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MADRAS RECORD OFFICE.

Government of Madras.

Revision **DEPARTMENT.**

G.O. No.	794	Press Mis.
Dated	12- 11-	1872

Not to be folded or roughly handled

Memorandum shewing the manner in which Mr Sharpe conducted his enquiry against the District Munsif of Sevagunga

1 The Petition No 270 C was presented by Syasamien (who is personally unknown to the Munsif, and whom the Munsif hears generally engages in bringing false complaints against employés, is a writter of anonymous petitions, and was in 1866 convicted of forgery) on the 9 July 1868, 4 or 5 days after Mr Sharpe took charge of the Civil Court of Madura, at the instigation of the Agents of Mr Fischer the Contractor of the Sevagunga Zemindary, by reason of about 50 Suits brought for the recovery of Teerwaj of a Coule Village Koosalavady being dismissed by the Munsif contrary to the recommendation contained in his letter (No 2) to the Munsif dated 13th January 1868, and also by reason of his dismissing certain other suits, and chiefly by the Munsif declining his prayer in March 1868 to stop the construction of certain buildings on the lands sued for in No 8 of 1868 against certain Chetties of the Village of Karacoody. The Petitions No 274, 275 & 276 marked E E' & E2 respectively were also caused to be presented on the same date by Mr Moodoo Kistna the retained Pleader of Mr Fischer, on behalf of Soobramanien Chetty,

in

in addition to the above Petition No. 270 C of Iyasawmien

2 Some days after the presentation of the Petitions, as it was rumoured that when Mr Sharpe called for the said Iyasawmien, he was absent, and then that Mr Moodoo Kistna who had no concern in that Petition No. 270 C, told Mr Sharpe that the Munsif sent Soondramien Vakil of his Court to Madura to effect an amicable settlement with him, and caused him to be absent from the Court, the Munsif in view to pay his respects to Mr Sharpe who newly arrived, and to inform him of the ill feelings &c which the Zemindary people had towards the Munsif, proceeded of his own accord to Madura, and went to Mr Sharpes' house on the 4th of August. When the Munsif appeared before him he without giving the Munsif, as he admits, proper reception, assumed a frightful and threatening look and said the words annexed to the Defence; the same words only were exchanged between Mr Sharpe and the Munsif on the 4th and 5th of August, and no such words as are mentioned in paras 3 & 4 of his letter of 12th August and para 11 of the one dated 23d September have ever taken place.

3. The idea of a public servant of old standing being compelled to apply for a reduced rate of pension, heart trilling indeed, and yet longer to serve under such inauspicious gentleman, seemed quite an unadvised measure, and therefore the Munsif wrote on that night the Arzi No 1 to Mr Sharpe as directed by him, requesting him to get pension on second thought, it struck the Munsif that it would give room to Mr Sharpe some times to say, as he says in the 3d para of his 1st letter and 11th para of his 2d letter,

that

that the Munsif voluntarily offered to resign to avert worse consequence on the complaints made, and wrote in the Arzi advancing his claims to a higher rate of pension on continuing in service for some time longer, and gave the Arzi to his servant with directions to deliver it to Mr Sharpe on the next day, and that any Takeed given should be brought to the Munsif, and then proceeded to his station on the same night - On the 7th, the Munsif came to Know that the said Arzi was handed over to Mr Sharpe when in his private room in the Court, that he opened it and called the Sheristadar, that long after, the Sheristadar came out of the room, that Mr Sharpe then told the words "Take care," that a Court peon came with a letter on that night to the house at Madura wherein the Munsif halted, and enquired for him, and his people said that he had gone to his station on the night of the 5th, and that if the letter was given to them they would forward it to the Munsif, but that the peon said he was told by the Sheristadar to deliver it personally to the Munsif and to no body else, and took the letter back.

4 Afterwards the subject of the Arzi was not brought to light for 6 days.

on

on the evening of the 8th day (the 13th August) the Munsif having received the Order marked A by Mr Sharpe dated 12th intimating that he was suspended from his office, and that he should forthwith deliver over charge of his Court to the Head Goomastah; in this order he did not state the reasons on which he was induced to suspend the Munsif; but merely made a mention not compulsorily that, if he (Munsif) had any thing to say, he appearing to the Court here, may by being present carry on the examination which is to be held without delay.

5 The order of suspension did not give the Munsif time enough, or even a day to join Madura, a distance of 30 miles - However on the evening of the 13th on which day the Munsif, soon after he received the suspension order, delivered over charge of his Court, made arrangement for his family on the 14th, and started on the 15th, and reached Madura at half past 5 that evening, but he heard that Mr Sharpe before the Munsif reached Madura, threatened and examined Soondramien Vakil of the Munsif's Court, that upon his stating that he did not speak to Iyasawmien, Mr Sharpe said there are ever so many Iyasawmiens, which Iyasawmien did you mean, when the Court asked you if you saw Iyasawmien, and Mr Sharpe said he had dismissed him, and then called Vakil Teroomalasawmien and after

after putting some questions asked him whether the Munsif was pure or not, as he did not say the Munsif was not pure, Mr Sharpe was enraged, used threatening language, and told him "Go off", and afterwards he called for Vakils Condalien and Seetharamien, and directed them to write out and present on Monday Court (the 17th) all that they had to say against the Munsif, and he afterwards called again Teroomalasawmien and gave him similar directions. They accordingly gave their written statements on the 17th.

6 Even in the above Memoranda they did not state that the Munsif received bribes, or that they heard the Munsif did, if they had known or heard such, they would have mentioned it in their Memoranda, whereas, upon Mr Sharpe and Barrister Mr Myadoo Kistna questioning the said Condalien and Seetharamien, while they were parties cited only by the Petitioner in No 2 / 7th to prove the alleged wrongful confinement, whether they did not at all hear that the Munsif received bribes, they were from a desire not to offend, as shall be gathered from what is stated in the above para, stated that they heard "some say so" - But Mr Sharpe took it down that there was a general talk that the Munsif was receiving bribes.

7 To enable the Munsif to be acquainted with the real contents of the Petitions presented against him, Mr Sharpe should have furnished him with copies thereof immediately after their presentation, or even with the order of suspension, unless

the

the Munsif had been previously acquainted with the Contents of the said Petitions connected with his official proceedings, it could not be possible for him to search the records of his Court, and to pick out matters necessary for cross questions and objections, after the Vakils should give Memoranda as per order of Mr. Sharpe passed on the 15th, the Munsif intended to take copies of them and other documents, and after perusal to appear and cross examine them if necessary. But the Munsif learnt that Mr Sharpe, as soon as the Memoranda were given on the 17th caused a peon to call out to the Munsifs disgrace before the Court, three times, in these words " suspended Mana- -madura Munsif Narasimulu Naick as parties of suits are usually called, examined the two Vakils Condalien and Seetharamien, the Goomastah Gopalakistnien, alluded to in the deposition Yz, and the two peons referred to in the depositions K & L without giving to the Munsif any intimation oral or documentary, of his enquiry on that date - The Munsif also heard that Mr. Sharpe said in the public Court, that he would gladly receive and inquire into any complaints that may be brought against the Munsif, whether by parties concerned in Cases before him, or otherwise

8 Although the Munsif was unable to appear before him on the 17th for reasons above shewn, yet on the 19th he gave 2 Vakalutnamahs to Mr. Scott & Vasoodava Sastry, one for procuring for him copies of documents, and the other for conduct- -ing the examination and pleading in his behalf; but

but he learnt that on Mr Scott's attempting to present the Vakalutnamah for copies, Mr Sharpe said that he would not admit it, and after some contention he admitted it. On the 21st an application was put in Court by the Munsif's Vakil for copies, but he informed that Mr Sharpe refused the copies and endorsed on the Petition that the Munsif should apply in person

9 A few days after this, the Munsif having heard that some people put into his ears that the Munsif complained against him to the High Court by Telegraph and that he is angry with him, it is true, that the Munsif went to his house with a view to inform him that the Munsif did not do so, and that he should ascertain whether this only matter is true; but the Munsif under- -standing that he was not then at home, the Munsif was returning; then, the Munsif finding him come in front by walk, stood soon after he saw him, having said " You are a liar, you promised to send your application for pension, but went away to Sevagunga without doing so within 24 hours; now may come to Court if you want to say any thing and walked off- The Munsif returned, not being able to inform him the matter about which the Munsif went to represent, but did not make any request as stated in the conclu- -ding part of the above para.

10 Subsequent to this, the Munsif was not aware of any thing done openly by Mr Sharpe regard- -ing his case, till the 18th September - On the 19, it appeared to the Munsif that Mr Sharpe wrote letters to the Principal

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suder Amin and the Head Assistant Collector calling upon them to report on the conduct of the Munsif; and on the 21st went to the Principal suder Amins Court, and taking him into his private room in the Court, spoke to him on the subject - and after the receipt of answers from these Officers, he prepared the unfavorable report on the 22d, and put to the hands of writers to be fair copied

11. On the 23d he came to the Court, affixed his signature to the fair copy, and without directing to furnish the Munsif with the whole of the papers on which his report is based, for the Munsif's Defence, as laid down in the Order of Government dated 5th May 1854, directed the submission of his report to the High Court, but at the same time, merely passed the following order on the Munsif's application presented on the 27th August - "To be given, and also copies of my letter of yesterdays date and of its enclosures if required," and started off by transit to Trichinopoly, to proceed to England, <u>without forwarding with the above letter, the copy of the above Order to the High Court, with a view that they will detect that though copies were not granted to the Munsif in proper time, yet he was not even furnished with his proceedings, and directed to submit his Defence, in accordance with the rule of Government alluded to above.</u>

/Signed/ S. M. Narasimaloo

To

THE RIGHT HONORABLE THE SECRETARY OF STATE FOR INDIA, IN COUNCIL.

The humble Memorial of S. M. NARASIMULU NAIDOO, *late District Munsif of Sevagunga, in the District of Madura, in the Presidency of Madras.*

MOST RESPECTFULLY SHEWETH,

That the Memorialist who has served the Government for the space of 26 years has failed to obtain justice from the High Court and the Government of Madras in regard to the proceedings held against him by Mr. Sharpe, the late Civil Judge of Madura, and respectfully begs therefore to submit his deplorable case for your Lordship's favorable consideration and adequate redress.

2. That your Memorialist was Sheristadar of the Small Cause Court at Cuddalore, a place 200 miles distant from Madura, before he was appointed as District Munsif (Native Judge) in the Madura District. Mr. R. R. Cotton, the Civil Judge of Madura (now retired), who had won a high reputation there for his talents as a Judge, removed the Memorialist's predecessor from his office as District Munsif of Sevagunga on account of his imbecility and incompetency to discharge the onerous duties of his office, in the midst of a people occupying the extensive regions of the Sevagunga Zemindary and notorious for all kinds of intrigues and wiles, false suits, perjury, forgery and every species of wickedness,* and recommended the Memorialist to the High Court in February 1866 for appointment in his stead in preference to several candidates from the same and other Districts. The High Court having sanctioned his appointment, he entered upon his duties on the 28th March 1866 and discharged his duties with such energy, ability and purity of character that he won from the above Judge the Testimonial† dated 27th March 1867.

* *Vide* Document No. X. Mr. Cotton's letter to Memorialist.

† *Vide* Document XI.

3. Your Lordship knows that a person who acts from a strict sense of justice, who will not yield to power or be swayed by presents, is sure to incur the displeasure of the powerful few, while he secures popularity among the powerless many. And such indeed has been the case with your Memorialist. Mr. Robert Fischer, the well known Renter of the Zemindary of Sevagunga, hated the Memorialist for not complying with his wishes in suits laid before the Memorialist by him (the said Renter) against his oppressed tenants and resolutely therefore sought his ruin.* But during Mr. Thomas' (the successor of Mr. Cotton) tenure of office, he could not find a fitting occasion for wreaking his vengeance against the Memorialist. Unfortunately however for your Memorialist, Mr. Sharpe's transfer as Judge to Madura from Calicut in the end of June 1868 and his well known short temper afforded to him the long wished for opportunity. Complaints were caused to be preferred and first impressions created in the mind of Mr. Sharpe prejudicial to the Memorialist's character. The Memorialist was suspended; hasty and irregular proceedings were held against him, and the irascible Judge without furnishing him with copies of his proceedings and taking the Memorialist's Defence as per Order of Government dated 5th May 1854, at once recommended the dismissal of the Memorialist to the High Court (copy of his letter dated 23rd September 1868, enclosed) upon the strength of hearsay inadmissible in law, and statements the incredibility of which cannot fail to strike a patient Judge possessing more than a month's experience of the District; and Mr. Sharpe left Madura for England on the same date, after having ordered copies of his proceedings to be given to Memorialist. The Memorialist came to Madras and submitted his Defence to the High Court. But the High Court, without making any enquiry regarding the facts stated in his Defence, passed orders on the 29th January 1869 declining to restore him to his appointment but simply directing his retirement on pension.

* For particulars *Vide* Memo. enclosed.

4. Although the Memorialist gave a Review Petition to the High Court setting forth valid objections to the unjust proceedings of Mr. Sharpe, still the High Court *without instituting any enquiry or vouchsafing to grant him a hearing as prayed for therein*, passed the following order dated 14th May 1869.

I. "In their Proceedings of 29th January 1869, the High Court directed that S. M. "Narasimulu Naidoo should be called upon to retire on such pension as the Go- "vernment may think proper to allow. They considered that the errors attri- "buted to him disqualified him from exercising any longer judicial powers, but "in consideration of his long services were not such as to render him liable to "dismissal. The late District Munsif now prays to be allowed to serve for "two years and nine months more that he may be entitled to a pension equi- "valent to half his pay as District Munsif or at least that he may be allowed "to complete 25 years' service to entitle him to a "pension equivalent to *one-third** of his pay for the "last 5 years."

* An evident mistake for *one-half Vide* para 30 of the Review Petition.

II. "The High Court are prepared to view his last request favorably, and they accord- "ingly direct that the order of the late Civil Judge suspending Narasimulu "Naidoo on 12th August 1868 be modified and that he be considered to have "held office as District Munsif of Sevagunga until the date on which his suc- "cessor was appointed, viz., 24th November 1868. The object of this order is "to entitle Narasimulu Naidoo to draw pay during and count as service the "period between 12th August and 24th November 1868."

5. The Memorialist then presented a Petition to Government on the 31st March 1870 submitting the necessary papers and important documents to show that Mr. Sharpe's Proceedings against the Memorialist were irregular in the extreme and altogether unsupportable, and praying for restoration to his office and retention therein at least for such period as the Government may think proper to entitle him to a half pension instead of a *third*. But the Government, without entering upon the merits of the Petition, declined, in their endorsement dated 3rd May 1870, to interfere alleging that, "the power of passing orders regarding the removal of District Munsifs is vested by law in the High Court" and that consequently they had no "power to interfere."

6. The Memorialist was anxious to submit an appeal to your Lordship, but as the High Court in their order dated 14th May 1869 cancelled the suspension with a view to his getting a half pension of 76½ Rupees, and the Government accordingly sanctioned the above arrangement in their Proceedings dated June 1869, the Memorialist thought it better to content himself with his pension than give trouble to your Excellency in Council. With this view, the Memorialist applied to Mr. Goldingham the present Civil Judge of Madura for the above rate of Pension, and that gentleman supported the application, following the Notification noted in the margin.*

* Order of the Secretary of State 31st July 1866, No. 174. Government of India 29th October 1866, No. 1,034 Financial Gazette page 776. *Vide* Para. 598, page 104 of the Uncovenanted Servants' Vade Mecum.

7. The Examiner of Claims however required the submission of a Medical Certificate. But the Civil Judge informed him in reply that a Certificate was unnecessary as the Memorialist sought to retire only in obedience to the order of the High Court; the Examiner of Claims thereupon forwarded the application to Government with his opinion that the Memorialist was entitled to only Rupees 51 being one-third of his average pay, on production of a Medical Certificate. The Memorialist then submitted a Petition to Government on the 27th September 1870, *stating various reasons to show that he is clearly entitled to a half pension according to the rule above quoted*, and awaited the Orders of Government thereupon. But the Government without making a reference as to the question raised about the Medical Certificate, to the Supreme Government under Financial Order dated 7th December 1861, No. 14,819, (as this was a special case involving a deviation from the established rule) directed that the Memorialist should present himself before the Medical Officer. He accordingly appeared before the Medical Officer and produced the Certificate furnished by him to the Civil Judge, who transmitted the same to Government.

8. The Memorialist heard nothing more of it till the beginning of August 1871, when he learnt, to his great surprise, that the Supreme Government sanctioned a small pension of

Rupees 25 to the Memorialist in pursuance of the recommendation of the Madras Government the Memorialist applied on the 12th Idem to the Madras Government for a copy of their recommendation to the Government of India and also a copy of their Proceedings dated June 1869 above adverted to; but the Government, by an endorsement dated 30th Idem, refused to grant the copies solicited.

9. In this deplorable state, the High Court not having restored him to his appointment and the Government having withheld from him the ordinary boon of a half pension which their own rules and the scope of their Proceedings dated June 1869 allow, the Memorialist can resort to no other quarter for ultimate relief than to your Excellency, and in so doing, the Memorialist humbly begs to place before your Excellency in Council, copies of all papers in his possession which are required for a proper elucidation of his case, and briefly to submit the following facts for your Excellency's serious and just consideration.

10. It is ruled* by the Madras Government that persons appointed to permanent situations cannot be dismissed but for the following reasons:—

* *Vide* Orders of Madras Government dated 5th May 1854, No. 421, 12th March 1860, No. 1,631.

1. Fraud and dishonesty.
2. Continued and wilful negligence.
3. Offences involving moral disgrace.
4. Proved incompetency.

11. No accusation was brought forward against the Memorialist of the offences under heads 2, 3, nor is there any thing on record to justify the imputation of such charges or the one under No. 4. On the contrary, the document No. XI, containing his Testimonials from various Officers in the Judicial Department certifying to the Memorialist's ability, carefulness and honesty, are sufficient to induce every presumption in his favor.

12. Although one Iyasawmien had accused the Memorialist of the offence under head No. 1 by Petition No. 270 marked C, yet as he did not appear to swear to his complaint and offer security for the due prosecution of such complaint as provided for in Regulation XII of 1802, the fairest course open to the *Judge* was to dismiss the complaint at once. The Proceedings of the Judge held respecting the same are consequently opposed to law and ought to have been quashed. Besides, there is evidence on record sufficient to bring home a strong suspicion, if not a moral conviction, that the complaint was altogether false. The complaint, dated 9th July 1868, stated that the Memorialist received presents for his son's marriage which took place in August 1867, that is, 10 months before; and why should not the complainant have complained to Mr. Thomas, the then Judge? Why wait till Mr. Sharpe newly took charge of the District? The documents Nos. II, III and IV, disclose the mysterious cause of the said complaint, viz., the promise held out to the complainant by Mr. Fischer and his Agents and the withdrawal of the complainant from the scene of action owing to the non-fulfilment of that promise. Further, the Memorialist would beg to draw your Lordship's attention to the fact that the high character for integrity which he had maintained for a period of 26 years, as testified to by Judges of very long standing in the Presidency, ought to have been taken into consideration when judging of the probable truth of a complaint, regarding which there was no evidence whatever of a reliable character. It is clear also that the High Court did not attach any credence to this part of the accusation; and the circumstances detailed in paras 7, 21, 22, and 23 of the Memorialist's Defence and para 24 of the Review Petition submitted to the High Court, and paras 12 and 13 of his Petition to the Madras Government, will convince your Excellency of the utter futility of the charge.

13. As to the accusation made by Soobramaneya Chetty in Petition No. 277 marked E, that the Memorialist confined him illegally to prevent his appealing from a decree passed against him by the Memorialist, paras 8 to 11 of the Defence, paras 7 to 21 and 24 of the Review Motion, and paras 14 and 15 of the Petition presented to Government, and the documents Nos. V, VI, VII, XII and XIII show that no appeal lay against the decree in question, as admitted by Mr. Sharpe himself, and that the accuser was never in custody as a matter of fact. Besides, Mr. Sharpe had no jurisdiction to try a charge of the above nature which was properly one cognizable by a Magistrate. The Memorialist also begs to state that no criminal prosecution was

ever attempted against him though Mr. Sharpe had given his sanction for it. It is evident, therefore, that there is no reason for entertaining the least shadow of a suspicion against the Memorialist in respect of the above charge.

14. Lastly, Mr. Sharpe himself framed six charges in his report against the Memorialist namely :—

1. That the Memorialist disobeyed his orders.
2. That he made protracted adjournments of a suit.
3. That he admitted 26 Reviews among the suits disposed of by him during the first quarter of 1868.
4. That he did not send the Diary Books to the Civil Court.
5. That he did not give attention to the request of the Munsifs in adjoining zillahs.
6. That he was held in bad estimation.

15. From a thorough perusal and due consideration of the reasons detailed in the Defence, Review, and the Petition presented to Government regarding these charges, and on minute attention to the contents of paras 10 and 11 of the last Petition and to the difference in the dates of the Documents No. XV and XVI, and to the facts stated in paras 22 and 23 of the above Petition, it will be manifest that Mr. Sharpe groundlessly imputed to the Memorialist these charges and that the proceedings he held and the enquiry he made are any thing but formal and are directly opposed to the directions contained in the High Court's Circular, dated 20th November 1866 and in the rule of Government, dated the 5th May 1854.

16. The Memorialist here begs to submit that though no specific charge was established against him, Mr. Sharpe who was prejudiced against the Memorialist from the first impressions created in his mind by persons who had long been unsuccessfully contriving for his removal, saw things in a perverted light and represented them to the High Court in colors intended to arouse at least a suspicion tending to his ultimate downfal.

17. With reference to the High Court's Order, dated 14th May 1869, the Memorialist begs leave to observe that if the premature suspension ordered by Mr. Sharpe were reasonable, the High Court would not have cancelled it as above stated.

18. With regard to the Government of Madras declining to admit his appeal, the Memorialist begs to submit the following for your Excellency's consideration.

1. By Section VII, Regulation VI of 1816, the duty of the late Zillah Judges was simply to recommend to the late Provincial Courts the dismissal of District Munsifs; and the Provincial Courts alone were competent to dismiss them; an appeal naturally lay to the Sudr Court in the first instance, then to the local Government, and ultimately to the Home Government.

