compensation for loss of produce - at least the refund of assessment collected. If the Deputy Tahsildar had taken the least trouble to make independent enquiries and examined the claim closely all these facts would have come to his notice.

18. The Deputy Tahsildar accepted as

per acre while the Sub Judge
as the basis of his calculations —
certain mutchilikas filed by the
party, which were neither registered
nor properly stamped. The Sub Judge
who levied the deficit stamp duty
and penalty took no notice of these
mutchilikas in valuing the loss.
It is quite probable that these were
got up to support the large claim.
The lands are assessed at 0-12-0 per acre
and it is ridiculous to suppose that
such lands would produce Rs 40 a year.
The Sub Judge was satisfied that
the field under reference was used
mostly as grazing land. If the party
had been in possession of these
mutchilikas all along it is inexplain-
-able why the Plaintiff's father
offered the modest terms detailed
above. The amount recommended
by the Deputy Tahsildar for this block
was 12½ times the amount awarded
by the Sub Judge who, though appa-
-rently supporting the Deputy Tahsildar,
has

(1) This office letter No. A
Confidential dt 8-10-1895.
Board's No: thereon
No 5180 mis dt 14-10-95
Confl 107 Flag J.
(2) This office letter
No 4245 dt 31-10-98.
Ver
Flag J.

not thought fit to adopt his recom-
-mendations in respect of this block.
19. As regards the question of pension
to the Deputy Tahsildar, the marginally
noted papers show the correspondence
that took place in connection with
his retirement. In this office letter
No: A Confidential dated 8th October
1895, the Asst. Collector Mr. Manavedan Raja
brought to the notice of the Board
that the Deputy Tahsildar had applied
for permission to retire and requested
orders as to how the application was to
be disposed of. In the last para he
observed as follows:—
"I have no doubt that once out of
"service he will turn out a hostile
"witness in the suit and the Plaintiff
"is sure to take out a summons for him.
"I therefore request the favour of
"instructions as to how the application
"should be disposed of. I believe the
"proper course will be to accept it and to
"relieve him, but to defer the question
"of settlement of pension until after
"the disposal of the suit."

In

In Board's Proceedings Confidential
No: 1078 of 14: October 1895. the Board
replied, that the Deputy Tahsildar's
resignation might be accepted, but
that he should be informed that
no recommendation could be made
as to the amount of pension to be
granted him until the pending
Suit had been decided and until
orders had been passed on his
Connection with its Object matter.
On 1: November 1895, the Deputy Tahsildar
was informed accordingly. Finally
Government in its order No 1078 dated
12: November 1895 sanctioned the Grant
of a pension of Rs 22-4-3 and recorded
the following in para 2:-

"Only half the maximum pension
"admissible under the rules has
"been granted and the Government
"will not consider the question of
"enhancing the grant until the
"recommendation of the Collector
"and the Board of Revenue are received.

As

"As the applicant has already been in-
"formed in Board's Proceedings No: 5180 of
"14: October 1895, no such recommendation
"can be made until the pending
"Suit is decided and orders have been
"passed on his connection with its Object
"matter."

2o. While recommending an appeal
against the Sub Judge's decision Mr
Scott made the following observations in
regard to the Deputy Tahsildar and
Tahsildar - vide para 8 of his letter
No: 150/Ver dated 20: January 1898.

"I cannot myself accept this view
"of the matter. Had the Tahsildar
"or the Deputy Tahsildar been acting
"as they should have been with
"honest regard to the interests
"of Government they could not possibly
"have estimated the compensation
"at such large figures as they did."

Again while submitting the memo-
-rial addressed to Government by
Bhagavantaraya Lala, Mr. Scott made
the following observation - vide para 3

of

of his letter dated 31: October 1898. No 4145 Rev. Jey V.

"It is however quite possible the
"Petitioner (Deputy Tahsildar) acted
"in good faith and I do not think
"it is possible to substantiate any
"charge of fraud against him
"having regard to the remarks
"of the Sub Judge in para 16."

I agree in this view. The Sub-Judge says "I cannot for a moment be-
"-lieve that the Tahsildar ~~and~~ the
"Deputy Tahsildar and the village
"officers entered into a conspiracy
"to defraud Government of a very
"large sum of money."

While accepting this, it must be held that the Deputy Tahsildar was extremely careless in his enquiries and reckless in his recommendation.

21. His full pension amounts to Rs 44-8-6 and he has been allowed only half since November 1895. His total loss upto date amounts to about Rs 1000.

G.O. No 1078 of 12: November 1896 was passed before the decision of the Sub Judge and the position is altered in two respects.

(1) No conspiracy to defraud.

