

MADRAS RECORD OFFICE.

Government of Madras.

Public DEPARTMENT.

G.O. No.

1425

Press
Mis.

Dated

13-11-1867.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Department,
13th November 1867.*

No. 96. Read the following letter from the Inspector General, Indian Medical Department, to the Chief Secretary to Government, Fort Saint George ; dated Fort Saint George, 17th October 1867, No. 403.

Assistant Surgeon Dougall having requested* the submission to Government of the enclosed appeal†, although he has been informed that I could not forward it with my support, I have the honor

to transmit it in accordance with paragraph 39, Section 7, of the General Regulations, along with a copy of the letter‡ from this office, in which Mr. Dougall was made acquainted with my reasons for declining to forward it when originally sent to me.

* Letter dated 5th October 1867.
† Dated 4th September 1867.

‡ No. 3558, of 20th September 1867.

From Assistant Surgeon, J. DOUGALL, 38th Regiment, M. N. I., to the Senior Surgeon Ceded Districts, Bellary ; dated Cuddapah, 4th September 1867.

Having been favored with a copy of the Proceedings of Government, Public Department, and the Order thereon, dated 21st May 1867, No. 567, I have the honor most respectfully to request that you will do me the favor of forwarding this letter to the Head of the Department for submission to His Excellency the Right Honorable the Governor in Council, with the view of reconsidering the conclusion arrived at in paragraph 9 of the Order above quoted, wherein it is stated, “under all the circumstances, it is impossible for the Government to entertain the slightest doubt that Dr. Dougall granted the certificates knowing them to be unfounded.”

2. I have already stated before the Court of Inquiry that I granted these certificates in good faith, believing them to be well founded, and I again, with all due deference to the opinion of the Governor in Council, repeat the statement.

3. At the time I saw the patient in November 1865, I was informed by him, through an Interpreter, that he was suffering from severe head-ache and indigestion. I satisfied myself, judging from his appearance, that this statement was true. There is no physical examination that I know of that would have proved or disproved the presence or absence of the symptoms complained of : most certainly, feeling the patient's pulse would not ; and to look at the tongue of a native who chews betel-nut is useless.

4. It is well known to every medical man that there are many cases where pain is complained of without any external manifestation of its presence, other than the statement of the patient, but in this case, the face of the patient indicated a severe fit of dyspepsia, which I believed to be the result of over-eating. I accordingly advised him to eat less and to take a purgative. No “special medicine” was prescribed ; as an ordinary purgative, and moderation in diet, was the best advice I could give him.

5. I had only once seen the Dewan before I was suddenly called in to prescribe for him and grant him a certificate. I knew nothing further than that he was said to be a Native Nobleman, and, in the absence of any apparent motive, it never once occurred to me that he was malingering—at all events, his subsequent conduct divests all his statements of credibility. Had I known the character of this man, I would most assuredly have exercised more caution in granting him the second certificate ; but, being ignorant of his character, it was clearly my duty to treat a Native Nobleman as I would have treated an English Gentleman. I had every reason to believe his statement that he was too ill to attend the Court, and I had no reason to doubt it.

6. I therefore respectfully request that, after reconsideration, the words in paragraph 9, “knowing them to be unfounded,” be cancelled, for the reasons already stated in this letter, and also on the following substantial grounds, viz :—

1. That there is no evidence on the Proceedings of the Court of Inquiry that the Dewan was in perfect health at the time I granted the certificates ; but, on the contrary, there is his own statement that he was slightly unwell, and that I prescribed for him.

II. That the opinion of the Judge Advocate General shows that this was the view of the evidence taken by him.

III. That the opinion of the Court of Inquiry, though more unfavorable to me than that of the Judge Advocate General, shows that they did not consider there was any evidence of my knowing the certificates to be unfounded.

7. Another point to which I particularly wish to draw the attention of His Excellency in Council is the nature of the evidence adduced to substantiate the accusations brought against me, which, though it has been proved to be most untruthful, and which, had the record of judgment by the Court at Vizagapatam and that on appeal given by the High Court in the case in which a will was declared a forgery, which the Bobbili people, guided by the Dewan, produced 17 witnesses to prove a genuine one, been admitted as evidence (which was essential to a correct conclusion in this case, when there was so very contradictory evidence), the incredibility of the witnesses would have been still more transparent, but this was refused (page 29, Proceedings of Government); yet I have received no redress, and the witnesses have been allowed to escape without censure.

8. The Dewan and his servants may be beyond the censure of Government, but Mr. D. F. Carmichael is not. What I particularly refer to is his letter of November 2nd, 1866, No. 832, which, besides being libelous, is almost entirely composed of statements without foundation, evidently made in the confidence that I would be unable to disprove them—statements that were most material to the case, and which have proved most injurious to me from the credit attached to them.

9. For instance, in the letter of 2nd November, already referred to, Mr. Carmichael says—
Paragraph 7. “The dates of the certificates are undisputed. The first is dated the 18th, Saturday,”

The first certificate is dated the 20th (Monday),
and was at once rejected.”
and was received by the Judge without remark.