2. The late Zillah and Provincial Courts having been abolished by Act VII of 1843 and the present Civil Courts established in their stead, the Civil Judges obtained under that Act only the power to recommend the dismissal and the late Sudr Court who possessed the power of hearing appeals *assumed the power to dismiss. The power of hearing appeals which had theretofore vested in Government was not taken away by that enactment and remains intact;* and under this authority the Government have hitherto admitted and disposed of many appeals on the merits. *By the amalgamation of the said Sudr Court and late Supreme Court, the only change made was in the denomination, the amalgamated Courts being called the High Court. The law as it stood before remained unaffected by the change.*

3. The Sheristadars and his subordinates *even to a peon* of the Civil Court as well as the servants of the District Munsif's Courts who are dismissed on the sole authority of the Civil Judge make their appeals to the High Court; and Principal Sudr Amins and Deputy-Collectors, if dismissed by the Government, prefer their appeals to your Excellency and obtain justice. This is a

standing rule of practice. While so, it is not consistent with reason and justice that the servants below and officers above the grade of a District Munsif should possess the right to appeal for justice, and that District Munsifs who are *next in grade* to Principal Sudr Amins and are liable to be dismissed by the *High Court alone* should be precluded altogether from seeking justice at the hands of the Government against their dismissal.

19. On the 29th January 1869, on which date the High Court passed their first order, the Memorialist (who though entertained in the Government service on the 15th December 1841 had fallen short of only 2 months to complete the 25 years' service, having been promoted to a pensionable grade only on the 16th September 1843) could only get a pension of 49 Rupees, *i. e.*, one-third of Rupees 149, his average monthly pay for the preceding 5 years, though his monthly salary was Rupees 200 as District Munsif. Consequently the Memorialist in the last part of his Review Petition set forth that he would get Rupees 100, that is Rupees 51 more if he was retained in service for a further period of 2 years and 9 months which was then required to complete 5 years' service as District Munsif; or Rupees 75 (that is 26 Rupees more) if he was allowed to serve for the 2 months above alluded to. The High Court, considering it not just to refuse to allow at least the smaller period which required to be added to his service to entitle him to Rupees 75, the moiety of his average salary, ordered in their Proceedings dated 14th May 1869 that 3 months and 12 days of the suspension period should be added to his service thereby entitling the Memorialist to *a half pension of Rupees* 76½ *a month.*

20. It has since come to the Memorialist's knowledge that even if the High Court had not directed the addition above specified to his period of service, and the Government had not followed the direction, the Memorialist whose eligible service exceeds 22 years by 2 years and 5 months (excluding all leave of absence) would be clearly entitled to a *half* pension,* he having been appointed as Native Judge *before the 29th October* 1866, according to the Order of the Secretary of State noted in the margin † (note also the reasons stated in the Memorialist's Petition to Government dated 27th September 1870.)

* Paragraph 598, page 104 of the Uncovenanted Servants Vade Mecum.
Native Judges appointed before 29th October 1866, are allowed Pensions under the old Rules of 1831, but those appointed after that date receive their pensions under the new Rules; in other words, one-third or half pensions are granted to the former after 15 or 22 years' service including all leave of absence which under the Rules of 1855 counted towards pension, and to the latter after 15 or 25 years' service exclusive of all leave of absence.

† Secretary of State, 31st July 1866, No. 174, Government of India, 29th October 1866, No. 3,031, Financial Gazette, page 776.
The term "Native Judge" includes District Munsifs (Vide Financial letter No. 265 of the Government of India dated 17th January 1865.)

21. Such being the merits of the Memorialist's claim to restoration to his appointment and a half pension, it does not need his feeble voice to proclaim the injustice done to the Memorialist, and the extreme hardship imposed upon him by the Madras Government declining to interfere with reference to his restoration on the plea of want of power, and by their recommendation, *after receipt of a Medical Certificate,* to the Supreme Government to grant him a reduced pension of 25 Rupees, that is, ⅛ *of his pay* as District Munsif when he is clearly entitled according to rules, and the contemplation of the High Court *to a half pension of* 76½ *Rupees a month.*

22. The Memorialist here begs to state his surmise that the Government of Madras in making the recommendation were probably misled by the words in the first Proceedings of the High Court containing a direction that the Memorialist should retire *on such Pension as the Government may think proper to allow.* The Government seem to have thought that a discretion was allowed to them of superadding a reduction of pension to his loss of appointment. The Memorialist humbly begs to state that those words were never meant to signify more than that the Memorialist should retire on the pension the Government could allow him in accordance with their Pension Rules. This construction is amply supported by the High Court's subsequent Proceedings in which, upon the application of the Memorialist to be retained in his appointment for a few months more to enable him to a half pension, they cancelled his suspension and directed that 3 months and 12 days commencing from the date of his suspension should be counted as service towards his pension, he drawing full pay for that period, *being considered to have been re-instated in office.* Is it possible to mistake the intention of the High Court that the Memorialist should draw half pension? And is it just and reasonable on the part of the Madras Government to uphold the declared intention of the High Court in the first instance in their Proceedings dated June 1869 and set their face against it in the ultimate award of pension?

23. If the Supreme Government's attention had been drawn to the Proceedings of the Madras Government dated June 1869, sanctioning the disbursement of the Memorialist's pay during the period of his suspension and also to the contents of his Petition to the Madras Government dated 27th September 1870 regarding his pension, the Supreme Government would have found it impossible to justify the withholding of the moiety pension of Rupees 76½ as recommended by the Civil Judge himself.

24. There are numerous instances in which Public Officers inculpated with charges of a really serious character have been restored to employment, (vide para 21 of Memorialist's Petition to Government dated 31st March 1870 accompanying.)

25. The High Court themselves have recently ordered the re-instatement of the District Munsif of Sholingar in the North Arcot District, after a suspension of 2 years, though he was convicted of a criminal offence and underwent rigorous imprisonment.

26. If your Excellency be pleased to call for the enclosures to Mr. Sharpe's letter to the High Court dated 23rd September 1868 (of which the Memorialist has not been furnished with proper copies,) also the original Petitions dated 19th October and 4th and 27th November 1869, presented by the Memorialist to the High Court, their Orders thereon, if any, the Defence and Review Petition together with the original documents produced therewith, the Mazarnamah sent to the High Court by the inhabitants of Sevagunga commending the proceedings of the Memorialist during the tenure of his office as District Munsif; *and the Proceedings of the Government dated June* 1869, it will be evident, on a full and generous consideration of all the circumstances of his case as disclosed by them, that Mr. Sharpe's proceedings with reference to the Memorialist were any thing but formal and legal and altogether one-sided, that the High Court's Order refusing to restore him, while admitting that the *errors* imputed to him *were of a nature not warranting his dismissal,* was not just and proper; that the Government of Madras to whom the Memorialist appealed for redress were in error in stating that they had no power to order his restoration; that the Government, who had sanctioned the addition of 3 months and 12 days to the Memorialist's service towards pension in conformity with the High Court's Order, which directed the same for the express purpose of entitling him to a half pension of Rupees 76½, had no discretion to recommend a reduction of the pension which he was entitled to under the pension rules to 25 Rupees which is but ⅛th of his pay as District Munsif.

27. The grant of a Medical Certificate may perhaps be thought to be a valid objection to the re-instatement of the Memorialist. This Certificate was not granted after a proper examination of the Memorialist according to the directions contained in the rule noted in the margin.* All that the Medical Officer did was to percuss the Memorialist's breast, lift up one of his eyelids and give him a book to read but a few lines in. The Memorialist was asked about his age and why he retired, and the Memorialist replied that he was 53 years old and retired by an act of Mr. Sharpe's, and at the instance of the High Court. Thereupon the Medical Officer read the copy of the Order of Government, thought over a little, and told the Memorialist "I am sorry Munsif to declare you unfit for further service," and immediately left the dispensary. Afterwards a peon having brought and delivered to the Memorialist a Certificate as per margin, the Memorialist produced it to the Civil Judge.

* In granting Certificates to applicants for pension, Medical Officers are required to state in the Certificate, the period, if any, during which the applicant's case has been under treatment or observation. When the Certificate is sought by reason of old age, infirmity or other incapacitating circumstances, in which Medical treatment is manifestly superfluous, a Certificate to that effect should be given, which should nevertheless show the opinion of the Medical Officer as to the alleged incapacity. It will then devolve upon the Head of the Department in which the applicant is serving, to state whether or not he is really so incapacitated as to necessitate his removal from the service of Government, and if so, whether his conduct and length of service render him deserving of indulgent consideration.

Madras Government, 14th June 1866, No. 224.

I, John F. Fitzpatrick, M. D., Officiating Zillah Surgeon of Madura do hereby certify that I have carefully examined M. Narasimulu Naik, late District Munsif of Sevagunga of the Judical Establishment of Madura District, that his age is by his own statement (53) fifty-three years and by appearance (58) fifty-eight, and that I find him to be unfit for further service from premature decay and infirmity not in my opinion attributable to intemperance or other irregular habits.

(Signed) J. F. FITZPATRICK, M. D.,
MADURA, 12*th Nov.* 1870. *Offg. Zillah Surgeon.*

28. The Certificate does not state whether the Memorialist is incapacitated by protracted ill-health, loss of sight, or point out a single symptom of any bodily or mental infirmity. At the time the Certificate was granted, Memorialist was aged 52 years, 8 months and 10 days, which fact is certified in the application for Pension by the Sheristadar of the Court in accordance with the rule of Government, and it will be likewise supported by the Registry Book in the Accountant General's Office, and the roll of his nomination; while so the Medical Officer has ventured an opinion that the Memorialist's age is 58 by appearance. The Memorialist is of a

ong robust constitution and is fully able to read and write. If the records of a suit be handed er to him and he be directed to frame a Judgment before a Medical Committee, it will appear ether he is disabled by age or not.

29. Although a single Medical Officer certifies to the above effect under a remarkably roneous view of the age of the Memorialist, yet it has been ruled by the Madras Government on e 14th June 1866 that "In cases of servants drawing 50 Rupees per mensem and upwards, the rtificate should be countersigned by the Deputy Inspector General of the Division, after a perıal examination of the applicant;" and as this has not been done up to this date, the Memorialist ould not be regarded as *permanently pensioned*, as declared in the Notification of the Madras overnment dated 28th September 1866. The Memorialist here begs to state that in a similar se, one Govinda Row, a Tahsildar in the District of South Arcot was restored to his appointnt on his appeal to your Excellency, even though he was declared by a Medical Officer unfit public service. Therefore, the Certificate *would present no bar* to Memorialist's re-instateent.

30. If the Memorialist was possessed of an innate consciousness of having by any means served the unduly harsh treatment that has been dealt to him in the matter of his employment, pension conferred by this Government however small, will be esteemed by him as a great on. But being conscious of no blot in his character, conscious also that he has carefully, ithfully and industriously performed his onerous duties as a Native Judge, with due obedience his superiors, and afforded perfect satisfaction to his employers in the Judicial Department, his Testimonials sufficiently disclose, *for the long period of* 26 *years*, he is unable to ar the double ignominy which attaches to his removal from office for supposed *errors* which en in the estimation of the High Court are "*not such as to render him liable to dismissal*," and his summary expulsion on a reduced pension of 25 Rupees which is even less than a half of e lowest pension of one-third, viz., Rupees 51 which the Examiner of Claims recommended m for to Government.

31. Your Memorialist, therefore, humbly and respectfully implores your Excellency to be aciously pleased to direct that the Memorialist whom the High Court themselves admit "*not able to dismissal*," and *whom they considered to have held his office after his suspension*, be stored to his office till the completion of 5 years' service as District Munsif or to any smaller riod your Excellency may deem proper, and in case of your Excellency considering the edical Certificate to operate as a valid bar to his re-employment, at least to direct the grant him of a pension of Rupees 76½ to which he is entitled under the letter and spirit of the ension Rules, as above submitted.

And, as in duty bound, your Excellency's humble Memorialist shall ever pray.

MADRAS,
29*th April* 1872.

(Signed) S. M. NARASIMOOLOO.

No. 208 of 1868.

FROM

THE CIVIL JUDGE OF MADURA.

TO

THE ACTING REGISTRAR OF THE HIGH COURT
MADRAS.

SIR,

I have the honor to state for the information of the Honorable the Judges that I have this day suspended Narasimooloo Naick District Moonsiff of Shevagungah from Office.

2. Petitions had been presented requesting permission to prosecute the said Moonsiff both criminally and civilly and after making due enquiry of all the Revenue and Judicial Officers of the Neighbourhood whom I met as to the character which he bore, and after seeing a considerable amount of most unsatisfactory and suspicious work done by the Moonsiff I was prepared to enter upon the enquiry *Saturday last.

3. Of this, the Moonsiff was, on 4th and 5th Instant, duly warned by me personally and directed to attend unless (as he requested he might do) he submitted his resignation of the service on the previous *Friday.

4. I further distinctly warned the Moonsiff that he must not attempt to go to his station until he received further orders from me.

5. The Moonsiff has not attended this Court for enquiry, but I ascertain on excellent authority that immediately after leaving me on the 5th Instant, he started the same day for his station leaving behind him the enclosed unsatisfactory letter not delivered to me until the next day at 2 P. M.

I have &c.,

12*th August* 1868. (Signed) C. R. SHARPE,

Civil Judge.

*This is 8th August 1868.

*This is 7th August 1868.

No. 242 of 1868.

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SIR,

I have the honor, in continuation of my letter No. 208, to report further, in regard to S. M. Narasimooloo Naick District Moonsiff of Shevagunga.

2. The Moonsiff has not, up to this date, attended before me for an enquiry, although duly invited to do so by my order of suspension dated 12th August 1868 (Translation A enclosed) and again by my order dated 29th August endorsed on his Petition (Translation B enclosed) and communicated to his Vakeel on that date; since then the Moonsiff came to my house and wanted to have a private interview with me, but I declined this and directed him to come to Court if he had any thing to represent.

3. Investigations of this kind are attended with great difficulty on account of there being no provisions authorizing the administration of an oath. There were however 2 Petitions on Record in which it was possible to do so. One of these was the Petition No. 270 of 1868 (Translation C enclosed) but this Petitioner when called did not appear. It was then stated in open Court by a Pleader that a Vakeel of Moonsiff's Court had procured the non-appearance of Petitioner on Moonsiff's behalf and certainly that Vakeel's deposition (D) creates a strong suspicion that this is the case.

4. The other Petition was 277 of 1868 (E) with which also Petition Nos. 275 and 276 were also presented (F and G.) The same Petitioner had previously presented a Petition No. 191 of 1868 (Translation H enclosed) complaining of his not being furnished with copies of Judgment &c., by the Moonsiff. The Moon-

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Duplicate

cretary of State dated 31st July 1866) applicable to Native Judges to a half pension of 76½ per mensem upon his average salary for the preceding 5 years, and while the Examiner of Claims recommended the Memorialist to Government, for a *one-third* Pension of 51 Rupees, the Government of India sanctioned a reduced pension of 25 Rupees, upon the unjust recommendation of the Madras Government to that effect, in direct contravention of the scope, and intention of the High Court's Proceedings in respect thereof alluded to above and approved of by the Madras Government in their Proceedings adverted to within.

Prays a *patient* perusal of the papers herewith submitted and restoration to his appointment for a period entitling him to a Pension of 100 Rupees, the half of his salary as District Munsif (Native Judge) or at least to award to him a half Pension of Rupees 76½ (on his average salary) to which he is clearly entitled under the Proceedings of the High Court and the Madras Government and the Rules alluded to above.

From

S. M. NARASIMULU NAIDU,

Late District Munsif of Sevagunga
in Madura District,
Madras Presidency.

To

THE RIGHT HONORABLE THE SECRETARY OF STATE FOR INDIA
IN COUNCIL.

Dated 29*th April*..... } 1872.

ENCLOSURES. 5.

States that an informal enquiry was held against the Memorialist who was Native Judge at Sevagunga, by Mr. Sharpe who was Civil Judge at Madura for scarcely 2 months; that on the latter's recommendation for dismissal, the High Court of Madras passed Proceedings, declaring that the errors imputed to the Memorialist *were not such as to render him liable to dismissal*, cancelled his suspension, and directed his retirement on Pension, allowing 3 months and 12 days of his suspension to count towards Pension, with a view to secure to him a half Pension.

2. That the Government, on appeal for restoration, were in error in declining to interfere for relief, on the ground that they had no power to do so.

3. That while the Memorialist is entitled by the Pension Rules (by the Honorable Se-

siff was called upon for explanation which he gave (Translation I enclosed). These are merely useful as showing that obstacles are thrown in Petitioner's way and exhibiting Moonsiff's disregard of the convenience of the parties ; "As no appeal lies from the decree it was not necessary to prepare and give a copy speedily."

5. The Petition No. 277 contained however charges of illegal confinement &c., against the Moonsiff. This charge is amply supported by the evidence of 3 witnesses, a Vakeel, a Peon, and Batta Peon. (Depositions J. K. L. enclosed). These depositions were recorded on 17th August last at which date I ascertained that Moonsiff was present in Madura, and further these witnsses have been in daily attendance at my Court since, but neither Moonsiff nor any body on his behalf has applied to cross-exāmine them. Their statements are also supported by para 11 of Moonsiff's Judgment (M).

6. Tnere was also other Petition, 680 of 1867 (Translation N enclosed) by a third party pending before this Court when I assumed charge. The late Civil Judge had, in December last called upon the Moonsiff for explanation which (Translation O enclosed) was not furnished until March--a nasty point for Moonsiff to meet was that the suit had been dismissed for non-appearance of Plaintiff, whereas the Vakeel (Translation of deposition P) was absent on leave granted by Moonsiff. Unable to meet this point, Moonsiff alleges that this Court's order &c. were mislaid and that his explanation was drawn up on the strength of memory of having read them once. I must attract special attention to the Diary (Translation Q enclosed) that document alone is sufficint to show that Moonsiff is utterly devoid of any sense of justice; for, no man with the slightest spark thereof could have kept these watched Plaintiffs dancing attendance at his Court from day to day, week to week, month to month, and one might almost say from year to year and finally have dismissed the suit on the very day fixed for final hearing for Plaintiff's non-appearence although the Plaintiff had on that day appeared before the Court and his Vakeel was absent with the Court's permission. The diary itself as it stands is bad enough, but examination of it will show that it leaves unaccounted for several days at different intervals. It is unnecessary for me to remark what gross ignorance was shown in applying Section 110 of the Civil Procedure Code in a case wherein Defendants put in an appearance

7. I fear much that the above is by no means a solitary instance of Moonsiff's unsatisfactory mode of conductiug business, I allude to *it* more especially because it has come under my own observation in the course of business during my short tenure of Office ; for, since my transfer to this Zillah I have not had much leisure at my disposal. I may however refer to a case remarked upon by my predecessor during the present year (R). I may remark that it was my intention at one time to have ransacked the diaries of similar cases and for that purpose, I caused some Vakeels to put in Lists, which are still available if further enquiry deemed necessary.

8. A very sure test with me of how matters are going on in a Court is the No. of Reviews and considering that this Moonsiff who during the first quarter of 1868 (being the last complete quarter) passed only 94 decrees on the merits. granted during the same period 26 Reviews of judg ments, my previous convictions as to his conduct are by no means weakened.

9. Another test is also the regularity with which the diaries are sent up to the Civil Court. This Moonsiff (see deposition Z) at once commenced to violate the custom which had theretofore prevailed, set at nought the orders of the late Civil Judge and only very stringent orders on my part have succeeded in extracting them piecemeal.

10. Two other matters have come before me of extreme discourtesy and want of attention to the request of Moonsiffs in adjoining Zillahs (S. T. U. V.)and I request attention to the gross delays in each case.

11. I will now proceed to place on Record what occurred at the interview which Moonsiff had with me on 4th August last. My time wàs so occupied during July with holding the Sessions after the adjournment and preparing for the August Sessions, that I was unable to leave Madura. I have however intended visiting Shevagunga immediately after the August Sessions were over.On the 1st day of the Sessions (4th Tuesday) Moonsiff came to my house. Of course the reception of a man so notoriously badly spoken of, was not calculated to be very comforting to him, for I at once told him that I should hold an enquiry and if grounds appeared should direct his prosecution criminally. He then commenced to requested to be allowed to resign forthwith if I would forbear proceedings. I declined to make any promises and told him he might return the next day and tell me what course he had resolved on. He appeared on the 5th and after informing me that he had gone wrong excused himself by stating that it had not occurred in my time and tendered me some letters to show under what great men's temptations he had fallen. I told him that I had nothing to do with an enquiry in my private house, that such enquiry would commence at Court on the following *Saturday, unless I received his immediate resignation of service on *Friday previous. I further distinctly ordered him not to quit Madura before that date or on any account to go to his station. Hə left my house and the same day proceeded to Shevagunga.

*This is 8th August 1868.
*do. 7th

12 The investigation would have been much facilitated had the Moonsiff attended before me in person, this however he has not chosen to do but has contented himself with putting in a Vakaluthnamah to obtain copies of document and the Petition (W) presented under the above Vakaluthnamah.

13. I enclose copies letters received from the Head Assistant Collector in whose division Shevagunga is situate and of the Principal Sudder Ameen to show in what bad estimation the Moonsiff is held (X, Y) I have also recorded a deposition of several Vakeels to show in what evil repute the Moonsiff is held but these it is unnecessary to forward.

14. I have not deemed it necessary to hold any lengthened enquiry or to proceed to the Moonsiff's station. There is enough on record to satisfy me that Narasimooloo Naick should be removed from the office of Moonsiff and I trust that for the comfort of the people at large and in the interests of justice the Honorable the Jurges will be equally satisfied.

I have &c.,
(Signed) G. R. SHARPE,
Civil. Judge.

MADURA,
23rd *September* 1868.

TO

THE HONORABLE THE JUDGES OF THE
HIGH COURT OF JUDICATURE.
APPELLATE SIDE.
MADRAS.

The Humble Petition of
S. M. Narasimooloo Naidoo,
the suspended District Moonsiff
of Shevagungah.

SHEWETH.

That the late Civil Judge Mr. Sharpe has without any valid grounds not only suspended me from Office but has also made an unfavorable report against me to your Lordships without furnishing me, according to the rules of Government dated 5th May 1854 with the specific grounds on which his proceedings were based, and without also furnishing me in due time with the whole of the papers on which the Civil Judge's report is based.

That your Petitioner is given to understand that the originals of the important paper in his case, have been transmitted to your Lordship, and has therefore been unable to obtain the copies.

That under these circumstances your Petitioner most respectfully solicits that your Lordships will be pleased to defer passing final orders in his case until he shall in due course lay before your Lordships the irregularity and illegality of the Civil Judge's proceedings, and which he hopes to do by two weeks, on obtaining from your Honorable Court copies of the requisite papers.