(2) Partial acceptance of the Deputy Tahsildar's proposals.

Government may therefore be disposed to show clemency in which case his pension may be fixed at Rs 35.

22. The case of the Tahsildar, Raja Row, is very similar. He was called upon to answer the following interrogatives:-

(1) Why he failed in his duty to investigate the claim under reference, especially when the village officers and the Deputy Tahsildar made such unreasonable and preposterous recommendations.

(2) Why he did not report the existence of the embankment and the canal in Nos. 95/2, 95/3 and 4 as has been proved by the Commission.

(3) Why he did not consult previous records

records which show that in the years 1882 and 1884 Gundala Ramachendra Reddi (the party now under reference) was given Rs10/- per acre for exactly similar lands acquired permanently.

(4) Why in spite of the above facts, he deliberately raised the amount of compensation recommended by the Deputy Tahsildar from Rs 17,000 to Rs 22,000 without taking the least trouble to enquire into the market value of the lands or inspect them personally. He should note that the party, Gundala Ramachendra Reddi never claimed more than Rs 2,149 nor has the Sub Judge thought fit to award more than Rs 3852/-.

23. His explanation to the above is enclosed. He begins with a statement of facts already before the Board and in para 3 he deals with the 1st and 2nd interrogatives. As regards the 1st he submits that the claim having been investigated by local enquiry and inspection of lands and verification of mutchilikas &c by a competent and responsible officer viz- the Deputy Tahsildar of Kota, he did not Consider that a reinspection was called for. This is plausible and in ordinary cases could be accepted but in the present case it is manifest that the village officers and the Deputy Tahsildar made an unreasonable and preposterous recommendation and the sum was so large that it was clearly his duty to investigate it closely. He further observes that if his failure was considered a serious omission he should have been directed to supply it then and there. In reply it is sufficient to state that the matter was considered so serious that a Deputy Collector was specially deputed to inquire into the case.

24. As regards (2) the Tahsildar states that the fact of the existence of the embankment and the canal in nos 1, 2, 3 and 4 has been reported by the Deputy Tahsildar in para 1 of his report no: 483 dated 30: August 1893 and para 3 of his own varzi dated 21st September 1893 at no 6593. The following is an

an extract from the latter relating to this:

"It is known from the records that the lands no: $\frac{95}{283}$ of this block on which the canal officers raised an embankment have to be levelled for cultivation."

As already stated neither the P.W. Deptt nor the Head Quarter Deputy Collector made any mention of the works, and the blame rests chiefly with them.

25. Regarding the 3rd question the Tahsildar ingeniously evades the point about his failure to take into consideration the previous records of 1887 about permanent acquisition and explains instead that he was not aware of Gundala Ramachendra Reddy's claim for a sum of Rs 2,149, the statement put in by him not having been sent to him.

In his petition of 7: November 1889 sent to the Tahsildar for report Gundala Ramachendra Reddy claimed no more than the return of his lands and the remission of assessment and

and clearly stated that he required no compensation for lands surrendered by the Public Works Department. The Tahsildar himself reported on this petition vide his arzi No 4357 dated 23: July 1891, and there can be no denial of the fact that if the Tahsildar's records had been consulted several other papers would have been found to the same effect. As regards the previous records of 1887, it must be observed that the Deputy Tahsildar's proposal to pay at the rate of Rs 10 per acre was transmitted to this office with Tahsildar's arzi extra No 10 dated 20: September 1887, and if the Tahsildar had called for previous papers they would have been forthcoming.

He further justifies his mode of setting compensation for loss of produce by stating that it was in accordance with the then existing practice of the district as admitted in Board's Proceedings No 272 dated 23: June 1894. This may be so. But as an officer entrusted with duties of responsibility and trust he

he ought to have ascertained how the lands could be most profitably acquired.

26. In reply to the 4th interrogatory, the Tahsildar submits that in respect of Nos 4 and 95 he raised the rate to As 8 per acre as the Dy: Tahsildar's enquiry had shown that the lands were fit for casuarina plantations which are valuable in Sea Coast villages and that in regard to no: 52 the rate was enhanced to Rs 30/- from Rs 25- as the Cowles produced before the Dy: Tahsildar proved that a portion of Nos $\frac{52}{4-2}$ - $\frac{52}{3-B}$ had fetched an annual rental of Rs 40/- and as the adjoining lands were stated to be fit for the cultivation of rich crops, such as, indigo &c.

It is evident from this that the Tahsildar without any attempt on his part to inspect the lands or to make independent enquiries into the reasonableness of the rates proposed by the Dy: Tahsildar, enhanced them from Rs 6 to Rs 8, and from Rs 25 to Rs 30. The remarks already made as to the extravagance of the proposals of the Deputy Tahsildar apply with greater force to those of the Tahsildar. He recommended compensation for Rs 21,138 without even inspecting the land and accepted without question mutchilikas, the genuineness of which seems very doubtful on their very face.