Paragraph 3. “I only wish the Dewan had been made to appear by those who cited him on the Tuesday. He would have come in with the 2nd certificate—the ‘give him a seat’ document—in his hand. Then there would have been a fine scene! The judge, I am confident, would have immediately issued an attachment against Dr. Dougall for gross contempt of Court.”

The 2nd certificate was presented to, and initialled by, the Judge, without remark.

See page 8, Proceedings of Government, Public Department, 21st May 1867 (evidence of 3rd witness).

10. Such purely fictitious statements and gratuitous suppositions from a Magistrate accustomed to receive, and, it is to be hoped, weigh evidence, must have been received by Government in the belief that they were well founded, and, consequently, have been highly detrimental to me, as the decision of Government proves.

11. In the same letter, Mr. Carmichael goes on

Paragraph 3. “Then comes the struggle for a chair which he refuses, and, I say I am confident, if the Dewan’s evidence had not been dispensed with, and that interesting convalescent had come into Court (as he would) with the 2nd certificate in his hand, that the Judge would at once have turned the trans-action inside out, and the ‘dodge’ would have been exposed forthwith.”

As the Judge received the 2nd certificate, and initialled the same without remark (see pages 8 and 9, Proceedings of Government, 21st May 1867), and did not turn the “dodge” (as Mr. Carmichael elegantly styles it) “inside out,” this is another fiction. Mr. Carmichael plainly wishes it to be understood that the 2nd certificate was never presented to the Judge, and he describes the course that would have been adopted if it had. Fortunately, the initials of the Judge prove that this certificate passed through his hands.

See pages 8 and 9 Proceedings of Government, 21st May 1867 (evidence of 3rd witness).

Para. 7. “He (the Dewan) was well enough to do his ten miles in a palankeen on Saturday, but *he was to be too* indisposed to attend the Court for five minutes on the Monday.”

“Dr. Dougall by his medical prescience foresaid that it seems—who is to dispute it, who indeed?”

This extract is a combination of flippant sarcasm and absolute fiction.

“But what a pity Dr. Dougall never gave him a prescription, or indeed exhibited any remedy at all, in so serious a case too; for, though better, decidedly better, on the Tuesday, the patient’s giddiness is still of so alarming a character that it is certified he should have a seat during his stay in Court!”
Paragraph 7. “He (the Dewan) was rich and it would seem apoplectic.”

The Dewan admitted to the Court of Inquiry that I prescribed for him; and it was never alleged that the Dewan’s illness was of an alarming nature. Mr. Carmichael forwards a copy of 1st Certificate with a false date, and then dwells upon the point that the Dewan “*was to be*” too indisposed.

This is another of Mr. Carmichael’s fictions, as it was not alleged that the Dewan was apoplectic, though Mr. Carmichael says “*it seems* he was.”

12. I have refrained from referring to the many insinuations against my character throughout Mr. Carmichael’s letter, as I consider the mis-statements in it are sufficient to show the pains Mr. Carmichael had taken to find out the truth before he wrote. He never asked the Dewan if he was ill, but only recorded the Dewan’s statements so as to imply that he was not. He concludes that, because the Dresser told him there was no entry of a prescription in the Hospital book, the Dewan was not prescribed for; yet Mr. Carmichael must have been well aware that both English and Native medicines were easily obtainable in many shops of the town.

13. He also goes to a Vakeel who is entirely ignorant of English for an account of a conversation in English between an English Judge and an English Barrister.

14. Neither does he obtain the “original” certificates from the Civil Court, which was only the breadth of the road distant from his own Cutcherry, but he prefers copies from the Civil Hospital books, copies which were entered, not at the time the originals were given, but after I had given over charge of the Dispensary. The book itself had been repaired, and the Dresser’s statement regarding the entry of these certificates has been pronounced untrue (see Proceedings of Court of Inquiry, page 56, paragraph 26).

15. Very little comment from me is here required, further than to add that evidence of such a fictitious nature, I am confident, cannot be allowed by Government to pass unnoticed, and I feel bound, in self justification, to expose what has been proved untrue.

16. In conclusion, I beg to add that, lest it might appear presumptuous in me to review the evidence and also the decision come to by so high an authority as His Excellency the Governor in Council, and well knowing the true merits of the case, besides feeling myself deeply injured and aggrieved, I took the precaution of submitting the whole of the Proceedings to an eminent Lawyer in Madras, a copy of whose remarks on the same I have the honor to annex.

Opinion of Mr. JOHN SHAW, Solicitor of Madras.

“I am favored with yours of the 6th instant, and the Proceedings of Government which accompanied it. I do not consider the evidence adduced before the Court of Inquiry is of such a nature as to justify the conclusion come to by the Governor in Council, that it is impossible for the Government to entertain the slightest doubt that you granted the certificates *knowing them to be unfounded*.”