Madras,
19th August 1868. } (Signed) S. M. NARASIMOOLOO.
District Munsiff.

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SHEWETH,

That your Petitioner has presented a Petition on the 19th Ultimo to your Lordships praying leave for 2 weeks to enable him to submit his defence against the recommendation of the Civil Judge for your Petitioner's dismissal, but as the Copies applied for on the above date have not as yet been furnished your Petitioner most respectfully requests that your Lordships may be pleased to extend the time for 2 weeks from the date of his being furnished with copies of the Documents applied for and pending the submission of his defence to defer your Lordship's final orders on the recommendation of the Civil Judge.

And your Petitioner as in duty bound shall ever pray.

MADRAS,
4th November 1868. } (Signed) S. M. NARASIMOOLOO.
District Munsiff.

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MY LORDS,

The defence of S. M. Narasimooloo Naidoo, District Munsiff of Sevagunga, in reply to the letter of Mr. Sharpe, late Civil Judge of Madura, dated the 23rd September 1868, recommending the removal of your Petitioner from his Office, is herewith humbly submitted for the favorable consideration of the Judges of the High Court.

2. The Civil Judge states in his above letter that the "Moonsiff has not attended up to this date for an enquiry, although duly invited to do so by my order of suspension dated 12th August (marked A), and again by my order dated the 29th August on his Petition (B) and communicated to his Vakeel on that date."

3. It will be observed in reference to the Document marked A that no date is mentioned for the examination, however, your Petitioner who received the order A, on the evening of the 13th August reached Madura on the evening of the 15th

Saturday, but the Judge before that time had examined two Vakeels and directed one of them and two others to give written statements on the 17th. Your Petitioner therefore was under the impression that there would be no further examination of witnesses on the 17th–But on the evening of the 17th when the required statements were submitted by the above Vakeels, the Judge examined two of the Vakeels, a Goomastah, and two peons without giving to your Petitioner any intimation oral or written, of his enquiry on the said date.

4. Your Petitioner applied to the Judge through his Vakeel for copies of documents containing the charges against him. Those copies were not ordered to be furnished to the Petitioner until the 23rd September 1868, on which day the Civil Judge recommended the removal of your Petitioner withuot, as your Petitioner takes leave to suggest, giving to Petitioner a fair opportunity of meeting the charges-On the 29th of August the Judge for the first time intimated by his first endorsement upon the document marked B that Petitioner's personal attendance was considered necessary, and by the same endorsement in effect declined to give copies of the papers setting forth the charges to Petitioner's Vakeel. Petitioner's non-attendance after that was caused by what seemed to the Pettioner the unfair course adopted by the Judge in refusing to recognize Petitioner's Vakeel, notwithstanding that some of the accusations against the Petitioner were supported by an advocate* of the High Court who was allowed to appear before the Judge as the representative of one of the complainants. The Judge says no application was made for permission to cross.examine the witnesses. This no doubt is true in a strict sense, but it is also true that Petitioner applied for copies of documents and that the Judge refused to give them; without the documents Petitioner's Vakeel could not cross-examine with any hope of a result favourable to your Petitioner, and therefore an application for leave to cross-examine would have been uncalled for. Besides if such an application were made, Petitioner had reason to believe that it would have been refused, and this was also the view of the Vakeel whom he employed. Petitioner gave his Vakeels Mr. Scott and Vasoodava Sastry two vakalutnamahs on the 19ht August one authorising the Vakeels to apply for copies of the papers, and the other authorising them, to appear on Petitioner's behalf. The Judge having refused to give the papers, it was deemed useless to present the other which is now in the possession of Mr. Scott.

* *Mr. Mooddookristna.*

5. With reference to the 11th paragraph of the Civil Judge's letter of the 23rd September, your Petitioner feels it incumbent upon him to say that, that paragraph contains a very meagre and in some respects an inaccurate account of the interview between the Judge and your Petitioner on the 4 th and 5th of August 1868-The Civil Judge says, "of course the reception of a man so notoriously badly spoken of, was not calculated to be very comforting to him"—Petitioner would observe that the Civil Judge was about one month in the District of Madura on the 4th August, so that, he must have acquired his knowledge of notoriety with remarkable celerity-What the Judge did say on that occasion to your Petitioner was, that if Petitioner did not resign, the Judge would hold a civil and criminal enquiry and punish Petitioner, and the Judge also said that he would be glad to see the Petitioner sent to the roads for seven years—the other words which fell from the mouth of the Judge are detailed in the paper annexed. Petitioner admits that he was after this disposed to retire and stated his intention to the Judge but only on condition that favorable arrangements as to pension should be secured to him, as will appear from Petitioner's *letter of the 5th August addressed to the Civil Judge, and which was forwarded to the High Court by the Judge with his letter of the 12th August addressed to the Registrar of the High Court. The Petitioner does not admit

* *Translation No. I.*

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that he was informed that the enquiry would be held on Saturday following as stated by the Judge, or that he was distinctly warned not to quit Madura. Petitioner did leave Madura on the night of the 5th of August, a course which he would not have taken if he had been distinctly warned to the contrary, for it could have done him no possible good, and would of course be calculated to irritate the Judge as being a pointed disobedience of his order, if any such order were received. Nor if Petitioner had known that the enquiry was fixed for Saturday, would he have left the place where the enquiry was to be held, and where he could quickly learn what was going on, and proceed to a place distant from Madura 30 miles. In fact at that time Petitioner was anxious to bring his family at once to Madura, as will appear from his letter of 5th August already referred to—Petitioner returned to Madura on the 15th August after his suspension.

6. Your Petitioner desires to be allowed to make a few observations upon the charges preferred against him by the Civil Judge, and upon some of which or the force of all of them combined, the Judge recommends Petitioner's removal.

7. The first is mentioned in para 3 of the Civil Judge's letter of the 23rd September 1868, and is connected with the Petition No, 270 of 1868 (marked C by the Civil Judge) presented by Iyasawmien of Shevagunga—Iyasawmien does not state his occupation, he does not say that he was a suitor in Petitioner's Court, or that he sustained any personal wrong at the hands of your Petitioner. He states his residence to be Sevagunga which is 11 miles distant from Manamadura where the court of District Moonsiff of Sevagunga is held; Petitioner never saw Iyasawmien either before or since he presented the Petition of the 9th July 1868, but your Petitioner is informed, and believes that the antecedents of Iyasawmien (who is said to be a Petition writer by profession) are by no means creditable. He was convicted of forgery in the year 1866 by the Session Court of Madura, but the conviction was reversed on appeal. It is stated by the Civil Judge that when Iyasawmien was called he did not appear, and the Judge says "It was stated in open Court by a Pleader that a Vakeel of the Moonsiff's (Petitioner's) Court had procured his non-appearance and certainly that Vakeel's deposition D creates a strong suspicion that this is the case"—First Petitioner denies that he had anything to do with the non-attendance of Iyasawmien—Secondly the Judge ought in fairness to have mentioned that the Pleader who made the statement in open Court was Mr. Moodookrishna the advocate who appeared in support of one of the other complainants against the Petitioner, and that he did not pretend to make the statement from any knowledge which he himself possessed—Thirdly the deposition D which is referred to as creating a strong suspicion gives a point blank denial to the suggestion—Fourthly althongh Iyasawmien did not attend, he mentions the names of a number of persons in the accusation which he makes, but no one of them came forward to support his statements—Fifthly the Petition itself does not allege any distinct knowledge of the facts by the Petitioner, and it is consistent with, and probable from, the terms of the Petition itself that the accusations were grounded on what he had heard and not on what he alleged he knew. The Petitioner is of course unable to suggest with certainty why it was that Iyasawmien preferred a complaint for which Petitioner alleges there is no foundation, but Petitioner has reason to believe that Iyasawmien was set to work by persons dissatisfied with the decrees and orders which Petitioner made—Among the persons whom Petitioner displeased by the impartial manner in which he performed his duty was the Zemindar of Sevagungah and the *Contractor and Petitioner has heard that Iyasawmien was put forward by *persons professing to act on behalf of the Zemindar and Contractor of Sevagunga who made promises of payment which were not

* *Vide Document No. II.*
Do. No. III.

*realized, and that therefore Iyasawmien failed to appear. There is no proof except the Petition in support of the accusations of Iyasawmien, and Petitioner denies that there is any foundation for any one of them.

* *Vide Document No. IV.*

8. The next charge is referred to in paragraph 4 of the Civil Judge's letter of the 23rd September, and is connected with Petition No. 277 of 1868 marked E, and Petition No. 275 and 276 of 1868 marked F and G respectively. The Petitions marked E. F and G are dated the 9th July, the same date as Iyasawmien's Petition bears—a circumstance which seems to indicate concert on the part of the complainants. It is a Petition presented by H. T. Moodookrishna Esquire advocate on behalf of Soobramanien Chetty plaintiff in Register case No. 1 of 1868. The first statement is that the Moonsiff admitted a review motion in a matter much to be suspected. Plaintiff brought a suit upon a bond specially registered, and Judgment was given for him in a summary way. The Defendants applied to set aside the Decree under section LV of the Registration Act of 1866. Upon going into the merits Petitioner was satisfied that the money had not been paid to the Defendants, a fact which was testified to by two of the three attesting witnesses, and two other witnesses and set aside the summary Decree by a Judgment dated the 8th of April 1868. Plaintiff's Vakeel applied for a copy of the final Decree and Judgment on the 11th June and 5th of June respectively. Petitioner directed the Goomastah to furnish a copy of the final Decree and Judgment. Plaintiff complained to the Civil Court of Madura that Petitioner had not furnished a copy, and the Civil Judge (Mr. Thomas) called for an explanation which Petitioner furnished on the 26th June 1868 (marked I by the Civil Judge), and which seemed to be satisfactory to the then Civil Judge, for Petitioner heard no more of the matter from him. With reference to the quotation made by the Civil Judge (Mr. Sharpe) in the latter part of paragraph 4 of his letter, all that the Petitioner meant to say was that copies of Decrees and Judgments which were appealable ought to be made first, and that the copying of those which were not appealable should be postponed until the others were completed. Petitioner's Court was adjourned for the vacation from the 15th of April to the 26th May, and upon the re-opening of the Court, the writers were engaged copying documents connected with appealable suits which were first disposed of. This Petitioner respectfully suggests was not—Exhibiting what the Civil Judge designates "the Moonsiff's disregard of the convenience of the parties," although it does tend to shew an undue desire on the part of the Judge to present every thing which would appear to tell against the Petitioner.

9. The Petition E states that the said Plaintiff Soobramanien Chetty was wrongfully confined for 15 days, which the Civil Judge says is amply supported by the evidence of three witnesses whose depositions are marked J, K and L. The answer of the Petitioner is as follows:—Upon the formal enquiry in the suit of the Plaintiff in Register case of 1868, the Petitioner was of opinion that the Plaintiff and one of the witnesses Calleyanee Umbalum, examined on his behalf gave false evidence, and on the 11th March Petitioner directed one of the Peons of the Court (named Aroomoogum) to look after the Plaintiff and the witness, and directed the Plaintiff and the witness to remain for further enquiry—On the 14th of March Petitioner desired to see the Plaintiff and the witness for further examination, but neither of them appeared; whereupon the peon informed the Petitioner that they had gone without his knowledge—On the same day a statement in writing was made and signed by the Plaintiff's Vakeel, to the effect, that he did not see the Plaintiff after the 12th of March when he had an interview with the Plaintiff—Petitioner begs to send a copy of the Vakeel's statement (of which the original is in the Civil Court of Madura) for the information of the Honorable the Judges of the High Court (marked No. V).

10. The Vakeel who is one of the witnesses referred to by the Judge as supporting the allegation of wrongful confinement was not the Plaintiff's Vakeel; and though the Plaintiff's Vakeel was called before the Judge and questioned on another matter, he was not asked about the wrongful confinement. Judgment was given against the Plaintiff on the 8th April, and M is a translation of the 11th paragraph of that Judgment—On that day also a statement was made in writing and signed by Aroomoogum the peon relative to the departure of the Plaintiff—The original is in the Civil Court—A copy of the statement is sent herewith (marked No. VI).

11. The other witness Batta peon Moottiah Pillay is engaged in carrying and executing processes in different villages, and never stayed any five * days continuously at the village in which the Moonsiff's court is stationed.

* *Vide Document No. VII.*

12 Petitioner's Court was adjourned from the 9th April to the 13th April for the Easter-Holidays, and it was adjourned on the 15th for the annual Vacation—The documents above referred to, as well as the circumstances of the case, shew that Petitioner did not confine Plaintiff for 15 days, they also shew that Plaintiff was not confined for the purpose, as stated in E, of preventing Plaintiff in that case from preferring an appeal, for two reasons—First the law expressly says there shall be no appeal in such a case as is admitted by the Judge in his order dated 28th July on Petition No. 276 G; and secondly the final Decree and Judgment was given on the 8th April, whereas the order to the Peon to keep the Plaintiff under surveillance was given on the 11th March. They also shew that the object of the Petitioner was the bona fide one expressed in M, and that there is no ground for the charge of wrongful confinement—If the Petitioner had been furnished with copies of the documents bearing upon this matter, and had subsequently opportunity of cross-examining the three witnesses, he thinks, he could have shewn all this even to the Civil Judge.

13 In the 6th paragraph of his letter the Civil Judge proceeds to another charge relating to Civil Petition No. 680 of 1867, presented by another person called Soobramanien Chetty. The explanation marked O was given to Mr. Thomas the Civil Judge on the 4th March 1868, and it seemed to have been satisfactory to that Gentleman, for your Petitioner heard no more of the matter until Mr. Sharpe took up the subject again. If the Honorable the Judges should now deem it necessary to call for any further explanation on this matter, Petitioner will furnish it, but in the absence of some of the documents (Q and R) Petitioner is hardly in a position to go into the matter now.

14. In para 8 the Judge mentions the number of reviews granted by the Petitioner during the first quarter of 1868 as a circumstance which tells strongly against the Petitioner. A reference to the records will shew what the Petitioner now asserts to be true, namely that not one single Judgment was reversed on review on the *Merits* and that they were not in fact so much reviews as permissions to the Plaintiffs to have the suits restored for hearing. In all these cases Judgment was given against the Plaintiff for default under Section 110 or under Section 114, or Sections 145 and 148 and under Section 5 of Act 23 of 1861, for non-payment of batta.

15. The Judge suggests that the number of reviews shews dishonesty; but the explanation given by the Petitioner shows as he submits, that the course taken by him in this matter is quite consistent with purity of conduct. It is true that your Petitioner gave orders to discontinue sending diaries to the Civil Court, and they were not sent since Petitioner went to Madura. In giving those orders

Petitioner was only carrying out the practice which prevailed in Salem and Cuddalore Districts. While Mr. Cotton was Judge at Madura no order was received by Petitioner relating to the diaries. In March or April 1868 the Petitioner recollects Mr. Thomas sent a Takeed directing the diaries to be sent, and asking why it had not been done before; Petitioner sent an Urzi stating his reasons why the diaries ought not to be sent to the Civil Court, and asking for further orders. Petitioner heard no more about the matter until July 1868, when Mr. Sharpe ordered the diaries to be sent, and they were sent *piece meal*, because as the diaries for 2 years had to be sent, they were sent in separate book parcels for postal convenience. Mr. Sharpe sent only one order on the subject and not many as his language suggests.

16. The matter referred to in para 10 of the Civil Judge's letter was explained to Mr. Thamas, and the explanations were accepted by him as satisfactory.

17. In the 13th para of his letter the Jndge mentions letters received from the Head Assistant Collector and the Principal Sudr Amin to show in what bad estimation Petitioner is held. Of those letters which are marked X and Y, Petitioner has not had copies, nor has he seen the originals, Petitioner is aware that the Head Assistant Collector has received anonymous Petitions complaining against Petitioner. On one occasion when the Head Assistant Collector came to Petitioner's station, Petitioner took a letter addressed to the Head Assistant Collector which Petitioner found near Petitioner's own house. The Head Assistant Collector heard the letter read, and it contained some imputation upon Petitioner's conduct. Most probably the Principal Sudr Amin has received similar communications, and very probably the Collector and the Judge. But this is part of the way in which litigation is conducted in Madura, the defeated party frequently imputes, perhaps believes that the decision was procured by corrupt means. Judges and Magistrates stationed at Madura have not escaped similar unscrupulous imputations, and a Native Judge of the lower grade must be prepared to bear of them, however high his general character may be.

18. There are statements by some of the Vakeels who practiced before your Petitioner stating that they heard a talk that Petitioner receives bribes. The witnesses do not pretend to any knowledge of the fact, and without some thing more definite in the shape of allegation, all that your Petitioner can do is to deny that there is any foundation for the accusation.

19. Petitioner is informed and believes that some of the Vakeels received some what rough treatment from the Civil Judge while giving their views of Petitioner's character. The Vakeel who gave the statement marked D was told he was dismissed* from his Office of Vakeel; but the Vakeel has not yet been dismissed—When first interrogated the Vakeel was informed by the Civil Judge, that his situation depended on his reply.

* *Vide Document No. III.*

20. On solemn affirmation one of the Vakeels Terumalasawmy Iyen was examined* to the folloing effect.

* *Vide Document No. IX.*

Question—Is the Moonsiff pure or how?

Answer—The successful parties will speak well, the unsuccessful parties will speak badly—I know nothing directly.

The Judge—Considering your inability to answer or understand the drift of the question asked by the Court, the Court thinks you unfit for Vakeel's duty,

Answer—As Court pleases.

21. Against the accusation of dishonesty, Petitioner takes leave to point out that though he has been very unfavorably circumstanced since the 12th of August last the date of his suspension, no one has come forward to accuse him of dishonesty, who pretends to have any personal knowledge of the matter, although

he has incurred the displeasure of the most wealthy and influential litigants in his District, in the impartial administration of Justice, and although the Judge openly invited complaints against him; and further that he has been only 2½ years in the Madura District, having spent the greater part of his official life in the District of Cuddalore, which he left with the highest character for honesty.

22. If your Petitioner was unsafe to the community, Mr. Cotton the late Judge who had very great experience of the people of Madura District from his long residence, would not select him to this post while there are many passed candidates available in the District. The reason of his so selecting your Petitioner a resident of the distant country of Cuddalore, will be seen from his letter * herewith produced.

* *Vide Document No. X.*

23. Petitioner has been upwards of 24 years in the public service, and this is the first accusation against him. He begs to enclose copies of his testimonials* for the information of the Honorable the Judges of the High Court—It is a point for your Lordships' serious consideration, whether a person after bearing such a character for such a length of time namely 27th March 1867, and after receiving such advises as are contained in Mr. Cotton's letter would allow his mind to incline to corruption at the advanced age of 51.

* *Vide Document No XI.*

24. Petitioner therefore hopes this explanation of his conduct so far as it is impugned will be satisfactory to the High Court, and begs that he may be honorably freed from the imputations laid on him, and restored to his office.

And your Petitioner as in duty bound,
shall ever pray.

MADRAS,
27*th November* 1868.

(SIGNED) S. M. NARASIMOOLOO,
District Munsiff.

———(o)———

Conversations held between the Judge and Moonsiff during the interview on the 4th and 5th August 1868.

Will you resign or not?

I was quiet.

He said——If you do not resign I will gladly see you work on the roads for 7 years.

I was much afraid and was quiet.

He said——If you do not resign but should insist upon an enquiry I will enquire on the civil and criminal sides and punish you.

I told——I beg to allow me to urge something about the complaints made against me.

He said——Well what is that?

I said——Mr. Robert Fischer is displeased wtih me in disposing of certain suits against his wish, he caused the complaints to be preferred.

He said——Some words in an under-tone which I was unable to understand and then I showed him the letter No. 2 written to me by Mr. Fischer and after he had gone through, I likewise gave the Testimonials &c., obtained from several Judges, he after perusing them said these are given by favor.

I said——I hear the Iyasawmien is a man preferring false complaints against the officials and was lately convicted of forgery, and complained to this High Court that Mr. Cotton had caused to be beaten one of the Assessors that attended to his case.

He said——You sent a Vakeel of your Court and caused him not to appear before me,

I said——Hitherto I have not at all seen his face.
He said——You are telling lies, it will be proved by your own Vakeel.
I said——You are next to God I cannot tell lies before you.
He said——Dont flatter, will you resign or not?
I said——I will be entitled to a pension of 100 Rupees being the moiety of my present salary, if I remain more 2 years and 9 months in the service, how can I resign now?
He said——I am not going to stay here so long.
I said——I am not belonging to Madura, I am of Cuddalore. I came here only to complete the 5 years service in my present post to entitle myself for a moiety of pension, not for procuring money illegally. I acted on 4 different occasions as District Moonsiff in Cuddalore District, no complaints like this made hitherto against me, my age is now 51, I would not turn to a bad habit after so many years of service and age, if I am to go to pension at present the amount will be reduced.
He said——I don't care all that you must resign or retire whatever the amount of your pension may be, you come and tell the result tomorrow morning
I said——Very well sir, and left the Bungalow.
The next day 5th August I appeared before him.
He asked——What is the result?
I said——If I remain in the service at least till the 16th September next my 25 years service will be completed. If your honor don't allow me to serve more 2 years and some months, I will take pension after the 16th September,
He said——You better send your application to-day with testimonials.
I said——I shall send it after 16th.
He said——No you must send to-day.
I said——Very well sir.
He said——You need not pass any orders and Judgments from this date.
I said——Very well sir and left his Bungalow.

SHEWETH,

That your Petitioner was suspended from his Office by the late Civil Judge of Madura on the 12th August 1868; that he has been recommended to be dismissed; and that the proceedings in his case are now under the consideration of your Lordships; and that a false criminal charge against your Petitioner of wrongful confinement of a party is one of the grounds for recommending his dismissal.

That your Petitioner applied to the High Court on the 19th October 1868 for copies of certain Documents connected with his case and in another Petition of the same date prayed that he may be allowed time to put in his Defence.

That the copies applied for have not as yet been furnished him.

That the proceedings in the case in the Court below, were conducted in such a manner as practically left your Petitioner no opportunity to defend himself and therefore your Petitioner is humbly desirous of being allowed to appear by Counsel and prays that your Lordships will permit him to do so under the Rules of the High Court if your Lordships are of opinion that it is a case in which your Petitioner can properly be granted the favor.

Shall ever pray,

MADRAS, 27*th November* 1868. } (Signed) S. M. NARASIMOOLOO.

The Acting Civil Judge has no remarks to make as the matters relating to this defence were enquired into by his predecessor.

30*th November* 1868. (Signed) J. D. GOLDINGHAM.