27. The succeeding paras of the Tahsildar's report contain a digression and deal especially with the transaction about the water-rate business of Mallur in connection with which he was reduced by Mr Wynne so far back as 1894. The papers in connection with this are submitted in original as shown in the margin.

(1) Dis: No $\frac{2901}{Ver}$ of 3-9-94 (Exhibit No. 4)
(2) Dis No $\frac{3100}{Ver}$ of 22-9-94 (Exhibit No. 5)
(3) Dis No $\frac{1903}{Ver}$ of 24-6-95 (Exhibit No. 6)
(4) Dis No $\frac{3111}{Ver}$ of 6-7-96. (Exhibit No.)

In short he was getting on well until January 1891, when Mr Maclane promoted him to Tahsildar of Gudur on Rs 200- vide this office letter No $\frac{1756}{Tour}$ dated 18th July 1891. In 1894 Mr Wynne reduced

reduced him in connection with the
Mettur water-sale and also passed
strictures in other matters including
his criminal work-vide also vairnpt
Deputy Collector's letter in Dis: No 3910/ver | Collis Ex: 8
dated 29: November 1894, enclosed for
reference and return. When the
Tahsildar's connection with the Kotta-
patam case came to his notice
Mr Wynne recorded the following
remark:

"If I had known of this matter, I
"should not have given the Tahsildar
"the chance I spoke of in my Proceed-
"ings (which I only did with great
"hesitation) but should have
"remitted him straight to the last
"class. As however the order has issued,
"nothing further will be done for
"the present."

28. Since going to Kanali his work
seems to have improved as is
evident from the remarks
of the then Head Quarter Deputy
Collector

Collis Ex: 6 Dis: No 1903/ver dated 24th June 1895
(enclosed) as also Mr Dreyer's remarks
in the Jamabandi review No 3111/ver
Collis Ex: 7 dated 6th July 1896 reproduced below
Paras 11 and 26:

"Para 11. The Tahsildar duly visited
"all the villages in the Taluk; personally
"inspected most of the cases of waste,
"Shavi, Tirvajasti and Vastijasti;
"and entered clear and definite
"remarks in the Adangal against
"each field. His arrnoish which
"must have been of a very heavy
"nature in view of the numerous
"claims for remission, was generally
"complete and satisfactory.

"Para 26: On the whole the accounts
"of the Taluk have been written neatly
"and its administration as observed
"at Jamabandi is distinctly creditable
"to Tahsildar T. Raja Row."

29. The remarks made by Mr Scott
quoted above in dealing with the Deputy
Tahsildar apply to the Tahsildar also.

The

the more serious charge of a
Conspiracy to defraud Government
must be rejected but the Tahsildar
was, undoubtedly, extremely careless
and reckless in his recommendation.
The question is whether Mr. Wynne's
order should now be revised and
the Tahsildar further reduced.
I am of opinion that such a
Course is inadvisable. The reduction
in 1894 was a severe punishment
and the Tahsildar has been
kept on full promotion ever
since. Moreover he has appa-
rently worked well since he
has been in Kanara. To punish
him further now would be to
utterly discourage him and make
him a discontented official
to the end of his service.
Under the circumstances I think
the case will be best met by a severe
reprimand.

30. I forward the connected records
as shown in the list. These were
received from the District Court
only on the 14th July '99 and hence the delay
in the submission of this report.

I have the honour to be,
Sir,
Your most obedient Servant
[illegible]
Collector.

CAR
13/8/99

C. No.

ent.

D/4 1,920—14-3-99.

Pension
REVENUE DEPARTMENT

No. 1013

From The Board of Rev. L. R.

Dated 21st Novr. 1899. No. 3748 Mis. Confl. 165

FOR ORDERS.

For the facts of the Kottapatnam Compensation case (Nellore), please see the Board's Pros. No. 3748/21-11-99 (the present current). In this Compensation case, Bhagavantarayalaka, D.T. Tahsildar of Aluru, was suspected of having acted with corruptness or gross negligence in his duty in having recklessly recommended large amounts to be paid as Compensation. In July 1895, the Collector of Nellore reported the conduct of the D.T. Tahsildar to the Board, and asked sanction for defending the suit. The Board in asking Govt. for the sanction reported that due notice would be taken of the D.T. Tahsildar's conduct after the suit had been decided. The Board purposely delayed punishing the D.T. Tahsildar until all the facts were brought out by the Civil suit. Meanwhile, the D.T. Tahsildar, having completed 30 years' service entitling him to voluntary retirement, retired from the service; and an application for a retiring pension on his behalf was submitted by the Collector, but he made no recommendation as to

G.O 3470/27.8.95 Rev. flag K

do

K

the amount of pension to be given to the Dy Tahsildar. As there was no likelihood of an early decision of the suit, the Govt. granted in Novr. 1896 to the Dy Tahsildar provisionally a pension of half the amount admissible under the rules, subject to reduction subsequently if cause was shown.