Received in the High Court on 3rd Decemder 1868.

DOCUMENTS PRESENTED IN SUPPORT OF THE DEFENCE.

No. I.

TO.

THE CIVIL JUDGE OF
MADURA.

The humble Urzi of S. M. Narasimooloo Naidoo District Moonsiff of Shevagungah.

1. Unless more two years and nine months expire, I could not get a moiety of pension on my salary I at present get. Although I do not expect so much pension, yet till the 16th September expire, I not getting even half pension on the average of my salary, the pension will be much reduced by making the application immediately at present. As I have a family with infant children and much loss is to happen to me, I hope therefore you will cause that I may get pension from October.

2. I shall not hereafter pass orders and judgments according to your order.

3. This is a bad country and a place filled with much robbery and fraud, within six or seven days after I had been to this duty, some people set fire to my bandy. When a Moonsiff was removed from the above station, it appears some people broke open his house and robbed his property. On some occasion, stones were pelted on my house, Consequently in the present state I am now situated, I am afraid to keep my people and property there.

Therefore I pray that orders may be given for my coming away immediately from that village removing my people and property.

MADURA. 5*th August* 1868. } (Signed) S. M. NARASIMOOLOO, *District Moonsiff.*

No. II.

SHEVAGUNGAH 13*th January* 1868.

MY DEAR SIR,

Here is a printed copy of the Queen's decree which will shew you that the present Ranee succeeded to this Zamindary not as the heir of the widow Ungamuthu Nachear but as the heir of her father the Istimerar Zamindar in succession to the widow Ungamuthu. You may keep it for future reference as I do not require it, but the big book which I herewith send, you must return immediately please as it is constantly referred to in the Civil Courts at Madura. I have marked Ungamoothu Nachear's and Kathama Nachear's plaints. Neither of them speak of the cowles separately as they were most probably omitted on the ground that they belonged to the *Ain*, for they were really waste and pyngal lands belonging to the *Ain* that were so given out on cowle. The cowle tenure which was Teerwa could not possibly exclude them from the Zamindary and the plea that they were not claimed *separately* as the Durmasunum Punnays &c. *is in my humble opinion wholly inadmissible. The cowles were originally Ain lands, they are Ain land still and will continue so for all time to come.*

Your's very Sincerely
(Signed) R. FISCHER.

No. III.

Translation of a letter written to Iyasawmien by Chowdappah the head servant of Mr. Fischer.

Many compliments; we are well up to this date you must write to let me know your welfare.

Your letter sent by post reached me at 12 noon this day and the letter sent by a man at 7 A. M. Master (Mr. Fischer) reached here this morning. Although I have had no leisure to inform him the entire contents of your letter, I made it known to him by a written abstract of it. He said you spoke to him at Madura and commended you as the fittest man to accomplish the object intended. I am not desirous to speak about 200 Rupees now, for you must at once file the complaint to-day or to-morrow as you say. As soon as the news of the complaint being filed is received it will be better then to speak about the money to receive it and send to you. There is no need for a Promissory note you ask for, may arrange otherwise, you need not consider. "There is delay in this, how can we proceed further." If to speak on a matter with great persons we must show something done. It is not unknown to you that it is not proper to speak when there is nothing done. You must write immediately about having filed

the complaint, I shall show that letter and shall receive and send you the amount. This is a means for your future welfare. Therefore you must file the complaint without any hesitation.

Expecting a reply from you,
Many compliments
Friend
(Signed) CHOWDAPPAH.

SHEVAGUNGA *July 8th.*

Batta of 4 annas paid to the man who brought the letter.

NOTE.—On the back of this letter is the draft of Petition No. 270 C, of Iyasawmien.

No. IV.

Translation of a letter written to Iyasawmien by Chowduppah the Head servant of Mr. Fischer.

Many compliments.

We are well, you must write to let me know of your welfare, your letter reached; nothing has been done or will be done contrary to what we have already spoken. It is not intended to get the matter accomplished by another. If you perform the thing you have undertaken, you will hereafter know the good that will result therefrom. With the good intention of making known your ability by this means to master (Mr. Fischer) and making you worthy of his favor, I slyly took upon myself to say so—Still I am steady to my resolution.

But I spoke to ascertain wehther the needful pecuniary help could be made in the meanwhile, it does not appear that there is any such intention.

From this I do not think your labor will go in vain in case the matter succeeded.

Some say that your conduct has discovered a tendency to betray the parties. If that be true it must be made up at least hereafter. It is not a matter unknown to you that when a person embarks in an affair there will be no excellence and mutual satisfaction unless the affair is brought to a successful termination.

Compensation must be expected only in acting properly and making it appear so, to persons who are not aware what sort of persons we are.

As you have used words in your letter showing you were offended I have been induced to write to you at some length. As Master is coming there I think it better for you to see him in person and tell him what has been done and what is going to be done. I wanted to see and speak to you but had not the opportunity—However it is not of much consequence.

All particulars will be known on speaking to Narasimma Iyer-son-in-law of Soobramaneya Iyer.

Many Compliments.
Yours.
(Signed) CHOWDUPPAH.

CALIAR COVIL 20*th July* 1868.

No. V.

Special Register No 1 *of* 1868.

Before the District Moonsiff of Shevagunga.

On the 14*th March* 1868.

Examination of Seetharamien Plaintiff's Vakil.

COURT Q. Did not the Court order on the 11th Instant that the Plaintiff in this No.is to be examined on some subject and that he should stay here only.

A. The Court did order so. I informed its particulars to the Plaintiff. He asked what the Court going to ask. I said on the mid-day the 12th that answer should be made to what the Court may ask. I saw him till the mid-day of that day. Afterwards not appeared. I heard the deposition read, it is correct.

(Signed) SEETHARAMIEN.

Taken before me.
(Signed) S. M. NARASIMOOLOO,
District Moonsiff.

No. VI.

Special Register No 1 *of* 1868.

Before the District Moonsiff of Shevagunga.

8*th. April* 1868.

Examination of Aroomooga Pillay peon of the said Court on solemn affirmation.

COURT Q. What became of the Plaintiff Soobramoneya Chetty and witness Kaleanaumbalam who were stopped for enquiry in this No.

A. They went away at night time without telling me. I heard the deposition read it is correct.

(Signed) AROOMOOGA PILLAY.

Solemnly affirmed before me.
(Signed) S. M. NARASIMOOLOO
District Moonsiff.

No. VII.

List Shewing the Processes Executed by Moottien in the Month of March 1868.

No. of Suits.	Name of the Process.	Amount of Battah.		Date on which the process delivered to the peon.	Date on which the process executed by the peon in the Villages.	Date on which the peon returned the process to the Court	
No. 234 of 1867 of Streevulleputtoor Moonsiff's file.....	Summons for the Defendants Witnesses.....	1	12	2nd March 1868.	„	10th March 1868.	
M. P. No. 103 of 1867 of Sevagungah Moonsiff's Court.....	Process to produce Merasedars.....	„	12	10th do.	10th March 1868	11th do	
No. 254 of 1867 of do. do	Summons for the 2nd Defendant.....	1	12	11th do.	14th do	16th do	
Small Cause No. 171 of 1868.....	Summons to Defendant.	1	12	19th do	23rd do	25th do	
No. 182 of 1867.....	Do. Do.	1	4	do. do.	21st do	do do	NOTE.—Reversed decision was passed on the 8th April, the Court was adjourned on the 15th Idem.
M. P. No. 200 of 1867.....	Proclamation of Sale.....	„	12	27th do.	28th do	28th do	
Small Cause No. 190 of 1868...	Summons to the Defendant.....	1	12	28th do	2nd April 1868	4th April 1868	

No. VIII.

Translation of a Note made by Vakil Soondramien. 15th August 1868.

I, Vakil Theroomalasawmy Iyen, Condalien, Seetharamien, Aroomooga Pillay and Moottien informed the Civil Court that we are come.

The Judge ordered that we should be separately, and afterwards he told to call Soondramien. I appeared and was sworn.

We are going to ask you some circumstances to which you must answer properly. Your situation hangs on your reply. Tell carefully, these words were told in anger by the Judge.

I answered—I will speak truth.

He asked—Did you ever come to Madura.

I said—That I came on the 10th July and stayed 2 or 3 days and came on the 16th June and stayed till the 19th

He asked—Did you see the Moonsiff when you came.

I said—Yes, that I came obtaining leave from him.

He asked—Did the Moonsiff tell you any news.

Before my giving answer to it, he asked did he say to reconcile any one.

In answer I said that no such thing at all.

He asked—Have you seen Iyasawmy Iyen at Madura.

I said—That I have seen him

He asked—Have you spoken any thing to him.

I said—That I spoke nothing.

Then after telling that you will lose your situation, tell carefully, he immediately asked me, of the Iyasawmy Iyen mentioned by the Court, which Iyasawmy Iyen did you mean. Will there not be many Iyasawmy Iyens.

I said—That Sevagunga Iyasawmy Iyen had come here. Therefore thinking that the Court asked about him only I said so. Before hearing it and noting it down, he said, your situation removed from you go away. In his noting down what I said, it does not appear how far he wrote, nor was the Note read out, to me.

Secondly calling Theroomalasawmy Iyen caused him to be sworn.

No. IX

Translation of the Copy of the Notes taken by the Court of the answers given by Theroomalasawmy Iyen to the questions put by the Court on the 15th August

By profession—A Vakil in the Moonsiff's Court of Shevagunga.

Q. To represent what subject to the Court you are come?

A. I am come that I may tell what I know about any thing the Court may ask. As you can make known to the Court the subject you know, you may tell the Court upon the Moonsiff of Shevagunga.

Nothing to be said myself upon the said Moonsiff.

Q. Is the Moonsiff pure or how ?

A. The successful parties will speak goodly ; the unsuccessful parties will speak badly I konw nothing directly.

The Judge said while considering the inability of answering on understanding the drift of the question asked by the Court, the Court think unfit for Vakil's duty.

I in answer said that the Court's please.

He said that the Court will not refrain to vacate by dismissal some or many in a place not pure.

No answer given to this.

He ordered to be, be off and then he called Condalien and Seetharamien and ordered to write out what they know and give it on Monday (17th) Court and then called me also, said you may also write out and give so.

I accordingly answered, very well.

No X.

MADURA *February* 28*th* 1866

To

R. R. M. NURSIMOOLOO NAIDOO,
HEAD CLERK SMALL CAUSE COURT,
Cuddalore.

SIR,

With reference to your letter of the 30th January last I have to inform you that I have submitted to the High Court your name for the District Moonsiff's Court of Sevagungah. I have been induced to appoint you out of many applicants not so much for your Official qualifications, but from being led to understand that you will act honestly and with integrity Situated with Zemindary of Shevagungah your position will at times place you on difficulties unless you strictly adhere to the straight forward course of honesty- *at all hazards.* You will always find me ready to uphold you, and advice you in cases of difficulty ; I warn you however against allowing yourself to get entangled into meshes that will be laid for you, and which will surely bring you to grief unless avoided.

The Moonsiff's Court is situated at Mana Madura, about 30 miles from cusbah Madura. The work through the imbecility of the Acting Moonsiff is now into hands of the Court Servants, and very unsatisfactory. So the sooner you can come the better,

Yours faithfully
(Signed) R. R. COTTON,
Civil Judge.

No. XI.

TESTIMONIALS &c. GRANTED TO S. M. NARASIMOOLOO NAIDOO.

The humble Petition of M. Narasimmooloo son of M. Rungappah Naick late Taluq Moonsiff of Yatapoor in the Zillah of Salem.

MOST HUMBLY SHEWETH.

With profound respect and submission I beg leave to bring my aggrieved circumstances to the kind notice of your honor humbly hoping to pardon for intruding on your valuable time, that your honor had been pleased to transfer my late father from the capacity of Peishkar to that of Police Daroga at Kistnagherry Taluq, and from thence to that of Nazir in the Zillah Court at Salem wherein he continued for 10 years to your entire satisfaction and then your honor were pleased to appoint him as Taluq Moonsiff at Yatapoor in which he also continued only for 2 years, but to our great misfortune and loss, he departed this life, leaving behind him a large family, as well as my mother, myself, my sister and my brother-in-law in a condition as most destitute even for common necessaries of life. We have applied for Pension to the address of the Zilla Court and to your honor while on circuit at Salem, but we have not been favored with any redress.

Having happily heard of your safe arrival from the Cape we proceeded hither to beg of your honor who is only the benefactor of our family and we most earnestly implore your honor will be graciously pleased to put me and my brother-in-law in some situation so that we may earn our livelihood under the kind protection of your honor or to favor a letter of recommendation to the kind protection of Mr. E. Bannerman at Salem for that purpose.

Which act of charity would draw upon your honor the unbounded blessings of God Almighty, is the prayer of your humble Petitioner.

Shall ever pray.

MADRAS, 15*th February* 1835.

Rungappa Naick was an excellent Public Servant and a good man and I am very sorry to find from this that his family is in distress I should be glad to be of use to this man for his father's sake.

(Signed) JOHN BIRD.

MADRAS, 15*th February* 1835.

Narasimmooloo's father was an excellent public servant and a good man and for his sake I shall be glad to find that Narasimmooloo had obtained Circar employment.

(Signed) JOHN BIRD.

MADRAS, 5*th January* 1840.

Narasimmooloo, I can do nothing more for you than I have already done namely to certify that your farher was a valuable public servant and that on his account I should be glad to see you better porvided for.

Yours

MADRAS, 27*th July* 1842.

(Signed) JOHN BIRD.

Narasimmooloo Naik behaved to my entire satisfaction during the period he was a Goomastah in the District Moonsiff's Court at Caroor, as he appeared to have been faithful, active, assiduous and besides an experienced person in the discharge of the Judicial business, I have every reason to believe that he is a fit person to hold a valuable and higher situation.

19*th September* 1843.

(Signed) NAMASIVOYA PILLAI,
Moonsiff.

Owing to the good opinion I had of the abilities of Narasimmooloo late 5th Goomastah I promoted him to the Office of 2nd Goomastah, and again on the 2nd April 1850 to that of Criminal Javabinivis. He is well acquainted with the Criminal duties, Regulations &c. and I consider him fully qualified for the situation he holds and deserving of further promotion.

26*th June* 1851.

(Signed) J. G. S. BRUERE,
Late Civil & Session Judge of Salem.

The sheristadar of the Principal Sudr Ameen's Court in Cuddalore, Narasimmooloo Naidoo, is well acquainted with the Tamil, Gentoo and English in which languages he is able to read and write with accuracy. He is also acquainted with Regulations, Orders, and Laws, and is competent to conduct public business to the entire satisfaction of his superiors in proof of which Mr. Bruere admitted him in public service and from his good conduct and competency raised him to his present post of sherestadar, and I consider him fit, from the strict and upright manner in which he has discharged the duties confided to him for the period he has been under me, to hold a higher post than his present one. Being therefore confident that he will so conduct himself as to merit the unfeigned approbation of his future employers I have much pleasure in granting him this testimonial of the high opinion I have of him.

6*th June* 1853.

(Signed) C. VENCATARAGAVA CHARIYAR,
Pincipal Sudr Ameen.

In delivering over charge of this Court I feel it my duty to bear testimony to the abilities of the Sheristadar of this Court, Narasimmooloo Naidoo, whom I always found up to his work, his knowledge of the Judicial Proceedings (both Civil and Criminal) is remarkable, he is a man of integrity and of good principles.

2*nd August* 1854.

(Signed) C. VENCATACHELLIAH,
Acting Principal Sudr Ameen.

I have great pleasure in certifying that Narasimmooloo Naidoo the Sheristadar of the Principal Sudr Ameen's Court of Cuddalore is very able and most efficient functionary, his knowledge of Circular Orders and Regulations and the very great experince he has both in the Civil and Criminal departments will enable him to fill the Office of District Moonsiff he aspires to, with credit to himself and to his employers.

17*th April* 1855.

(Signed,) V. SOONDARA NAIDOO,
Acting Principal Sudr Ameen.

Extract from the Proceedings of the Principal Sudr Ameen's Court of Cuddalore, under, date the 29*th August* 1856.

Being about to deliver over charge of this office which he retained for nearly 2 years the Acting Principal Sudr Ameen takes the opportunity of recording his high opinion of S. M. Narasimmooloo Naidoo the Sheristadar of this Court, who from the able way in which he dis-

charged the duties of his office, afforded him entire satisfaction and he will be indeed glad to hear of his speedy promotion to a District Moonsiffship as he is possessed of every qualification required for efficient discharge of the duties attached to that Office.

(*True Extract.*)

(Signed,) V. SOONDARA NAIDOO,
Acting Principal Sudr Ameen.

I am happy in being able to confirm the opinion of former principal Sudr Ameens as to the character and abilities of S. M. Narasimmooloo Naidoo. He has on three occasions been chosen by the Civil Court to act as District Moonsiff and during the period he has performed the Office of Sheristadar of my Court, he has given me entire satisfaction by his familiar acquaintance with its duties and as steady and careful performance of the same. I have received no complaints against him nor have I observed any thing against him and therefore believe him to be honest and upright.

30*th April* 1863.

(Signed,) J. WILKINS.
Principal Sudr Ameen.

CUDDALORE, *March* 13*t* 1866.*h*

S. M. Narasimmooloo Naidoo has acted for different periods aggregating nearly 2 years as District Moonsiff of this zillah, he was appointed by me on each occasion and I am glad to be able to bear testimony to his diligence in performing his duties and to the integrity of character manifested by him.

(Signed,) GEORGE ELLIS,
Civil Judge

S. M. Narasimmooloo Naidoo on the abolition of the Principal Sudr Ameen's Court in 1863 was appointed Sheristadar of this Court and now leaves the appointment on being made District Moonsiff of Sevagungah. During the 2½ years that he has served under me, he has given me perfect satisfaction and I have much pleasure in testifying to his carefulness in the discharge of his duties and to his knowledge and ability. I also believe that he possesses the far higher and much rarer quality of uprightness.

CUDDALORE, SMALL CAUSE COURT,
13*th March* 1866.

(Signed) F. C. CARR,
Judge.

Narasimmooloo Naidoo was appointed by me District Moonsiff of Sevagungah on the high testimonials to character and qualifications obtained from the Civil Judge of Cuddalore and others under whom he had served, and from what I have seen and heard of him, I believe him to be an honest and efficient officer and I hope he will still rise in the service.

27*th March* 1867.

(Signed,) R. R. COTTON,
Civil Judge.

No. 160.

PROCEEDINGS OF THE HIGH COURT OF JUDICATURE AT MADRAS.

DATED 29*th January* 1869.

Read letter dated the 12th August 1868, No 208 from the Civil Judge of Madura stating that he has suspended the District Munsif of Shevagunga from his Office and submitting translation of a letter addressed to him by the said Munsiff

(Here enter H. C. No. 4317 of 1868).

2. Read also letter dated the 23rd September 1868 from the same Officer recommending the dismissal of M. Narasimulu Naick suspended District Munsiff of Shevagunga,

(Here enter H. C. No. 4704 of 1868).

3. Read also the defence of the District Munsif of Shevagunga, submitted by the Acting Civil Judge.

(Here enter H. C. No. 6204 of 1868)

4. These papers have reference to the conduct of M. Narasimulu Naick, District Munsif of Shevagunga at present under suspension .

5. The principal charge against him is his direct disobedience of an order of the Civil Judge forbidding him to leave Madura or return to his station pending the investigation of certain complaints against him and directing him to attend before him in Court on a certain date for that purpose. The civil Judge has distinctly stated that this order was clear and positive,and though the Munsif has endeavoured to make out that he was only prohibited from passing any judicial order, the High Court are unable to believe that that was the true purport of the order or even that the Munsif bona fide placed that construction upon it.

6. There were several complaints against the Munsif before the Civil Judge who seems disposed to give credit to nearly all, but only two are of such importance as to require notice from the High Court. The first of these has reference to the Munsif's grave misconduct in ordering the confinement of one Subramanyen Chetty, Plaintiff in a suit before him. The Munsif admits that he ordered this man into the custody of a peon, and the Chief Justice and the Judges have little doubt from the papers submitted that he remained in custody for several days, if not for the whole time supposed by the Civil Judge.

7. The second material complaint relates to the protracted adjournments and ultimate dismissal of Original suit No. 65 of 1866. On this point the Munsif's own Diary is conclusive against him and discloses a method of conducting judicial work which is truly disgraceful. The suit which was instituted on the 17th March 1866, was set down for first hearing on the 9th of November 1866 and was afterwards adjourned no less than 36 distinct times before the issues were settled. On the 37th occasion for which the case was posted, which was on the 4th March 1868, or nearly two years after the filing of the plaint, the Plaintiff's Vakil was absent having obtained leave from the Munsif, The 2nd plaintiff was present in person but the Munsif dismissed the suit with costs, for default of prosecution under section 110 of the Code of Civil Procedure. Independently of the inapplicabilityof that section to the circumstances of the case the Munsif's order was directly opposed to a decision of the Suder Court, which is still in force, that when a pleader has been retained in a suit it cannot be heard and decided exparte during his absence on leave.

8. The Civil Judge has also reported that this Munsiff has the worst possible reputation in the Madura District and both the Civil Jndge and the Head Assistant Collector mention as most suspicious the large number of cases in which he has admitted reviews and reversed his own orders after reconsideration.

The Chief Justice and Judges have carefully considered the written defence of

the Munsif and are of opinion that his disregard of the Civil Judge's reasonabel and proper authoritative requirement of his attendance and his grave judicial misconduct in the two instances above referred to, show that he is not fit to be longer trusted with judicial powers, at the same time in consideration of his long service they will abstain from the extreme punishment of dismissal and merely require him to resign on such pension as the Government may think proper to allow him.

(True Extract)

(Signed) P. P. HUTCHINS,
Registrar, Appellate Side

TO

THE HONORABLE THE JUDGES OF THE
HIGH COURT OF JUDICATURE,
APPELLATE SIDE
MADRAS.

The humble Petition of S. M Narasimmooloo Naidoo, District Moonsiff of Sevagunga in the Zillah of Madura.

My Lords,

The Honorable Court in their Proceedings dated 29th January 1869, have observed that your Petitioner's disregard of the Civil Judge's Order and grave misconduct in confining one Soobramaneya Chetty, Plaintiff in a suit before him and protracted adjournment and ultimate dismissal of original suit No. 65 of 1866 show, that he is not fit to be longer trusted with judicial powers and that he should be required to resign on pension.

2 Adverting to the first of these remarks, your Petitioner begs to say that, only the words mentioned in the paper annexed to his defence, were exchanged between him and the Judge, and no such words as are mentioned in paras 3 and 4 of the Civil Judge's letter of the 12th August and para 11 of the one dated 23rd Septtember 1868 have ever taken place.

3 In the 4th para of the Civil Judge's first letter, he says, "I further distinctly warned him (Moonsiff) *that he must not attempt to go to his station until he received further orders from me.*" Whereas, in the concluding part of para 11 of his 2nd letter, he states "I further distinctly ordered him *not to quit Madura before that date* (8th September) *or on any account to go to his Station.*" This and the reasons given below, your Petitioner begs to say will be sufficient to support his plea.

I. Your Petitioner many days after the presentation of the Petitions against him, had himself proceeded, not on the requisition of the Judge, but of his own accord, from his station to Madura, a distance of 30 miles, and went to the Judge's house on the 4th of August 1868, in view to pay his respects to the Judge who newly arrived. After some words passed between him and the Judge on that date, the latter ordered your Petitioner to let him know on the next day, your Petitioner's intention about retirement, he accordingly went to his house on the 5th and agreed to take pension : whereupon, the Judge directed him to apply for pension on the same date ; your Petitioner on that evening accordingly applied for the same by his Urzi No. 1, and went away to his station on the same night. While so, would he go away if he had been directed not to quit Madura.

II. Your Petitioner has, moreover, applied in the same Urzi, to permit him to come away immediately from his station to Madura with his family. There would be no reason for him to make this request, if he had any thought not to stay at Madura.

III. The Civil Judge says in his two letters, that he informed your Petitioner that enquiry would be held on Saturday (8th), *unless he received your* Petitioner's *resignation on the previous Friday* (7th). From this it is to be presumed that the Judge intended to take no notice of the charges against your Petitioner, *if your Petitioner had submitted his resignation within the 7th.* Your Petitioner made his Urzi No. 1 on the 5th, requesting to get pension ; while so, is there any thing which can make him be afraid of staying at Madura.

IV. Your Petitioner learns that a peon had brought a letter to your Petitioner's address, on the night of the 6th to the house at Madura in which your Petitioner halted, and enquired for him, and your Petitioner's people said that your Petitioner had gone to his station on the night of the 5th, and that if the letter was given to them, they would forward it to your Petitioner; bnt the peon said it seems that he was told by the Sherastadar to deliver it personally to your Petitioner and to no body else, and took the letter back. If the Judge had already directed your Petitioner not to quit Madura, there would be no reason to send such a letter upon the receipt of your Petitioner's Urzi above alluded to.

V. If such words as are mentioned in paras 3, 4 and 11 of the Judge's letters, had actually passed, he would have suspended your Petitioner on the 7th, on which date he admits he came to know of your Petitioner's departure to his station, alleging as the grounds of suspension, that while the conversation which passed between the Judge and your Petitioner was such as shown in the above paras, your Petitioner went away to his station in direct disobedience of his orders, sending the Urzi No. 1 which he might state contained false allegations that he had forced your Petitioner to go to pension, and that he did not direct your Petitioner not to pass orders and judgments from the 5th, as stated by your Petitioner in the Urzi, or he would have sent at least a Takeed embodying these as the grounds for suspension.

VI. The Judge admits that the above Urzi reached him on the 6th, 2 days previous to Saturday (8th,) the date he says he intended to make the enquiry. If he had sent orders to your Petitioner even on the 7th, as requested in his Urzi, your Petitioner could have come to Madura before the evening of the 8th in question. While so, why should the Judge who was silent till the 11th, suspend your Petitioner on the 12, without recommending your Petitioner for pension as his language shows he had determined as above.

4 Although there was no public record to show what words exchanged between your Petitioner and the Judge, yet the words detailed in the paper annexed to the defence, were really copied out from the Memorandum taken on each date by your Petitioner, the truth of which God alone knows. Whereas, the Honorable Court's disbelieving the Petitioner's statement in para 5 of their Proceedings, is a matter solely attributable to the great misfortune of your Petitioner, who, during his long career as a public servant was well known for his respectful conduct to his superiors.

5 These reasons and those mentioned in para 3 to 5 of the defence, your Petitioner begs to say, will convince your Lordships that your Petitioner was in no way disobedient to the Civil Judge.

6 Your Petitioner further begs to urge, that even granting that your Petitioner was disobedient to the Civil Judge, a reprimand, he humbly submits, would be a severe punishment; but the loss of appointment is most unprecedented.

7 With respect to the alleged wrongful confinement of Soobramaneya Chetty, Plaintiff in No. 1 of 1868, your Petitioner begs to state, that, it is stated in para 4 of the Petition No. 277 marked E. that the Plaintiff was confined by your Petitioner for 15 days, *solely to prevent him from appealing against your Petitioner's order*. This is not true, but as the Plaintiff appeared to your Petitioner to have made a false statement, in a deposition given before him, on solemn affirmation, he thought it necessary on the 11th March 1868, on which date the examination of Plaintiff's witnesses was closed, to put him some questions, and upon his answers to try him for perjury; but being unable to do so, as it was very late in the evening, your Petitioner told him to stay for further enquiry, and likewise told the Court Peon Aroomoogum to look after him, and then your Petitioner left the

Court. On the 14th, when your Petitioner wanted the Plaintiff for enquiry, the Peon informed him that the Plaintiff went away without his knowledge. This is fully supported by the depositions of the peon, and the Plaintiff's Vakeel Seetharamien copies of which have been submitted with your Petitioner's defence in Nos. 5 and 6.

8 The review order to prevent his appealing against which the Plaintiff says your Petitioner confined him for 15 days, being made under Section 55 of the Indian Registration Act of 1866, is, as admitted by the Judge in his order dated 28th July 1868, on the Petition No. 276, *final and not appealable*. Therefore, your Petitioner could not have acted from the motive imputed to him.

9 Even if he (Plaintiff) was entitled to appeal, this order being passed on the 8th of April 1868, he must endeavour to prefer appeal only subsequent to that date. Your Petitioner's Court closed from 9th to 13th idem for Easter Holidays, and was adjourned for 6 weeks from 15th, the 8th day of his order; therefore, how is it possible that your Petitioner should confine him (Plaintiff) for 15 days, to prevent him from appealing. It is thus quite clear that the accusation is altogether false, and yet the Court peon Aroomoogum in his deposition K, states that the Plaintiff was in custody *for* 15 *days, before the Court was adjourned*, an evident falsehood.

10 In the deposition L, the Batta Peon Moottien states, that he kept the Plaintiff in confinement *for* 7 *or* 8 *days*. This peon is engaged in carrying and executing processes in the villages, but never stayed permanently *even* 5 *days* at Manamadura, the station of the Moonsiff.

11 These particulars appearing from the Despatch Book of the Court, prove that the Peon has uttered glaring falsehood. Vide document No. 7.

12 It is written in the deposition of Condalien marked J, that the Plaintiff was placed in *pahra place* of the Moonsiff's Court, *for* 10 *or* 15 *days*. There is no place fixed in the Mooniff's Court *for pahra* or guard. It likewise appears that these 3 individuals who were sent for by the Judge at the requisition of the Plaintiff, from the time they came for enquiry, were found in constant company with the Plaintiff, and the above 3 witnesses who deposed against your Petitioner, are actuated by malice, as will appear below. The Court peon Aroomoogum was fined, and the Batta peon Moottien suspended, for neglecting their duties. Vakeel Condalien is deaf, and was warned to resign his situation.

13 Section 16 Act 23 of 1861, points a course for committing to the Sessions, persons who are found to make false statements on oath before Civil Courts, no provision having been made for the detention of such parties till conclusion of the preliminary enquiry. Your Petitioner pursued the usual course of ordering the Court Peon to look after the Plaintiff.

14 Your Petitioner has seen several instances of parties being put in charge of the Peons in the Moonsiff s Courts, in which there is no Nazer, and in charge of the Nazer of such Courts as have Nazers.

15 Under this general usage, your Petitioner kept two parties in charge of the peon, and examined and committed them to the Session Court once at Cuddalore, when your Petitioner was Acting Moonsiff there; and at another time in this District in 1866. No objection was ever raised to their being so detained.

**Vide Document No. 12,* 16 The Civil Judge who passed an *order on the 28th July, on the said Petition No. 277, to the following effect, "to be considered departmentally no further orders necessary" without so disposing of the charge by his own departmental order, he passed another *order

**Vide Document No. 13,* on the 27th August on Petition No. 376 presented on behalf of the same Plaintiff by Mr. Moodookrishna on the following day, permitting the Plaintiff to prosecute your Petitioner before the Magistrate for the alleged wrongful confinement.

17 If the said charge is true, would the Plaintiff remain quiet for a long time without prosecuting your Petitioner before the Magistrate on that charge, though he was permitted to do so by the Judge on the 27th August last; but he refrained from doing so, knowing fully that the Magistrate will declare, that it will not be a crime on your Petitioner's part, under Sections 339 and 340 of the Indian Penal Code, and the explanations and illustrations below them, and that he will declare the charge as a malicious one.

18 The Civil Judge having once declared that your Petitioner should be prosecuted criminally, is he, as the Appellate authority, justified in again stating before any trial was initiated before the Magistrate, that the complaint was civilly proved, and urging it as a ground for your Petitioner's removal. What will come to this conclusion, if your Petitioner should be formally acquitted by the Magistrate, with whom the disposal of this charge rests.

19 While from the above circumstances, it may be clearly presumed, that this charge was a malicious one, and that the Plaintiff *was not at all in confinement*, and that the statement of the said 3 witnesses is false, the Court have remarked that the Plaintiff was in confinement *for several days*, merely on the contradictory statements of the said 3 witnesses taken civilly on a criminal charge, in the absence of cross examination by the Petitioner. This is attributable to your Petitioner's sore misfortune.

20 If the Honorable Court still entertain any doubt regarding the truth, or otherwise of the said charge, your Petitioner begs your Honorable Court, to direct the Plaintiff to prosecute according to the permission given by the Civil Judge, when your Petitioner will be ready to point out from Plaintiff's own deposition that may be given before the Magistrate, that the charge is a malicious one and that the statement of the 3 witnesses is barefaced falsehood, *and to bear such punishment as may be awarded according to law on conviction.*

21 As your Honorable Court are the special Appellate authorities, and are competent to consider whether or not, the decision that may be passed by the Magistrate on that charge be correct, the expression of an opinion by your Lordships upholding the Civil Judge's statement, is such as greatly to endanger your Petitioner. Therefore, your Petitioner humbly begs to free him from such remarks.

22 As regards the protracted adjournments of case No. 65 of 1866 alluded to in para 7 of the Proceedings, your Petitioner begs to state that he has given sufficient explanation in para 13 of his defence. The document Q, submitted by the Civil Judge, is not a true copy of the diary, but simply an Index prepared by the Goomastahs. In the proper diary, the causes for the adjournments of the case to different dates are assigned. The adjournments on 36 different times, were not occasioned by your Petitioner's carelessness, but most of them were given at the request of the parties and their Pleaders, and for their convenience. For these reasons, and for those contained in his explanation marked O, your Petitioner prays that he may be excused by your Lordships, for the delay in the disposal of the case.

23 With reference to the remarks contained in para 8 of the Proceedings, your Petitioner begs to state, that he has given sufficient reasons in paras 14, 15, 17 and 18 of the defence. Moreover, there is no tangible evidence on the records to support the report made by the Civil Judge, that your Petitioner has the worst possible reputation in the Madura District. Your Petitioner firmly says that, among the 26 cases admitted for review, no single suit disposed of on the merits is included. Therefore, there can be no room for suspicion on this point.

24 If the Honorable Court had allowed a hearing of the case, and heard your Petitioner's arguments either by a counsel or by Petitioner in person, who was waiting in the Court, as requested in the motion submitted with his defence, there would have been no grounds for your Lordships to pass such an order. But

owing to the Petitioner's bad time, the alleged two unfounded charges seemed to them to bear about them a color of truth.

25 On the 16th September 1843, Petitioner was entertained in a grade eligible for pension, and he will not be able to complete the service of 25 years, which will entitle him for half pension on the average salary of 5 years, unless he remains in service up to the 16th September 1868. Moreover, Petitioner was appointed as a permanent Moonsiff only on the 28 March 1866, and unless he continues to hold that Office for 5 years, that is till 2 years and 9 months more, he will not be entitled to a moiety of pension of the salary of Moonsiffship.

26 Although your Petitioner, owing to the compulsion of the Civil Judge, solicited in his Urzi No. 1 dated 5th August last, that he might be pensioned from the 1st October, being the subsequent date on which the service of 25 years shall be completed, still he was so enraged with your Petitioner, in consequence of certain objections raised in his Urzi, that he, without retaining your Petitioner in his Office, and without holding any preliminary enquiry on the subject of the false petitions, suspended your Petitioner on the 12th August. If the Petitioner had not been so suspended, the intermediate period, that is, 5 months and 17 days, between the date of suspension and that of the order of the Honorable Court, would have been added to his service, which would then amount to 25 years and 4 months; if this was done, the Petitioner would have become entitled at least to an average amount of pension of Rupees 75 per mensem, and Petitioner would have no objection to apply at once for pension, in obedience to the order of the Honorable Court; but certain rules having been laid down that the period of suspension could not be reckoned in calculating the period allowed for pension, his application for the same before the completion of 25 years, will only entitle him for a pension of Rupees 49, being the $(\frac{1}{3})$ one third of his average salary.

27 Your Petitioner humbly believes that it will appear to your Lordships, how unhappy an old public servant should be, if he were to lose about Rupees 26 on account of the deficiency of 2 months service to complete 25.

28 Under these circumstances, Petitioner was preparing to put in a motion to your Lordships, requesting that he might be allowed to hold his appointment of Moonsiff for 2 years and 9 month, or at least for 2 months, and then resign the service on pension; but meanwhile, owing to Petitioner's great misfortune, his son-in-law (husband of his first daughter) who was at Madura, as instrument of support to his (Petitioner's) large family, met with sudden death, which put him to great sorrow and compelled him to proceed to that place.

29 It is a matter well known that your Petitioner is in a very unfavorable circumstances in life, because he was to protect a large family with the scanty pay he was receiving, if not, he would not give the trouble to your Lordships to review his case.

30 Under all these circumstances, your Petitioner most humbly prays, that your Lordships will, on a consideration of the loss he had sustained by his suspension &c. since these 7 months, and in view to protecting and relieving him and his large family crowded with infant children, from the distress to which they are now subjected, be pleased to allow him a hearing, and free him from the unfounded trifling charges brought against him, and allow him to serve for 2 years and 9 months more, that he may be entitled to a pension of half his pay as District Moonsiff, or, if your Lordships should not be disposed to extend that indulgence, to at least allow him to be in the same post for two months more, that he may complete his 25 years, and be eligible for half his average pay for the last 5 years, instead of only *a third*.

And your Petitioner as in duty bound,

Shall ever pray.

23rd *April* 1869.

(Signed) S. M. NARASIMOOLOO,

District Moonsiff.

DOCUMENTS PRODUCED WITH THE ABOVE PETITION.

No. XII.

Shevagungah Moonsiff
Special Registration No. 1 of 1868.
Plaintiff
Subramanien Chetty
By his Vakeel
H. F. Mutukisna Esq.

Civil Court's Order on M. P. No. 277 of 1868 dated 28th July 1868.

To be considered departmentally—No further order necessary.

(Signed) G. R. SHARPE.
Civil Judge.

No. XIII.

Proceedings of the Civil Court of Madura, dated the 27th August 1868.

Read M. P. No. 367 of 1868, presented on the 29th July 1868, by Mr. Muttukistna, advocate on behalf of Soobramanien Chetty, Plaintiff in Special Registration No. 1 of 1868, on the file of the Shevagungah Moonsif, stating that the said Officer illegally confined him (Petitioner) and praying that sanction may be given him for prosecuting him (Moonsif) before Magistrate.

ORDER.

If the sanction of this Court is required for the entertainment of the charge, that sanction is hereby accorded.

(True Extract.)

(Signed) G. R. SHARPE
Civil Judge

No 855.

Proceedings of the High Court of Judicature at Madras, Dated 14th May 1869.

Read Petition dated 23rd April 1869, from S. M. Narasimulu Naidu late District Munsiff of Shevagunga, praying for a re-consideration of the orders of the High Court passed in his case on 29th January 1869.

(H. E. H. C. No. 2518 of 1869.

In their proceedings of 29th January 1869, the High Court directed that S. M. Narasimulu Naidu should be called upon to retire on such pension as the Government may think proper to allow. They considered that the errors attributed to him disqualified him from exercising any longer judicial powers but in consideration of his long services were not such as to render him liable to dismissal. The late District Munsiff now prays to be allowed to serve for two years and nine months more that he may be entitled to a pension equivalent to half his pay as District Munsiff or at least that he may be allowed to complete 25 years service to entitle him to a pension equivalent to one-third* of his pay for the last five years.

** Not one-third but one-half Vide para 30 of the above Petition.*

2. The High Court are prepared to view his last request favorably and they accordingly directed that the order of the late Civil Judge suspending Narasimulu Naidu on 12th August 1868 be modified, and that he be considered to have held Office as District Munsiff of Shevagunga until the date on which his successor was appointed vizt. 24th November 1868—The object of this order is to entitle Narasimulu Naidu to draw pay during, and count as service, the period between 12th August and 24th November 1868.

(True Extract.)

(Signed) H. WIGRAM,
Ag. Registrar Appellate Side.

TO

THE HONORABLE THE JUDGES OF THE
HIGH COURT OF JUDICATURE.
APPELLATE SIDE,
MADRAS.

The Humble Petition of
S. M. Narasimooloo Naidoo,
District Moonsiff of Sevagunga.

My Lords

Adverting to the proceedings of your Honorable Court dated 14th May last, Your Petitioner most humbly begs to lay the following circumstances for the favorable consideration and orders of your Lordships.

1. Your Petitioner had at different times obtained Private and Sick leave aggregating to about 9 months under the old Rules (of 1855), but as the periods of such leave could be counted towards Pension under the above Rules (noted in the margin),* your Petitioner requested in his Petition No. 2518 of 1869 dated 23rd April last to allow him to serve *at least for 2 months* that being the time wanted to complete the period of 25 years calculated from the 16th September 1843, on which date your Petitioner was entertained in a grade eligible for Pension.

* "In the service qualifying for Pension periods of Absence on Sick leave to the extent of 2 years only are allowed to be reckoned." *Clause 1st Section V of the Absentee Rules.*

"All periods of absence on privilege and special leaves, reckon as Service qualifying for Pension." *Clause 3 Section VIII of the Same Rules.*

2. Your Lordships considering that your Petitioner should be allowed a favorable Pension on the average Salary of 5 years have been pleased to modify the order of the late Civil Judge Mr. Sharpe dated 12th August 1868, and directed that the period between the said date and 24th November 1868, on which date the officiating incumbent's appointment was sanctioned by your Lordships, should be added to the period of your Petitioner's Service.

3. Had your Petitioner's request to allow him to serve for 2 months been granted, and your Petitioner had entered upon his office, it would actually be a re-instatement and would have the effect of cancelling the suspension made pending enquiry; and then the *whole* of the period from the date of suspension to his restoration would be added to his service, as laid down in the rule noted marginally;† but your Lordships in place of allowing your Petitioner *to serve for 2 months as requested*, have been so far pleased as to think it enough for the purpose to order the above period to be added to his service. Your Petitioner now understands that a new rule was made by the Government of India, on the 5th July 1865 that "Sick leave, leave on private affairs and furlough during the whole period of an applicant's service do not count for pension;" the period of leave therefore obtained by your Petitioner has to be deducted from the total period of service accumulated in grades eligible for Pension: consequently your humble Petitioner is still so unfortunate as not to enjoy the advantages of the benevolent order

† "The suspension of an Uncovenanted servant from Office does not constitute a break rendering service non-continuous: employment under these circumstances is therefore regarded as continuous; the time passed under suspension, pending enquiry, is taken into account as service towards pension, in case of re-instatement; where suspension has been adjudged as a penalty, the period is disallowed."
Order of Madras Government.
12[illegible] *rch* 1861.

now made by your Lordships on a favorable consideration of your Petitioner's case.

	Ys.	Ms.	Ds.
‡ Period of Service from 16th September 1843 to 12th August 1868, the date of suspension.....	24	10	27
Period of Service already allowed by the High Court to be added.....	0	3	12
Total...	25	2	9
Deduct period of leave...	0	7	0
Net Service...	24	5	9
Period of suspension remaining from 25th November to the date of this Petition to be accruable by allowing to serve for any further period however small.....	0	7	13
Total.....	25	0	22

4. Therefore your Petitioner humbly prays that your Lordships will be pleased to re-consider his former Petition and allow him to serve for the least period required to take him out of the suspension in order to complete 25 years service or for 7 months again as exhibited in the margin, ‡ and protect him and his large family by ensuring to him at least half Pension on his average salary for the last 5 years.

For which act of exalted kindness, your Petitioner as in duty bound

MADRAS,
7th July 1869.

SHALL EVER PRAY.

No. 1302.

Proceedings of the High Court of Judicature at Madras, 20th July 1869.

Read Petition dated 7th July 1869 from S. M. Narasimhulu Nayadu, late District Munsif of Shevagunga, requesting the High Court to re-consider their order dated 14th May 1869 and to allow him to serve for seven months more to entitle him to a pension.

The High Court are unable to entertain Petitioner's prayer. They have already granted him all the indulgence which they consider him entitled to —.

(True Extract.)

(Signed) H. WIGRAM,
Acting Registrar, Appellate Side.

Duplicate
Enclosure No 2
to a Memorial from
S. M. Narasimhulu Naidu
late District Munsif of
Shevagunga in Zillah Madura
to the Hon'ble the Deputy
Governor of Fort St George in
Council dated 29th July
1872

Copy of Petition to High Court
Memorialist's Petition &c &c &c
&c &c &c
Petition to &c &c &c
Government Order No 1611
dated 29th July 1869
Shevagunga Court Register
Court with 2 documents
Order thereon of 14 May 69
Memorialist's Petition to High Court
Order thereon of 29 July 69

TO

THE RIGHT HONORABLE FRANCIS BARON NAPIER, K. T.,
GOVERNOR IN COUNCIL,

Fort St. George.