The Civil suit was decided in August 1897, and the Dy Tahsildar's conduct in connection with the case is now fully reported upon by the Board in the present current.

From this report it will be seen that the Compensation claimed in the suit was Rs. 21,000/. for alleged loss of produce, but that the Dy Tahsildar who enquired in the village under the Tahsildar's orders recommended Rs 17,316/. as the proper Compensation. This was less than what was claimed. The Tahsildar simply sent for the party and raised the amount of Compensation to Rs 21,138/. on the ground that the party did not agree to the Rs 17,000/. recommended by the Dy Tahsildar. On receipt of certain petitions subsequently, the Collector ordered the Dy Collector to make a local enquiry; and the Dy Collector reported the whole claim of Compensation as a fraud. The Collector thereupon refused Compensation and hence the suit. The Sub Judge decreed only Rs 3,852 and the High Court has confirmed this award.

From the Sub Judge's judgment it will be observed that he disbelieved that there was any

FOR ORDERS.

× G.O. 1078 Rev. 12-11-96 slip No I

R a 4 22-4-3 was granted
The maxm admissible was R a 6 44-8-0

+ flag M.

@ flag N.

flag M

8º: 1078 12-11-96 slip No I

flag N

conspiracy to defraud Govt, and that he accounted for the moderation of the claim for compensation by the probable fact that the land in question was used chiefly for pasture. The Board remarks that the local evidence taken by the Dy Tahsildar as to cultivation of the land was worthless and that the Dy Tahsildar either knew it to be worthless or might have known it, had he used common sense and care. The Board, therefore, considers that apart from the question of fraud, the Dy Tahsildar failed to act in good faith in the interests of Govt. in that he acted without due care and attention; that by such want of due care, he nearly caused a loss to Govt. of Rs 13,000/; and that his defence is disingenuous and even untrue.

In granting the half pension noted above to the Dy Tahsildar provisionally, the Govt has remarked that it will not consider the question of enhancing the pension "until the recommendations of the Collector and the Board are received". With reference to this, the Collr says that the Govt may be disposed to show clemency, since the Dy Tahsildar's proposals have been partly admitted by the Court, and the Sub Judge disbelieves that there was any attempt at fraud; and that the pension may be fixed at Rs 35/. The Board does not concur in this recommendation. However it would only allow a maximum pension of Rs 30/. per mensem.

In the concluding portion of its judgment, the High Court observes that the facts which have been

Taheildl

established in the case indicate that the acquisition of
lands in Nellore for public purposes was carried
in anything but a satisfactory manner.

JCS.
11.12.99

Lem

For orders whether
the Bd's proposal to grant
a pension of Rs 30
prospectively may be
accepted.

Mle
12/12/99

HLL.

The Dy. Taheildar's half
pension is R22 and
it is a question whether
the Govt. Sh. be enhanced
to the sum the Bd.
recommends, R30.?

There was, if not
fraud, & that there was not
fraud, is merely the
opinion of the Sub Judge,
there was certainly the very
grossest neglect of duty &
the public interests.

[illegible]

There appears to me to be
clear indications of fraud
found —
I would not raise
the pension already
granted ad interim.

WS —
13-12-99.

[illegible] on Department.

2.

C. No.

...on Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read again G.O. 1078 Pmss. 8/12-11-96
also
READ the following paper

From the Board of Revenue, L.R. dated 21st Nov. 1899, No. 3748 Pmss / Coll. No 165

Order 18th Decr. 1899 No 867.

~~In the circumstances now reported by the Collector and the Board of Revenue~~
The Govt. ~~will~~ is not ~~now~~ prepared to increase the pension of Rs. 22-4-0 per mensem granted to Lt. Rly. Bagavanta Rayalala in the G.O. read again above.

/ from order /

JCS 14-12-99

M 15/12/99.

To
The Bd of Rev. L.R.
" Accts Genl.

*When given for copying*_____
*When copied*_____
*When examined*_____ } 189 .
*When signed*_____

READ AGAIN G.O., No. , DATED
189

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A A A A A A A
LETTER OF GOVERNMENT.	
STATEMENT WITH DITTO.	
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.	

N.B.—

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
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