The Humble Petition of S. M. NARASIMOOLOO NAIDOO, *suspended District Munsiff of Sevagunga, in the Zillah of Madura.*

MY LORD,

The late Civil Judge, Mr. Sharpe, without making any preliminary enquiry into the alleged misconduct of your Petitioner suspended him on the 12th August 1868, and without either furnishing him with copies of his proceedings or taking his defence as required by the order of Government, dated 5th May 1854, recommended his removal to the High Court on the 23rd September 1868, on the ground that your Petitioner disobeyed his orders, that an accusation of bribery was made against him in Petition No. 270 marked C, and of wrongful confinement, &c., alluded to in Petition Nos. 277, 275 and 276 marked E, F and G respectively, and on the mere hearsay report said to be contained in the informal letters marked X and Y written by the Head Assistant Collector and the Principal Sudder Amin.

2. Although your Petitioner has shown to the High Court sufficient reasons in his defence and review petition presented with 13 documents in support thereof (copies of which are herewith submitted for your Lordship's kind consideration), yet the High Court passed an order on the 14th May 1869, stating that they considered that the errors attributed to your Petitioner disqualified him for the exercise, any longer, of judicial powers, but that in consideration of his long services, they were not such as to render him liable to dismissal.

3. Before venturing to make any observations on the matter, your Petitioner begs to annex a memorandum showing the irregular manner in which Mr. Sharpe held proceedings against your Petitioner.

4. The translation of the order of suspension forwarded by the Civil Judge marked A, not being a true one, your Petitioner begs to submit herewith the original Tamil Order with a correct translation thereof. It is clear from the wording of the order that it was left *optional* to attend at the enquiry, and not even a day's time was allowed to prepare for such attendance.

5. If such words as are mentioned in paras. 3, 4 and 11 of Mr. Sharpe's letter had actually passed, he would have suspended your Petitioner on the 7th August 1868, on which date he admits he came to know of your Petitioner's departure to his station, and might have mentioned in the suspension order, the purport of his personal orders, and charged him with disobedience in going back to his station, after sending Arzi No. 1 on the 5th August stating that he had forced your Petitioner to apply for pension, or he would have sent at least a Takeed embodying the same, though in an abstract, as grounds of suspension. If your Petitioner was bent on leaving Madura contrary to his orders, why should he request in his Arzi to allow him to come away immediately to Madura with his family and property, and would this follow disobedience of orders? Even if he had sent orders to your Petitioner on the 7th as requested in his Arzi, he could have come to Madura before the evening of the 8th, on which day he says he was to make the enquiry.

6. Mr. Sharpe says in para. 11 of his letter of the 23rd September, that he informed your Petitioner that enquiry would commence on Saturday (8th August), unless he received your Petitioner's immediate resignation on the previous Friday (the 7th). From this, it is clear that he had no intention of holding enquiry against your Petitioner, in case he submitted his resignation on the 7th. Even if it be true that he gave such orders, why should he suspend your Petitioner without recommending him for pension, when, as he admits your Petitioner's Arzi of the 5th requesting pension reached him on the 6th, two days previous to the 8th, on which latter day he says he was to make the enquiry.

7. If your Lordship consider the fact of the Sheristadar sending a letter to your Petitioner's quarters as shown in para. 3 of the annexed memo., and also Mr. Sharpe's silence till the 11th without holding immediately any one of the three modes of proceeding on the said Arzi, it will shew that the Sheristadar wrote to your Petitioner offering to return the Arzi, as it (the said Arzi) urged though indirectly the injustice of being called upon to take pension at a sacrifice; and your Petitioner's return to his station from Madura, where he came, of his own accord, and not at the requisition of Mr. Sharpe, cannot amount to disobedience of any nature whatever.

8. Clause II, Section VII, Regulation VI of 1816 provides only that whenever a Munsiff *may be guilty* of exaction or any other gross misconduct, the Judge can suspend him from office, and Mr. Sharpe can therefore suspend your Petitioner only after the parties swear to their complaints and give security as directed in Regulation XII of 1802, and after he is satisfied on preliminary enquiry of the kind alluded to in Clause II, Section VIII, Regulation VI of 1816, that the charge will be established. If the word "*Accused*" were used instead of the word "*Guilty*" in Clause II, Section VII of the above Regulation, Mr. Sharpe might suspend your Petitioner on the bare presentation of the complaint. It is clear therefore that Mr. Sharpe's proceedings in this respect are contrary to law and must be viewed merely as an act of encouragement to wicked persons to make complaints and give false evidence against your Petitioner to bring about his downfall, the officer who would try him thus appearing to be prejudiced against him. If that be not the case, what else could be the object of such premature suspension?

9. The 4 Vakils and the 2 Peons examined, did not come forward of their own accord to Mr. Sharpe to make complaints against your Petitioner, but came in pursuance of a Takeed issued by Mr. Sharpe at the request of Mr. Moodookistna, (the Advocate on behalf of Soobramaneya Chetty, who charged your Petitioner with wrongful confinement, simultaneously with the order for his suspension, dated 12th August 1868,) to answer questions that might be put by him; as he commenced the examination on the 15th idem before your Petitioner could arrive at Madura, and as Teroomalasawmien was examined on that day, all further particulars if desired might be elicited from him, and the other 2 Vakils and Peons might be examined all on the same day. While so, why should he order a written statement to be given on the 17th by the Vakils. What necessity there w[illegible]arpe himself to ask, and also to permit the Barrister Mr. Moodookistna to ask the above 2 Vakils and the Gumastah Gopalakistnien alluded to in the deposition Z, whether they did not even hear that your Petitioner received bribes, while they were not named in the Petition No. 270 C, charging bribery against your Petitioner and while the Petitioner himself did not come up to prosecute that charge, is a serious point for your Lordship's consideration. How far the treatment alluded to in para. 7 of the memo. was deserved, Petitioner need not say; your Lordship will, the Petitioner hopes, be convinced that Mr. Sharpe was at least prejudiced strongly against your Petitioner.

10. The refusal* to furnish copies of the papers applied for by Mr. Scott, the Petitioner's pleader, the insisting upon your Petitioner's personal appearance before himself (Mr. Sharpe) for getting even such copies, the allowing the opposite party to engage a Vakil and not your Petitioner, and the inviting of complaints against your Petitioner, show the *animus* of Mr. Sharpe. To avoid disgrace and consequent mortification, your Petitioner did not go before Mr. Sharpe, as per his endorsement B. made on your Petitioner's application dated 27th August alluded to in para. 2 of his letter, dated 23rd September 1868. This, your petitioner submits, can in no way amount to disobedience of orders.

* Vide Document, No. 14.

11. The contents of the notes (Nos. 8 and 9) made by Soondramien and Teroomalasawmien showing the manner in which they were examined, as also the fact that their depositions D. No. 15, do not contain all that the witnesses deposed, and that the depositions were not read over to them and their signatures taken thereto, and the fact of Mr. Sharpe having said in the open Court that he had dismissed Soondramien, the first Vakil who deposed in the petitioner's favor, and the postponement of the examination of the other Vakils on that day, (when, as their short depositions will show,) they might have all been examined within an hour) suffering them to dwell in fear and try to save themselves by saying something against your Petitioner—all these circumstances seriously considered, will show the injustice done to him. Can such an enquiry held even before your Petitioner could conveniently reach Madura, be called a *formal enquiry*, such as is directed to be held in the order of the High Court, dated 20th November 1866, and that of Government, dated 5th May 1854?

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12. Mr. Sharpe says in para. 3 of his letter, dated 23rd September 1868, that Iyasawmien the Petitioner in No. 270 marked C, when called did not appear, and it was then stated in open Court by a pleader that a Vakil of your Petitioner's Court had, on his behalf, procured the non-appearance of Iyasawmien the Petitioner, and certainly that Vakil's deposition D creates a strong suspicion that this was the case. While the fact of Iyasawmien having presented the said petition against your Petitioner, a known public officer, and the remarks made by Mr. Moodookistna an Advocate in open Court that Iyasawmien was gained over by your Petitioner's Vakil Soondaramien, were the common talk every where, is it a wonder that when Mr. Sharpe asked the Vakil whether he saw Iyasawmien, the Vakil should answer as if he had known who the Iyasawmien was that he was questioned about. No deposition or other document was taken by Mr. Sharpe from the pleader he mentions above. If the pleader's statement be true, there must, of course, have been witnesses to that effect, and the pleader would have produced evidence to establish his statement, or Mr. Sharpe, ought in fairness to have called for the same from the pleader, or should have procured the attendance of the above Iyasawmien by a process, and required him to prosecute his complaint. If this were a formal course of proceeding, then every officer may be dismissed on the mere presentation of a complaint, or on the mere calumnious words of a pleader.

13. Had your Petitioner obtained the two letters, Nos. 3 and 4, prior to the unfavorable report made by Mr. Sharpe, he (Petitioner) would have either produced the same to him or prosecuted the said Iyasawmien, Mr. Fischer's manager and others. If the High Court had directed any enquiry on the subject or permitted your Petitioner to prosecute, he (Petitioner) would have done so, and proved that the charge was purely a malicious one, but as your Petitioner had obtained those letters subsequent to the trial, he has given sufficient grounds in his defence and review petition to the High Court that the above Petition No. 270, marked C, was presented by Iyasawmien at the instigation of the Agents of Mr. Fischer, the contractor of the Sevagunga Zemindary, who is displeased with your Petitioner for not having conformed to the views expressed in his letter numbered 2, in the disposal of certain suits brought by him before your Petitioner, and that Iyasawmien failed to appear in consequence of the non-payment of the amount promised to him for the purpose by Mr. Fischer's Agent, and has in proof of the same produced in the High Court the documents, Nos. 3 and 4 written by the said Agent to the said Iyasawmien; therefore there would be nothing wanting to induce the belief that this petition of Iyasawmien is a got up one. While so, the High Court instead of directing the Judge or your Petitioner to bring those parties for trial for malicious accusation against your Petitioner, have declared that your Petitioner is disqualified to exercise judicial powers. This is attributable solely to the Petitioner's sore misfortune.

14. With respect to the accusation of the alleged wrongful confinement complained of by Soobramaneyen Chetty in his Petition No. 277 marked E, your Petitioner begs to state that Petitioner states in that petition, dated 9th July 1868 presented on the same date as Iyasawmien's Petition to Mr. Sharpe, four or five days after his arrival, that your Petitioner *confined him for* 15 *days solely to prevent him from appealing against your Petitioner's order;* if this was true, why did he not mention this chief matter in his first Petition No. 191, marked H. presented on the 15th June 1868 to the then Civil Judge, Mr. Thomas, when he complained in that Petition that your Petitioner delayed to furnish him with copies of his orders, and requested an extension of the appeal time. Besides, any party entitled to appeal, may lodge his appeal petition within 30 days from the date of furnishing him with copy of the order or judgment. If your Petitioner had the intention of preventing him from appealing, he should have confined him for the *whole period of* 30 *days*, and not for *only* 15 *days*, as is alleged. The Small Cause Courts at Cuddalore and Madura and other Courts have placed parties that gave false depositions, in the custody of Nazirs and Peons, and then examined and committed them for trial before the Session Court; while so, and while Soobramaneyen Chetty, the complainant was not in confinement *even a single day*, would this be an error on your Petitioner's part? Had the High Court directed the prosecution prayed for in para. 20 of review petition, your Petitioner would have proved that this charge also was altogether false. Vide Document No 5

15. These reasons, and those detailed in your Petitioner's defence and his review petition as well as the documents numbering 5 to 6 annexed to the defence, will clearly convince your Lordship that this charge also was maliciously made by Soobramaneyan Chetty, who is a resident of the said Sevagunga Zemindary, simultaneously with Iyasawmien; and that the two Peons who were punished by your Petitioner for neglect of duty, and the Vakil Condalien, who was directed on several occasions to resign his situation for being hard of hearing, have uttered glaring falsehoods through malice.

16. With regard to the two letters marked X and Y alluded to in the 13th para. of Mr. Sharpe's letter, alleged to have been written by the Head Assistant Collector and the Principal Sudder Amin, your Petitioner begs to urge that as he has not yet been furnished with copies of these letters, he is not able to know the real contents thereof, but simply gathers that these officers have stated in these letters that your Petitioner's conduct was not good.

17. If the above officers had known that your Petitioner was guilty of any misconduct, the Head Assistant Collector, after making the requisite enquiry, should make his report to the Civil Judge, under Section VI, Regulation II of 1827, and the Principal Sudder Amin should, under Section XII, Regulation VII of 1827, report every instance in which anything comes to his knowledge affecting your Petitioner's character as a public servant—No such reports were ever sent by them. The report of the Head Assistant Collector and the Principal Sudder Amin are open to serious objections. They can at best be founded upon hearsay. It is not evident what plausible stories your Petitioner's enemies may have told them. If they had given the names of their communicants, and these latter were examined in person by Mr. Sharpe or by the above officers themselves, and an inference were then drawn, the conclusion would be more reliable. Such has not taken place. On the other hand, the Mahazarnamahs sent to the High Court by the people of Sevagunga and its neighbourhood vouch for the good conduct of your Petitioner, and the impartial justice which he administered during his whole term of office.

18. Although Mr. Sharpe suspended your Petitioner on the 12th August 1868 expecting many complaints against your Petitioner, he found that not a single complaint was preferred for even one month after the enquiry, *i. e.*, from the 17th August up to 18th September 1868, and that there existed no valid ground to warrant a recommendation for your Petitioner' s removal from the office he held. On the 19th September 1868, therefore, he called upon the said officers (with whom Mr. Moodookistna, the retained pleader of Mr. Fischer and Advocate of Soobramaneyen Chetty who charged your Petitioner with wrongful confinement used to be very familiar) to make their report concerning Petitioner's character. This proceeding being opposed to law as alluded to above, the said officer's reports could not, against the Mahazarnamahs be admitted, not being supported by any record whatever.

19. Your Petitioner begs to make a few observations on the remarks made by the High Court that the errors imputed to him disqualify him for the exercise, any longer, of judicial powers.

20. From the reasons above shown, it will be clear to your Lordship that your Petitioner is not guilty of the errors imputed to him. Moreover, your Petitioner begs to suggest, that mere errors cannot disqualify an officer from exercising judicial powers ; for, an Assistant Magistrate of South Arcot ordered in Case No. 7 of 1869, two parties to find each two securities to the amount of 500 Rupees each, for their good behaviour for 6 months ; and on their having failed to do so, he sentenced them *to rigorous* imprisonment for 6 months—a proceeding highly opposed to law : and on a reference made by the Magistrate to the High Court, the High Court found the sentence to be illegal, quashed the same, and ordered the release of the parties on the 26th April 1869.

21. Upon an appeal against the decision of your Petitioner in Original Suit No. 152 of 1865 on the file of the Sevagunga Munsiff's Court, the then Civil Judge Mr. Thomas prepared a judgment, but finding from the arguments of the parties that the judgment was incorrect, he postponed the further hearing of the case, and Mr. Sharpe his successor, who subsequently heard the case, though he might have prepared a judgment in his own handwriting, in accordance with the ruling of the late Sudr Court, dated 7th August 1849 still without doing so, simply made a note under the judgment prepared by his predecessor, that he concurred in the above finding, and pronounced it in Court. Many Officers besides have erred in the performance of their official duties, but such were not declared unfit to hold judicial powers. Many Munsiffs, Tahsildars and Sub-Magistrates noted in the margin*

* Ponnoosawmy Pillay, 2nd Class Munsiff of Darampoory, while 3rd Class Munsiff of Tripatoor of Salem Zillah, was suspended only for a few months for having misappropriated parties money in 1857.

Soobbiah, the late District Munsiff and Coopoosawmy Naidoo, Tahsildar of Namakul of the Salem Zillah, were convicted by the Session Judge upon certain serious charges, but were acquitted by the High Court in 1867, and reinstated.

Mr. Dique, the late Tahsildar and Sub-Magistrate of Cuddalore was committed to trial before the Session Court, but was released, and the Board of Revenue re-instated him with full pay in 1868.

Govinda Row, the late 1st Class Tahsildar and Sub-Magistrate of Chedumbarum of Cuddalore Zillah, was dismissed upon certain serious charges and was declared by this Government to be totally unfit to hold even a Taluq Sheristadar's post. But the same Government having subsequently passed order that he is fit to hold Tahsildarship, he was accordingly appointed by the Collector as 1st Class Tasildar. This officer was again recommended by the Acting Collector for dismissal on another charge, but the Board only directed his degradation to the 5th Class in 1868.

Somasoondra Moodelliar, Tahsildar of Madura was sentenced to imprisonment on certain charges by the Magistrate of that District, but on appeal he was released and re-instated in 1868.

and many other officers who have been sentenced to imprisonments and fines, and suspension, upon serious charges, have been released and re-instated in their former posts.

22. Your Petitioner begs to submit herewith copy of the deposition of Vakil Teroomalasawmien, and his Memorandum Nos. 15 and 16, and this latter document is marked C by Mr. Sharpe. The Vakil was examined *only on the 15th, but not on the 17th*, the day on which he gave the Memorandum, whereas, the Memorandum No. 16 given by him on the 17th is spoken of in the deposition No. 15, written down by Mr. Sharpe as having been taken on the 15th ; how is it possible that the Memorandum given on the subsequent date (*17th*) should be mentioned in a deposition of the previous date (*15th*). This alone will clearly show to your Lordship *what regularity attended the enquiry conducted by Mr. Sharpe.* Besides the deposition of Teroomalasawmien as written down by Mr. Sharpe, states that the deponent heard several people say that your Petitioner was dishonest, but this is opposed to what actually fell from the witness' lips, as will appear from the copy of the notes the Vakil took of his own deposition.—Vide document No. 9.

Vide Document No 17.

23. While there are such errors and irregularities on the part of Mr. Sharpe in the inquiry he conducted against your Petitioner, the High Court after admitting that the errors are not such as to render your Petitioner liable to dismissal have, relying upon the report made on such an inquiry, stated that the errors, which were groundlessly imputed to your Petitioner, disqualify him for the exercise of judicial powers. Your Petitioner begs to urge this as a serious point for your Lordship's special consideration. The High Court did not declare that your Petitioner is altogether unfit to hold any Government employment, but merely state that he is unfit to exercise only judicial powers. Even if the said Court considered your Petitioner to have fallen into error, it will appear to your Lordship on a patient consideration of all the circumstances that a reprimand, or suspension, or even degradation to a Sheristadarship in the Civil Court, or Head Clerkship in the Small Cause Court for a period of one or two months will be a more severe punishment than was deserved.

24. It is true that your Petitioner requested the High Court in para. 30 of his review Petition that he might be allowed to hold his appointment of Munsif at least for 2 months and then resign his service on pension, in order that he might complete 25 years' service and be eligible for half pension on his *average pay for the last 5 years*, instead of only a third, in case the Court should not be disposed to allow him to serve for 2 years and 9 months more, in order that he may be entitled to a pension of *half his pay as District Munsif*, Petitioner having been appointed to that grade only on the 28th March 1866.

25. As Government have in their order, dated 13th March 1861 ruled that "The suspension of an Uncovenanted Servant from office does not constitute a break rendering service non-continuous, employment under these circumstances is therefore regarded as continuous ; the time passed under suspension, pending inquiry, is taken into account as service towards pension, in case of re-instatement ; where suspension has been adjudged as a penalty, the period is disallowed ;" your Petitioner considering that if he entered again upon his office at least for 2 months, it would actually be a re-instatement, and would have the effect of cancelling the suspension made *pending inquiry*, and that then the whole of the period from the date of suspension to his restoration would be added to service, and that the 25 years' service required to entitle him for half pension on the average salary of 5 years would not be decreased, even if the period of sick and private leave (allowed to be reckoned as service qualifying for pension under the old Rules of 1855 noted marginally*) were deducted from the service accumulated in grades eligible for pension, in accordance with the rule subsequently made by the Government of India on the 5th July 1865, that "sick leave, leave on private affairs and furlough during the whole period of an applicant's service do not count for pension—" he was induced to beg that he might be allowed *to serve only for 2 months.* But the High Court without allowing your Petitioner to serve even for 2 months as requested, modified the order of suspension dated 12th August 1868, and ordered that the period between that date and 24th November 1868 (on which date an officiating incumbent was appointed) should count towards the service of your Petitioner,

* In the service qualifying for pension, periods of absence on sick leave to the extent of 2 years only are allowed to be reckoned. Clause I, Section V of the Absentee Rules.

All periods of absence on privilege and special leaves reckon as service qualifying for pension, Clause III, Section VIII of the same Rules.

26. This order being insufficient to secure the completion of your Petitioner's service at least for 25 years as shown in the margin,† your Petitioner again applied to the High Court by a petition, dated 7th July 1869. (copy of which is herewith submitted) requesting to allow him to serve for the least period, required to take him out of the suspension, in order to complete 25 years' service, or to allow again 7 months to be added to his service. But the High Court, unfortunately for your Petitioner, stated in their order, dated 20th July 1869, that they were unable to entertain your Petitioner's request.

	Yrs.	Mon.	days.
† Period of service from 16th Sept. 1843 to 12th Aug. 1868, the date of suspension...	24	10	27
Period of service already allowed by the High Court to be added ...	„	3	12
Total...	25	2	9
Deduct period of leave... ...	„	9	„
Net service... ...	24	5	9

27. While the High Court once modified the order of suspension, considering that the suspension was groundless, and that your Petitioner should get a reasonable pension, and allowed 3 months in the period of suspension to be added to your Petitioner's service, nothing could debar them from ordering a period of 7 months more to be added to your Petitioners' service, or to allow him to serve for a period however small to make him entitled to half pension at least on the average salary of 5 years, as provided for in the order of Government, dated 13th March 1861, referred to in para. 25 of this petition.

28. Your Lordship will, on patient consideration of all the circumstances alluded to above, as well as those detailed in his defence and review petition, &c., clearly find that the High Court who have admitted that the errors imputed to your Petitioner were not such as to render him liable to dismissal, should not consistently with that view, refuse to allow your Petitioner to serve even for the least period unavoidably requested to qualify your Petitioner for the half pension they themselves contemplated he would obtain on application.

29. Under these circumstances, your Petitioner was preparing to lay before your Lordship his deplorable case by a petition, but he received intimation that his 2nd son-in-law (husband of his 2nd daughter, married only in 1867) who was at Ramnad, was dangerously ill with apoplexy, and it put him (Petitioner) to great sorrow, having already lost his 1st son-in-law in February 1869. Your Petitioner proceeded to the above place, and had the misfortune of losing the above son-in-law also in the beginning of December last—a loss *very sorely* felt by your Petitioner's family.

30. Your Petitioner earnestly begs to draw the attention of your Lordship to the fact of his having borne a high character for integrity during the whole previous career of 24 years' service, as his several Testimonials, a letter from the late Honorable E. Maltby (enclosed)* and lastly Mr. Cotton's certificate of the 27th March 1867 will fully show. Is it likely that your petitioner will have stooped to lose a reputation won by such a long and steady course of self-denial?

* Vide Document No. 18.

31. Under all these circumstances, your Petitioner humbly prays that your Lordship, that is well aware of Mr. Sharpe's temper and irregularities, will consider the loss sustained by your Petitioner, in consequence of his suspension, &c., and with the benevolent view of protecting and relieving him and his family from the distress to which they have fallen, be pleased to direct your Petitioner's re-instatement to his office of District Munsiff, until such period as your Lordship may deem proper to entitle him to half pension, instead of a third; for which act of justice and supreme benevolence,

MADRAS,
31st *March* 1870.

Your Petitioner as in duty bound,
Shall ever pray,

(Signed) S. M. NARASIMOOLOO.

No 767 of 1870.
The Power of passing Orders regarding the removal of Petitt Munsiffs is vested by law in the High Court. The Govt have no Power and decline to interfere.
(By Order)
Fort St George
3d May 1870.
[Sig] Wellesley
Ag Under Secy to Govt

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Correct Translation of the Order of Suspension marked A by Mr. Sharpe the Civil Judge.

Proceedings of the Civil Court of Madura dated 12th August 1868.

As the Court have this day suspended Narasimulu Naidoo the District Munsif of Shevagunga &c., he should deliver over charge of every thing to Naranier the Head Gumastah of the Court immediately on sight of this ~~day~~ Order, and report the same, and if he has to make known any thing, he may appear in Court here, and being present, conduct the case which is going to be enquired into without delay.

(True Extract)

12 August 1868. (Signed) G. R. Sharpe.
Civil Judge.

Enclosure No 3. Duplicate

To a Summons from the Hon. Narasimulu Naidoo District Munsif of Shevagunga &c. Madura

Dated 29th August 1868 the Sheristadar of the Court of Madura

Petition presented to the Madras Government on the 31st August 1870 with the Order thereon dated 3rd May 1870.

№ 14

(Copy)

Dear Sir,

I duly got your note of the 1st inst. I put in the Vadast for copies of your papers on the 27th August, the date the Vadast. It is receipted on that date by Kebridge - I was refused copy on the 29th in public Court on the 29 and an Endorsement passed to the effect that you should appear in person for copies as I understand it. I was surprised to find that on the 23d September the date of Mr Sharpes departure, an Order on the same Vadast was passed to give copies applied for - after such a length of time, I cannot remember the words of the refusal but I can never forget the manner in which my appearance for you was received.

Yours truly

(Signed) T. M. Scott

× × × × ×

№ 15

Deposition of Tirumalaisawmy Iyen.

This (C) is my Statement about the Moonsiff. I hear several people say that Moonsiff is dishonest.

Taken on solemn affirmation before me in open Court.

15 August 1868. /Signed/ G. R. Sharpe
Civil Judge

(True Copy)

Correction Nine.
Interlineation Nine. /Signed/ Vencatarungiah
Sheristadar

Exd K. Krishnaiengar
Deputy Writer

/Signed/ J. Johnson.
Head Writer

No 16.

(Translation)

To The Civil Court of Madura.

The humble Memorandum of Jeroomala-
-sawmien, Vakil in the Munsifs Court of Sevagunga.

On the 15 Instant, when I appeared in
Court, I was ordered to state in writing all that I
had to say against the said District Munsif.

On the 15th I replied to certain questions
respecting the said Moonsif, besides this he does
not close the investigation of suits soon, and he does
not hear suits on the day fixed for hearing, or on
the next convenient day- He goes on postponing
the hearing from time to time.

Thereby, the parties suffer trouble of
mind in producing witnesses, and also with
reference to battab- Besides this, I know nothing
more directly. I have informed this to the Court.

17 August 1868. /Signed/ Jeroomalasawmien
—"— G. R. Sharpe.

(True Copy)
Not filed
/Signed/ Venkatarungiah
Sheristadar

Note- The Original Tamil Statement is marked C by
Mr Sharpe.

No. 17.

Madura 24th September 1868.

My Dear Mr O'Sullivan,

I give a line to S. Mr. Narasimooloo Naidoo, District Moonsif of Sevagunga, who has been getting into trouble here, during the judgeship of Mr Sharpe, of whom the District is now happily rid.

The Naidoo is a stranger to the District, and by no means a match for Madura intriguers, and to this, I in a great measure, attribute his downfal. The investigation into his case is one of the most scandalous act of injustice that ever was intruded in this unfortunate country. I dared to appear in his case for a very minor purpose, but my mere appearance I am glad to say, put a sudden stop to a further open proceedings, I shall be glad to see the Munsif reinstated in Office, though his retirement from service immediately after is advisable. I am sure you will do all that can be done for him, and he comes to you upon my advice, he will settle terms with you in person, and in settling, you had better include giving me

advice

advice, as I should like to have it in this case, which is one which must be remanded to the Civil Court here, and finally disposed of by the Hugly Court- you will scarce credit, all the Munsif will tell you of the doing in regard to his case, but the record itself will disclose a sad state of affairs.

× × × × ×

Believe me,

Yours Sincerely,

/Signed/ J. M. Scott.

(Copy)

(No. 18.

Madras 14th October 1858.

M. Narasimooloo,

I have received your letter, and shall be glad to hear that you obtain the promotion to a Munsifship which you wish for. But as your qualifications and claims are well known to Mr. Ellis and the Judges of the Sudr Adawlut, who arrange Judicial appointments, I could not with propriety, interfere, and should not be likely to do you good by so doing. By showing ability and integrity in your present Office, and declaring yourself ready to pass the Examination for a Munsif Weplima, I doubt not your eventual success.

Your well wisher

/Signed/ E. Maltby.

To

H. E. STOKES, ESQUIRE,

UNDER SECRETARY TO GOVERNMENT,

PENSION DEPARTMENT,

Fort St. George.

RESPECTED SIR,

I, S. M. Narasimooloo Naidoo, late District Munsif of Sevaganga in Madura District, respectfully beg to submit the accompanying Petition for your kind perusal, requesting at the same time that you will be pleased to lay the same (with the papers regarding my Pension) before His Excellency the Governor in Council for His favourable sanction of my prayer.

I beg to remain,

Respected Sir,

Your most obedient servant,

(Signed) S. M. NARASIMOOLOO.

MADRAS, 27*th September* 1870.

To

HIS EXCELLENCY THE RIGHT HONORABLE THE GOVERNOR IN COUNCIL,

Fort Saint George.

The humble Petition of S. M. NARASIMULU NAIDOO, *late District Munsif of Sevagunga, in Madura District.*

HUMBLY SHEWETH,

THAT though the Honorable High Court in their Proceedings, dated 29th January 1869, directed the Petitioner's retirement, he requested them by a Petition to allow him to serve for a few months more to entitle him to half pension, but instead of granting the request, they modified the order of suspension made by the late Civil Judge, Mr. SHARPE, and declared in their Proceedings of the 14th May 1869, that they considered the Petitioner to have held the office of District Munsif from 12th August, the date of suspension to 24th November 1868, on which date a person in his room was appointed and directed that the period between the two dates be added to Petitioner's service, in view to entitling him to half pension.

2. Petitioner again moved the High Court to re-instate him for a short time more, but on their refusing the request, he presented an appeal to the Government who, to his misfortune, passed an endorsment, dated 3rd May 1870, stating that they had no power to interfere. If the Government had not taken such a view, the Petitioner would surely have been re-instated for reasons shown in his appeal petition.

3. Upon this, Petitioner submitted his application to the present Civil Judge of Madura for Pension from 24th November 1868, as per Proceedings of the High Court, dated 14th May 1869.

Para 598, page 104 of the Uncovenanted Servants' Vade Mecum.

Native Judges appointed before 29th October 1866, are allowed Pensions under the old rules of 1831, but those appointed after that date, receive their pensions under the new rules; in other words, one-third or half pensions are granted to the former after 15 or 22 years' service, including all leave of absence which under the rules of 1855 counted towards pension, and to the latter after 15 or 25 years' service exclusive of all leave of absence.

Secretary of State, 31st July 1866, No. 174, Government of India, 29th October 1866, No. 3,031, Financial Gazette, page 776.

4. The Civil Judge in forwarding the application to the Examiner of Claims erroneously recommended that a pension of one-third on the average salary of the last 5 years might be granted to Petitioner, but upon being informed that the Petitioner was entitled to a *moiety* according to the rule noted in the margin, the Civil Judge recommended in a 2nd letter to the Examiner of Claims that the Petitioner should be allowed half pension.

5. Petitioner then appeared before the Examiner of Claims and was told that his application was returned to the Civil Judge as no Medical Certificate accompanied it. The Civil Judge replied that such Certificate was not necessary as the Petitioner sought to retire at the desire of the Honorable High Court. The Petitioner once more appeared before the Examiner of Claims and requested to be favored with his opinion with reference to the rate of pension and the Medical Certificate, but was simply referred to Government to whom the application for pension was submitted.

6. Under these circumstances, the Petitioner is afraid that the material points in his case may be overlooked when the Government passes final Orders on his pension application, and humbly ventures, therefore, to submit the following circumstances to Government, in what he believes to be the fittest time for it.

7. Petitioner begs to state that it was only in obedience to the Order of the High Court that he has applied for pension. The case stands analogous to that of a person aged above 55 years under the recent orders of Government.

8. The High Court in their Proceedings of the 14th May 1869, have virtually ordered Petitioner's re-instatement by allowing him to draw full pay (from 12th August to 24th November 1868,) during his suspension, the above period counting towards pension, and the Government also were pleased to sanction the said arrangement in June 1869. And it now remains for your noble Government to consider him as having been employed from the date up to which he was allowed to draw his full pay or to grant him pension from the day following the said date.

9. As the Government do not call for Medical Certificate in applying the 55 years' rule, Petitioner sees no reason why the Examiner of Claims should exact the same from him when the High Court of their own pleasure have directed his retirement.

10. No Medical Certificate need be submitted in a case of this description, but the Examiner of Claims has simply objected, pursuing the strict letter of the rule, without taking the special circumstance of the case into consideration, thinking probably that this was the proper province of Government.

11. Under these circumstances, the Petitioner humbly begs the Government will be pleased to dispense with a Medical Certificate in this exceptional case.

12. The Petitioner begs to add that the Government of India so far back as the 17th January 1865, in their Financial letter, No. 265, declared that the term "Native Judge" includes District Munsifs (vide N. B. page 105, Uncovenanted Servants' Vade Mecum). There cannot therefore be the slightest doubt that a District Munsif comes under the term "Native Judge."

13. It is stated in the Notification of Government of India, dated 29th October 1866, (referred to in para 598 of the Vade Mecum) that Native Judges appointed *before that date are allowed half pension, after* 22 *years' service including all leave of absence which under the Rule of* 1855, *counted towards pension,* and it has been likewise ruled (in para 599) that the option of the old Pension Rule which is secured by the notification of the 29th October 1866 to *Native Judges who were in the service on that date* is not affected by their transfer to Small Cause Courts as Judges though it has been expressly ruled that Judges of Small Cause Court are not to be considered Native Judges; and as such not entitled to the benefit of the above Notification. These two facts are quite enough to show that all parties appointed as Principal Sadr Amins or District Munsifs before the date of the Notification are to be considered as Native Judges and as such entitled to enjoy the benefit of the same.

14. To put it in clear words, the Petitioner begs to submit that the old Pension Rules under which the pension is at present claimed, say, that after 22 years' service a Native Judge can get half Pension and after 15 years one-third. The Petitioner humbly presumes that it is not thereby meant that a person should be a Native Judge during the whole period of the above 22 or 15 years, to entitle him to half and one-third pensions respectively, because that would be simply impossible. For a person cannot be expected to become a Native Judge at the very outset. He must have at least served some 10 years in the subordinate grades to fit him for the responsible duties of a Native Judge; and then in the event of his having to pass a further period of 22 or 15 years as the case may be, his period of service would become respectively 32

and 25 years, for which under the ordinary rules he is clearly entitled to good service pension for the former period and a pension on Medical Certificate for the latter. What could then be the good of the special provision made in the above Notification "for Native Judges" (which includes District Munsifs) unless their service in the subordinate grades be taken into consideration and added together. And this provision, it is humbly submitted, applies to persons who have become Native Judges howsoever a short time it may be before the date of the Notification (that is 29th October 1866).

15. Petitioner was entertained in the Public service on the 15th December 1841; his service from that date to 24th November 1868 (alluded to in the Honorable High Court's Proceedings of the 14th May 1869) extends to 26 years, 11 months and 9 days, of which his service in pensionable grades is 25 years, 2 months and 8 days. Even deducting the periods of leave out of the above 25 years, it will appear that Petitioner has served more than 2 years beyond the 22 years required under the Notification; and that therefore your humble Petitioner who officiated as District Munsif on four occasions for a period of nearly two years and was permanently appointed to the present Munsifship in March 1866, is entitled to the benefit of the above notification, that is, to a moiety of his average salary for the last five years. Besides, if the leave of which he had availed before the date of the notification in question, be not excluded according to the spirit of the said notification, the Petitioner will have 25 years, 2 months and 8 days, and the Petitioner humbly submits that he is justly entitled to this indulgence as he was appointed permanent District Munsif before the date of the said Notification.

Under all these circumstances, the Petitioner who has faithfully served during his long career of service in the Judicial line alone, to the entire satisfaction of his superiors (as will appear from the copies of the Testimonials, chiefly of Messrs. CARR and COTTON herewith submitted) and who has now been obliged to retire solely under the orders of the Honorable High Court, most humbly craves that the noble Government will be pleased to take his case into their serious and equitable consideration, and be pleased to grant him pension equal to a moiety of his average salary of 5 years, as requested in his application, and as recommended by the Civil Judge in his second letter to the Examiner of Claims, and your Petitioner as in duty bound, shall ever pray.

(Signed) S. M. NARASIMOOLOO.

MADRAS,
27th September 1870.

To

The Acting Chief Secretary,
to Government,
Fort Saint George.

Respected Sir,

I, S. M. Narasimmaloo Naidoo, late District Munsif of Sevagunga, in Madura District, respectfully beg to forward herewith my Memorial in Triplicate, and request that you will be good enough to transmit the Original, for favorable consideration, to the Right Honorable the Secretary of State for India, in Council.

I have the honor to be,
Respected Sir,
Your most Obedient Servant.

S. M. Narasimmaloo

Madras
29th April 1872

To
The Secretary to Government
Fort St. George

Sir,

I have the honor to forward herewith a Memorial addressed to the Right Honble the Secretary of State for India in Council for favorable consideration.

Dated 29th April 1872.

Enclosure
Memorial in triplicate
Dated 29th April 1872

To

THE RIGHT HONORABLE THE SECRETARY OF STATE FOR INDIA, IN COUNCIL.

The humble Memorial of S. M. NARASIMULU NAIDOO, *late District Munsif of Sevagunga, in the District of Madura, in the Presidency of Madras.*

MOST RESPECTFULLY SHEWETH,

That the Memorialist who has served the Government for the space of 26 years has failed to obtain justice from the High Court and the Government of Madras in regard to the proceedings held against him by Mr. Sharpe, the late Civil Judge of Madura, and respectfully begs therefore to submit his deplorable case for your Lordship's favorable consideration and adequate redress.

2. That your Memorialist was Sheristadar of the Small Cause Court at Cuddalore, a place 200 miles distant from Madura, before he was appointed as District Munsif (Native Judge) in the Madura District. Mr. R R. Cotton, the Civil Judge of Madura (now retired), who had won a high reputation there for his talents as a Judge, removed the Memorialist's predecessor from his office as District Munsif of Sevagunga on account of his imbecility and incompetency to discharge the onerous duties of his office, in the midst of a people occupying the extensive regions of the Sevagunga Zemindary and notorious for all kinds of intrigues and wiles, false suits, perjury, forgery and every species of wickedness,* and recommended the Memorialist to the High Court in February 1866 for appointment in his stead in preference to several candidates from the same and other Districts. The High Court having sanctioned his appointment, he entered upon his duties on the 28th March 1866 and discharged his duties with such energy, ability and purity of character that he won from the above Judge the Testimonial† dated 27th March 1867.

* *Vide* Document No. X. Mr. Cotton's letter to Memorialist.

† *Vide* Document XI.

3. Your Lordship knows that a person who acts from a strict sense of justice, who will not yield to power or be swayed by presents, is sure to incur the displeasure of the powerful few, while he secures popularity among the powerless many. And such indeed has been the case with your Memorialist. Mr. Robert Fischer, the well known Renter of the Zemindary of Sevagunga, hated the Memorialist for not complying with his wishes in suits laid before the Memorialist by him (the said Renter) against his oppressed tenants and resolutely therefore sought his ruin.* But during Mr. Thomas' (the successor of Mr. Cotton) tenure of office, he could not find a fitting occasion for wreaking his vengeance against the Memorialist. Unfortunately however for your Memorialist, Mr. Sharpe's transfer as Judge to Madura from Calicut in the end of June 1868 and his well known short temper afforded to him the long wished for opportunity. Complaints were caused to be preferred and first impressions created in the mind of Mr. Sharpe prejudicial to the Memorialist's character. The Memorialist was suspended; hasty and irregular proceedings were held against him, and the irascible Judge without furnishing him with copies of his proceedings and taking the Memorialist's Defence as per Order of Government dated 5th May 1854, at once recommended the dismissal of the Memorialist to the High Court (copy of his letter dated 23rd September 1868, enclosed) upon the strength of hearsay inadmissible in law, and statements the incredibility of which cannot fail to strike a patient Judge possessing more than a month's experience of the District; and Mr. Sharpe left Madura for England on the same date, after having ordered copies of his proceedings to be given to Memorialist. The Memorialist came to Madras and submitted his Defence to the High Court. But the High Court, without making any enquiry regarding the facts stated in his Defence, passed orders on the 29th January 1869 declining to restore him to his appointment but simply directing his retirement on pension.

* For particulars *Vide* Memo. enclosed.

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4. Although the Memorialist gave a Review Petition to the High Court setting forth valid objections to the unjust proceedings of Mr. Sharpe, still the High Court *without instituting any enquiry or vouchsafing to grant him a hearing as prayed for therein*, passed the following order dated 14th May 1869.

I. "In their Proceedings of 29th January 1869, the High Court directed that S. M. "Narasimulu Naidoo should be called upon to retire on such pension as the Go- "vernment may think proper to allow. They considered that the errors attri- "buted to him disqualified him from exercising any longer judicial powers, but "in consideration of his long services were not such as to render him liable to "dismissal. The late District Munsif now prays to be allowed to serve for "two years and nine months more that he may be entitled to a pension equi- "valent to half his pay as District Munsif or at least that he may be allowed "to complete 25 years' service to entitle him to a "pension equivalent to *one-third** of his pay for the "last 5 years."

* An evident mistake for *one-half Vide* para 30 of the Review Petition.

II. "The High Court are prepared to view his last request favorably, and they accord- "ingly direct that the order of the late Civil Judge suspending Narasimulu "Naidoo on 12th August 1868 be modified and that he be considered to have "held office as District Munsif of Sevagunga until the date on which his suc- "cessor was appointed, viz., 24th November 1868. The object of this order is "to entitle Narasimulu Naidoo to draw pay during and count as service the "period between 12th August and 24th November 1868."

5. The Memorialist then presented a Petition to Government on the 31st March 1870 submitting the necessary papers and important documents to show that Mr. Sharpe's Proceedings against the Memorialist were irregular in the extreme and altogether unsupportable, and praying for restoration to his office and retention therein at least for such period as the Government may think proper to entitle him to a half pension instead of a *third*. But the Government, without entering upon the merits of the Petition, declined, in their endorsement dated 3rd May 1870, to interfere alleging that, "the power of passing orders regarding the removal of District Munsifs is vested by law in the High Court" and that consequently they had no "power to interfere."

6. The Memorialist was anxious to submit an appeal to your Lordship, but as the High Court in their order dated 14th May 1869 cancelled the suspension with a view to his getting a half pension of 76½ Rupees, and the Government accordingly sanctioned the above arrangement in their Proceedings dated June 1869, the Memorialist thought it better to content himself with his pension than give trouble to your Excellency in Council. With this view, the Memorialist applied to Mr. Goldingham the present Civil Judge of Madura for the above rate of Pension, and that gentleman supported the application, following the Notification noted in the margin.*

* Order of the Secretary of State 31st July 1866, No. 174. Government of India 29th October 1866, No. 1,034 Financial Gazette page 776. *Vide* Para. 598, page 104 of the Uncovenanted Servants' Vade Mecum.

7. The Examiner of Claims however required the submission of a Medical Certificate. But the Civil Judge informed him in reply that a Certificate was unnecessary as the Memorialist sought to retire only in obedience to the order of the High Court; the Examiner of Claims thereupon forwarded the application to Government with his opinion that the Memorialist was entitled to only Rupees 51 being one-third of his average pay, on production of a Medical Certificate. The Memorialist then submitted a Petition to Government on the 27th September 1870, *stating various reasons to show that he is clearly entitled to a half pension according to the rule above quoted*, and awaited the Orders of Government thereupon. But the Government without making a reference as to the question raised about the Medical Certificate, to the Supreme Government under Financial Order dated 7th December 1861, No. 14,819, (as this was a special case involving a deviation from the established rule) directed that the Memorialist should present himself before the Medical Officer. He accordingly appeared before the Medical Officer and produced the Certificate furnished by him to the Civil Judge, who transmitted the same to Government.

8. The Memorialist heard nothing more of it till the beginning of August 1871, when he learnt, to his great surprise, that the Supreme Government sanctioned a small pension of

Rupees 25 to the Memorialist in pursuance of the recommendation of the Madras Government the Memorialist applied on the 12th Idem to the Madras Government for a copy of their recommendation to the Government of India and also a copy of their Proceedings dated June 1869 above adverted to; but the Government, by an endorsement dated 30th Idem, refused to grant the copies solicited.

9. In this deplorable state, the High Court not having restored him to his appointment and the Government having withheld from him the ordinary boon of a half pension which their own rules and the scope of their Proceedings dated June 1869 allow, the Memorialist can resort to no other quarter for ultimate relief than to your Excellency, and in so doing, the Memorialist humbly begs to place before your Excellency in Council, copies of all papers in his possession which are required for a proper elucidation of his case, and briefly to submit the following facts for your Excellency's serious and just consideration.

10. It is ruled* by the Madras Government that persons appointed to permanent situations cannot be dismissed but for the following reasons:—

* *Vide* Orders of Madras Government dated 5th May 1854, No. 421, 12th March 1860, No. 1,631.

1. Fraud and dishonesty.
2. Continued and wilful negligence.
3. Offences involving moral disgrace.
4. Proved incompetency.

11. No accusation was brought forward against the Memorialist of the offences under heads 2, 3, nor is there any thing on record to justify the imputation of such charges or the one under No. 4. On the contrary, the document No. XI, containing his Testimonials from various Officers in the Judicial Department certifying to the Memorialist's ability, carefulness and honesty, are sufficient to induce every presumption in his favor.

12. Although one Iyasawmien had accused the Memorialist of the offence under head No. 1 by Petition No. 270 marked C, yet as he did not appear to swear to his complaint and offer security for the due prosecution of such complaint as provided for in Regulation XII of 1802, the fairest course open to the *Judge* was to dismiss the complaint at once. The Proceedings of the Judge held respecting the same are consequently opposed to law and ought to have been quashed. Besides, there is evidence on record sufficient to bring home a strong suspicion, if not a moral conviction, that the complaint was altogether false. The complaint, dated 9th July 1868, stated that the Memorialist received presents for his son's marriage which took place in August 1867, that is, 10 months before; and why should not the complainant have complained to Mr. Thomas, the then Judge? Why wait till Mr. Sharpe newly took charge of the District? The documents Nos. II, III and IV, disclose the mysterious cause of the said complaint, viz., the promise held out to the complainant by Mr. Fischer and his Agents and the withdrawal of the complainant from the scene of action owing to the non-fulfilment of that promise. Further, the Memorialist would beg to draw your Lordship's attention to the fact that the high character for integrity which he had maintained for a period of 26 years, as testified to by Judges of very long standing in the Presidency, ought to have been taken into consideration when judging of the probable truth of a complaint, regarding which there was no evidence whatever of a reliable character. It is clear also that the High Court did not attach any credence to this part of the accusation; and the circumstances detailed in paras 7, 21, 22, and 23 of the Memorialist's Defence and para 24 of the Review Petition submitted to the High Court, and paras 12 and 13 of his Petition to the Madras Government, will convince your Excellency of the utter futility of the charge.

13. As to the accusation made by Soobramaneya Chetty in Petition No. 277 marked E, that the Memorialist confined him illegally to prevent his appealing from a decree passed against him by the Memorialist, paras 8 to 11 of the Defence, paras 7 to 21 and 24 of the Review Motion, and paras 14 and 15 of the Petition presented to Government, and the documents Nos. V, VI, VII, XII and XIII show that no appeal lay against the decree in question, as admitted by Mr. Sharpe himself, and that the accuser was never in custody as a matter of fact. Besides, Mr. Sharpe had no jurisdiction to try a charge of the above nature which was properly one cognizable by a Magistrate. The Memorialist also begs to state that no criminal prosecution was

ever attempted against him though Mr. Sharpe had given his sanction for it. It is evident, therefore, that there is no reason for entertaining the least shadow of a suspicion against the Memorialist in respect of the above charge.

14. Lastly, Mr. Sharpe himself framed six charges in his report against the Memorialist namely :—

1. That the Memorialist disobeyed his orders.
2. That he made protracted adjournments of a suit.
3. That he admitted 26 Reviews among the suits disposed of by him during the first quarter of 1868.
4. That he did not send the Diary Books to the Civil Court.
5. That he did not give attention to the request of the Munsifs in adjoining zillahs.
6. That he was held in bad estimation.

15. From a thorough perusal and due consideration of the reasons detailed in the Defence, Review, and the Petition presented to Government regarding these charges, and on minute attention to the contents of paras 10 and 11 of the last Petition and to the difference in the dates of the Documents No. XV and XVI, and to the facts stated in paras 22 and 23 of the above Petition, it will be manifest that Mr. Sharpe groundlessly imputed to the Memorialist these charges and that the proceedings he held and the enquiry he made are any thing but formal and are directly opposed to the directions contained in the High Court's Circular, dated 20th November 1866 and in the rule of Government, dated the 5th May 1854.

16. The Memorialist here begs to submit that though no specific charge was established against him, Mr. Sharpe who was prejudiced against the Memorialist from the first impressions created in his mind by persons who had long been unsuccessfully contriving for his removal, saw things in a perverted light and represented them to the High Court in colors intended to arouse at least a suspicion tending to his ultimate downfal.

17. With reference to the High Court's Order, dated 14th May 1869, the Memorialist begs leave to observe that if the premature suspension ordered by Mr. Sharpe were reasonable, the High Court would not have cancelled it as above stated.

18. With regard to the Government of Madras declining to admit his appeal, the Memorialist begs to submit the following for your Excellency's consideration.

1. By Section VII, Regulation VI of 1816, the duty of the late Zillah Judges was simply to recommend to the late Provincial Courts the dismissal of District Munsifs; and the Provincial Courts alone were competent to dismiss them; an appeal naturally lay to the Sudr Court in the first instance, then to the local Government, and ultimately to the Home Government.

2. The late Zillah and Provincial Courts having been abolished by Act VII of 1843 and the present Civil Courts established in their stead, the Civil Judges obtained under that Act only the power to recommend the dismissal and the late Sudr Court who possessed the power of hearing appeals *assumed the power to dismiss. The power of hearing appeals which had theretofore vested in Government was not taken away by that enactment and remains intact;* and under this authority the Government have hitherto admitted and disposed of many appeals on the merits. *By the amalgamation of the said Sudr Court and late Supreme Court, the only change made was in the denomination, the amalgamated Courts being called the High Court. The law as it stood before remained unaffected by the change.*

3. The Sheristadars and his subordinates *even to a peon* of the Civil Court as well as the servants of the District Munsif's Courts who are dismissed on the sole authority of the Civil Judge make their appeals to the High Court; and Principal Sudr Amins and Deputy-Collectors, if dismissed by the Government, prefer their appeals to your Excellency and obtain justice. This is a

standing rule of practice. While so, it is not consistent with reason and justice that the servants below and officers above the grade of a District Munsif should possess the right to appeal for justice, and that District Munsifs who are *next in grade* to Principal Sudr Amins and are liable to be dismissed by the *High Court alone* should be precluded altogether from seeking justice at the hands of the Government against their dismissal.

19. On the 29th January 1869, on which date the High Court passed their first order, the Memorialist (who though entertained in the Government service on the 15th December 1841 had fallen short of only 2 months to complete the 25 years' service, having been promoted to a pensionable grade only on the 16th September 1843) could only get a pension of 49 Rupees, *i. e.*, one-third of Rupees 149, his average monthly pay for the preceding 5 years, though his monthly salary was Rupees 200 as District Munsif. Consequently the Memorialist in the last part of his Review Petition set forth that he would get Rupees 100, that is Rupees 51 more if he was retained in service for a further period of 2 years and 9 months which was then required to complete 5 years' service as District Munsif; or Rupees 75 (that is 26 Rupees more) if he was allowed to serve for the 2 months above alluded to. The High Court, considering it not just to refuse to allow at least the smaller period which required to be added to his service to entitle him to Rupees 75, the moiety of his average salary, ordered in their Proceedings dated 14th May 1869 that 3 months and 12 days of the suspension period should be added to his service thereby entitling the Memorialist to *a half pension of Rupees* 76½ *a month.*

20. It has since come to the Memorialist's knowledge that even if the High Court had not directed the addition above specified to his period of service, and the Government had not followed the direction, the Memorialist whose eligible service exceeds 22 years by 2 years and 5 months (excluding all leave of absence) would be clearly entitled to a *half* pension,* he having been appointed as Native Judge *before the 29th October* 1866, according to the Order of the Secretary of State noted in the margin † (note also the reasons stated in the Memorialist's Petition to Government dated 27th September 1870.)

* Paragraph 593, page 104 of the Uncovenanted Servants Vade Mecum.
Native Judges appointed before 29th October 1866, are allowed Pensions under the old Rules of 1831, but those appointed after that date receive their pensions under the new Rules; in other words, one-third or half pensions are granted to the former after 15 or 22 years' service including all leave of absence which under the Rules of 1855 counted towards pension, and to the latter after 15 or 25 years' service exclusive of all leave of absence.

† Secretary of State, 31st July 1866, No. 174, Government of India, 29th October 1866, No. 3,031, Financial Gazette, page 776.
The term "Native Judge" includes District Munsifs (Vide Financial letter No. 265 of the Government of India dated 17th January 1865.)

21. Such being the merits of the Memorialist's claim to restoration to his appointment and a half pension, it does not need his feeble voice to proclaim the injustice done to the Memorialist, and the extreme hardship imposed upon him by the Madras Government declining to interfere with reference to his restoration on the plea of want of power, and by their recommendation, *after receipt of a Medical Certificate,* to the Supreme Government to grant him a reduced pension of 25 Rupees, that is, ⅛ *of his pay* as District Munsif when he is clearly entitled according to rules, and the contemplation of the High Court *to a half pension of* 76½ *Rupees a month.*

22. The Memorialist here begs to state his surmise that the Government of Madras in making the recommendation were probably misled by the words in the first Proceedings of the High Court containing a direction that the Memorialist should retire *on such Pension as the Government may think proper to allow.* The Government seem to have thought that a discretion was allowed to them of superadding a reduction of pension to his loss of appointment. The Memorialist humbly begs to state that those words were never meant to signify more than that the Memorialist should retire on the pension the Government could allow him in accordance with their Pension Rules. This construction is amply supported by the High Court's subsequent Proceedings in which, upon the application of the Memorialist to be retained in his appointment for a few months more to enable him to a half pension, they cancelled his suspension and directed that 3 months and 12 days commencing from the date of his suspension should be counted as service towards his pension, he drawing full pay for that period, *being considered to have been re-instated in office.* Is it possible to mistake the intention of the High Court that the Memorialist should draw half pension? And is it just and reasonable on the part of the Madras Government to uphold the declared intention of the High Court in the first instance in their Proceedings dated June 1869 and set their face against it in the ultimate award of pension?

23. If the Supreme Government's attention had been drawn to the Proceedings of the Madras Government dated June 1869, sanctioning the disbursement of the Memorialist's pay during the period of his suspension and also to the contents of his Petition to the Madras Government dated 27th September 1870 regarding his pension, the Supreme Government would have found it impossible to justify the withholding of the moiety pension of Rupees 76½ as recommended by the Civil Judge himself.

24. There are numerous instances in which Public Officers inculpated with charges of a really serious character have been restored to employment, (vide para 21 of Memorialist's Petition to Government dated 31st March 1870 accompanying.)

25. The High Court themselves have recently ordered the re-instatement of the District Munsif of Sholingar in the North Arcot District, after a suspension of 2 years, though he was convicted of a criminal offence and underwent rigorous imprisonment.

26. If your Excellency be pleased to call for the enclosures to Mr. Sharpe's letter to the High Court dated 23rd September 1868 (of which the Memorialist has not been furnished with proper copies,) also the original Petitions dated 19th October and 4th and 27th November 1869, presented by the Memorialist to the High Court, their Orders thereon, if any, the Defence and Review Petition together with the original documents produced therewith, the Mazarnamah sent to the High Court by the inhabitants of Sevagunga commending the proceedings of the Memorialist during the tenure of his office as District Munsif; *and the Proceedings of the Government dated June* 1869, it will be evident, on a full and generous consideration of all the circumstances of his case as disclosed by them, that Mr. Sharpe's proceedings with reference to the Memorialist were any thing but formal and legal and altogether one-sided, that the High Court's Order refusing to restore him, while admitting that the *errors* imputed to him *were of a nature not warranting his dismissal,* was not just and proper; that the Government of Madras to whom the Memorialist appealed for redress were in error in stating that they had no power to order his restoration; that the Government, who had sanctioned the addition of 3 months and 12 days to the Memorialist's service towards pension in conformity with the High Court's Order, which directed the same for the express purpose of entitling him to a half pension of Rupees 76½, had no discretion to recommend a reduction of the pension which he was entitled to under the pension rules to 25 Rupees which is but ⅓th of his pay as District Munsif.

27. The grant of a Medical Certificate may perhaps be thought to be a valid objection to the re-instatement of the Memorialist. This Certificate was not granted after a proper examination of the Memorialist according to the directions contained in the rule noted in the margin.* All that the Medical Officer did was to percuss the Memorialist's breast, lift up one of his eyelids and give him a book to read but a few lines in. The Memorialist was asked about his age and why he retired, and the Memorialist replied that he was 53 years old and retired by an act of Mr. Sharpe's, and at the instance of the High Court. Thereupon the Medical Officer read the copy of the Order of Government, thought over a little, and told the Memorialist "I am sorry Munsif to declare you unfit for further service," and immediately left the dispensary. Afterwards a peon having brought and delivered to the Memorialist a Certificate as per margin, the Memorialist produced it to the Civil Judge.

* In granting Certificates to applicants for pension, Medical Officers are required to state in the Certificate, the period, if any, during which the applicant's case has been under treatment or observation. When the Certificate is sought by reason of old age, infirmity or other incapacitating circumstances, in which Medical treatment is manifestly superfluous, a Certificate to that effect should be given, which should nevertheless show the opinion of the Medical Officer as to the alleged incapacity. It will then devolve upon the Head of the Department in which the applicant is serving, to state whether or not he is really so incapacitated as to necessitate his removal from the service of Government, and if so, whether his conduct and length of service render him deserving of indulgent consideration.

Madras Government, 14th June 1866, No. 224.

I, John F. Fitzpatrick, M. D., Officiating Zillah Surgeon of Madura do hereby certify that I have carefully examined M. Narasimulu Naik, late District Munsif of Sevagunga of the Judical Establishment of Madura District, that his age is by his own statement (53) fifty-three years and by appearance (58) fifty-eight, and that I find him to be unfit for further service from premature decay and infirmity not in my opinion attributable to intemperance or other irregular habits.

(Signed) J. F. FITZPATRICK, M. D.,
MADURA, 12*th Nov.* 1870. *Offg. Zillah Surgeon.*

28. The Certificate does not state whether the Memorialist is incapacitated by protracted ill-health, loss of sight, or point out a single symptom of any bodily or mental infirmity. At the time the Certificate was granted, Memorialist was aged 52 years, 8 months and 10 days, which fact is certified in the application for Pension by the Sheristadar of the Court in accordance with the rule of Government, and it will be likewise supported by the Registry Book in the Accountant General's Office, and the roll of his nomination; while so the Medical Officer has ventured an opinion that the Memorialist's age is 58 by appearance. The Memorialist is of a

strong robust constitution and is fully able to read and write. If the records of a suit be handed over to him and he be directed to frame a Judgment before a Medical Committee, it will appear whether he is disabled by age or not.

29. Although a single Medical Officer certifies to the above effect under a remarkably erroneous view of the age of the Memorialist, yet it has been ruled by the Madras Government on the 14th June 1866 that "In cases of servants drawing 50 Rupees per mensem and upwards, the Certificate should be countersigned by the Deputy Inspector General of the Division, after a personal examination of the applicant;" and as this has not been done up to this date, the Memorialist should not be regarded as *permanently pensioned,* as declared in the Notification of the Madras Government dated 28th September 1866. The Memorialist here begs to state that in a similar case, one Govinda Row, a Tahsildar in the District of South Arcot was restored to his appointment on his appeal to your Excellency, even though he was declared by a Medical Officer unfit for public service. Therefore, the Certificate *would present no bar* to Memorialist's re-instatement.

30. If the Memorialist was possessed of an innate consciousness of having by any means deserved the unduly harsh treatment that has been dealt to him in the matter of his employment, a pension conferred by this Government however small, will be esteemed by him as a great boon. But being conscious of no blot in his character, conscious also that he has carefully, faithfully and industriously performed his onerous duties as a Native Judge, with due obedience to his superiors, and afforded perfect satisfaction to his employers in the Judicial Department; as his Testimonials sufficiently disclose, *for the long period of* 26 *years,* he is unable to bear the double ignominy which attaches to his removal from office for supposed *errors* which even in the estimation of the High Court are "*not such as to render him liable to dismissal,*" and to his summary expulsion on a reduced pension of 25 Rupees which is even less than a half of the lowest pension of one-third, viz., Rupees 51 which the Examiner of Claims recommended him for to Government.

31. Your Memorialist, therefore, humbly and respectfully implores your Excellency to be graciously pleased to direct that the Memorialist whom the High Court themselves admit "*not liable to dismissal,*" and *whom they considered to have held his office after his suspension,* be restored to his office till the completion of 5 years' service as District Munsif or to any smaller period your Excellency may deem proper, and in case of your Excellency considering the Medical Certificate to operate as a valid bar to his re-employment, at least to direct the grant to him of a pension of Rupees 76½ to which he is entitled under the letter and spirit of the pension Rules, as above submitted.

And, as in duty bound, your Excellency's humble Memorialist shall ever pray.

MADRAS,
28*th April* 1872.

(Signed) S. M. NARASIMOOLOO.

former post or for the award of a half Pension of Rs 76½ to which he is entitled; may be forwarded to the Secretary of State for India.

80

Government of Madras,

Public **DEPARTMENT.**

Petition No. 956 of 1872.

From S. M. Narasimoolod Naidoo

Occupation. late District Moonsiff of

Village.

Talook. Sevagunga

District. Madura residing at

Dated Madras 29th April 1872

Received

Enclosures. one bundle

Abstract.

Prays that the accompanying original Memorial praying either for restoration to his former

Petitioner

cretary of State dated 31st July 1866) applicable to Native Judges to a half pension of 76½ per mensem upon his average salary for the preceding 5 years, and while the Examiner of Claims recommended the Memorialist to Government, for a *one-third* Pension of 51 Rupees, the Government of India sanctioned a reduced pension of 25 Rupees upon the unjust recommendation of the Madras Government to that effect, in direct contravention of the scope, and intention of the High Court's Proceedings in respect thereof alluded to above and approved of by the Madras Government in their Proceedings adverted to within.

Prays a *patient* perusal of the papers herewith submitted and restoration to his appointment for a period entitling him to a Pension of 100 Rupees, the half of his salary as District Munsif (Native Judge) or at least to award to him a half Pension of Rupees 76½ (on his average salary) to which he is clearly entitled under the Proceedings of the High Court and the Madras Government and the Rules alluded to above.

Petitioner

From

S. M. NARASIMULU NAIDU,

Late District Munsif of Sevagunga

in Madura District,

Madras Presidency.

To

THE RIGHT HONORABLE THE SECRETARY OF STATE FOR INDIA IN COUNCIL.

Dated *7th April*..... } 1872.

ENCLOSURES.

States that an informal enquiry was held against the Memorialist who was Native Judge at Sevagunga, by Mr. Sharpe who was Civil Judge at Madura for scarcely 2 months; that on the latter's recommendation for dismissal, the High Court of Madras passed Proceedings, declaring that the errors imputed to the Memorialist *were not such as to render him liable to dismissal*, cancelled his suspension, and directed his retirement on Pension, allowing 3 months and 12 days of his suspension to count towards Pension, with a view to secure to him a half Pension.

2. That the Government, on appeal for restoration, were in error in declining to interfere for relief, on the ground that they had no power to do so.

3. That while the Memorialist is entitled by the Pension Rules (by the Honorable Se-

Dec 8 1872

Pension Department.

No. 458.

To

The Secretary to the Government
of India,
Financial Department.

Sir,

I am directed to for-
=ward, for transmission to
the Right Honble the Se-
=cretary of State for India,
the accompanying Me-
=morial from S. M. Na-
=rasimulu Naidu, late
District Munsiff of Se-
=vaganga in the Madura
District.

2. The circumstances under
which this Government re-
=commended the grant of
a reduced pension of
Rs 25 per mensem to the
Memorialist

I. O.

Memorialist, which was sanctioned by the Govern-=ment of India under date the 21st February 1871 are fully detailed in the Chief Secretary's letter of the 31st January 1871 No. 48.

3. I am directed further to state that this Govern-=ment have no recommen-=dation to make on Me-=morialist's behalf.

ch.

W/R.

Fort Saint George
3rd June 1872

Financial
No. 355.

India Office, London
31st August 1872.

To
His Excellency The Right Honorable
The Governor General of India in Council

My Lord,

1. I have considered in Council your letter dated the 15th July 1872, No 235, forwarding a Memorial from L. M. Narasimma Naidu, late District Moonsiff of Scoogunga, appealing against the decision of your Government sanctioning the grant to him of a Reduced pension of Rupees 25 per mensem.

2. I must decline to interfere with the orders already passed by you in this case.—

I have the honor to be,
My Lord,
Your Lordship's most obedient
humble Servant
(Signed) Cargill

No. 3663.
Government of India
Financial Department

Simla the 2nd October 1872.

Ordered that a Copy of the above Despatch be

1872 Revenue Department
No. 1210
F. No. 458
No. 458

To
The Secretary to the
Government of India
Fin. Department.

Dated 7 June 1872.

Memorandum, The Memorialist L. M. Narasimmudu Naidoo late District Moonsiff of Scoogunga-Madura District

Abstract of Memorialist's Case
Late Moonsiff of Scoogunga
Pension to Pension

E. 29 May

1872
Captain R. Sturmey.
Memorial to Secretary of State
for India
No. 120.

Received 22nd October 1872
Read 25th —
No. 3663.

Forwards copy of despatch from the Secretary of State declining to interfere with the orders already passed in the case of S. Narasimulu Naidu and Patta Ramiah Pantulu

Petitioners Counsel Mr. Grundliff Srinivasa Ayanga.

Filed an order No. 794.

List

Order thereon 12th November 1872 No. 794.

Communicated to S. M. Narasimulu Naidoo with reference to his Memorial to the Secretary of State for India dated 29th April 1872.

To S. M. Narasimulu Naidoo Dec. 13/11/72

Filed.

Con. Dept. 7th June 1872 No. 455

Copy of despatch from the Secretary of State for India in Council to the Government of Madras, dated 22nd October 1872, No. 3663.

Read the above despatch and direct the Board of Revenue to take such steps as may be necessary to carry out the instructions contained therein.

Fort St. George, 25th November 1872.

(True Extract)
(Signed) W. Huddleston
Secretary to Government

To the Board of Revenue.

Proceedings of the Board of Revenue dated 5th December 1872.

Read the above order and direct the Collector of Vizagapatam to carry out the instructions contained therein.

(True Extract)
(Signed) C. Gopalen Nair
Secretary to the Board of Revenue

To the Collector of Vizagapatam.

Collector's Proceedings dated 18th December 1872 No. 1458.

Read the above proceedings and direct the Tahsildar of Vizianagram to carry out the instructions contained therein.

(True Extract)
(Signed) Ramaswamy Ayyar
Head Assistant Collector

To the Tahsildar of Vizianagram.