“It does not appear to me, and it does not seem to have been considered either by the Court of Inquiry or the Judge Advocate General, that there is any evidence whatever to warrant such a conclusion. The Court of Inquiry say that you gave the certificates without making due inquiry as to their necessity, and, further, that no necessity did exist for granting them; and the Judge Advocate General expressly admits that you may have been deceived in granting the first certificate, but adds that, in granting the second, you appear to have done so without personally ascertaining the necessity for it, and have thereby, that is, by not personally ascertaining the necessity, evinced a laxity in the performance of your duty.”

"It is impossible to reconcile the latter of these opinions with the conclusion arrived at by Government, and the opinion of the Court of Inquiry does not warrant it, though it is not in such direct conflict with it as is the opinion of the Judge Advocate General.

"There is really no evidence against you that can be believed for a moment, except that furnished by yourself; and though the Government assert that the whole of the evidence goes to show that the Dewan was in perfect health at the time, the only instances they give are from your own admissions. As a matter of fact, the whole of the evidence goes to show that the Dewan was not in perfect health at the time, though he was evidently not suffering from any very serious illness. Mahomed Sheriffe, no doubt, says 'he appeared to be in a good state of health,' 'he appeared to be quite well'; but we are not told what means he had of judging, and you are stopped in your cross-examination as to this, the Court remarking that they can attach no importance to the opinion of the witness on the point.

"With this observation I quite agree, but it is to be regretted that it did not occur to the Court, until they had recorded, not only the Hospital Dresser's, but the Sowcar Garuda Neelaia's opinion on the state of the Dewan's health. The most wonderfully useless opinion, however, which they have recorded is their own, that, in February 1867, the Dewan was apparently in excellent health, as if that was any reason for his not having had a stomach-ache in November 1865.

"The Dresser's statement that the Dewan made no complaint to him of being indisposed in any way is directly contradicted by the Dewan himself, who also swears distinctly that he was a little indisposed at the time, and that you advised him to eat less than usual and take a purgative. Precassa Row also speaks to the Dewan having complained of 'heat' from travelling."

From the Officiating Secretary to the Inspector General, Indian Medical Department, to the Deputy Inspector General, Indian Medical Department, Mysore Division and Ceded Districts; dated Fort Saint George, 20th September 1867, No. 3558.

I have the honor to acknowledge the receipt of a letter from Assistant Surgeon Dougall, to the address of the Senior Surgeon, Bellary, dated 4th September 1867, and forwarded under your docket, No. 1472, of the 10th idem.

2. With reference to this communication, I am directed to state that a most careful re-consideration of the whole subject, and a re-perusal of the Proceedings of Government, dated 21st May 1867, No. 567, have only tended to confirm the opinion which the Inspector General had previously formed of Mr. Dougall's conduct in regard to the certificates granted by him to the Dewan of Bobbili.

3. The first of these certificates was, in the Inspector General's opinion, given on most insufficient grounds, and the case of the second one is still worse; as by Mr. Dougall's own showing, it was signed by him, without his having again seen the Dewan, simply on the report of a Dresser who had prepared it without any instructions.

4. So strongly does the Inspector General condemn such unaccountable laxity in the performance of duty, that, had not Government spontaneously removed Mr. Dougall from civil employment on that special ground, he would have felt it his painful duty himself to draw their attention to the circumstances under which the certificates in question were granted, with a view to such conduct being visited with some adequate mark of their displeasure.

5. With regard to Mr. Dougall's complaint against Mr. Carmichael, I am directed to remark that he has already fully commented on that gentleman's letter in his 'statement' printed in the Proceedings of Government above referred to, and that his present appeal is merely a repetition of these comments, which were before Government when their decision on Mr. Dougall's case was arrived at.

6. I am further to observe that that decision was not grounded on Mr. Carmichael's letter, but on the results of an inquiry carefully and patiently conducted on the spot by three Field Officers, with the assistance of an Officer of the Judge Advocate General's Department, accustomed to weigh and sift evidence.

7. The opinion of this Court, viz., "that Dr. Dougall gave two medical certificates to the Dewan of Bobbili without making due inquiry into their necessity, and, further, that no necessity did exist for granting them," is fully concurred in by the Inspector General; nor can he, with all the evidence before him, consider the conclusion come to in paragraph 9 of the Government Order, No. 567, of 21st May 1867, to be without foundation.

8. He must, therefore, decline to be the medium of forwarding Mr. Dougall's appeal to Government, but you are requested to draw that Officer's attention to paragraphs 39, 40, and 41, Section VII, of the General Regulations of the Army.

From Assistant Surgeon, J. DOUGALL, 38th Regiment M. N. I., to the Senior Surgeon, Bellary, dated Cuddapah, 5th October 1867.

I have the honor to acknowledge receipt of your memorandum, No. 531, dated Bellary, 27th September 1867, forwarding letter, No. 3558, from the Secretary, Inspector General, dated Fort Saint George, 20th September 1867, in which I am informed that the Inspector General declines to forward my appeal to Government. I beg to state that it was after an interview with the Right Honorable the Governor, at which he told me, if I consider myself aggrieved, my case would be carefully re-considered, when I forwarded my appeal through the regular channel.

2. It is, therefore, with the utmost deference, although I cannot have the support of the Inspector General, that I now request my appeal may be forwarded to Government, in accordance with paragraph 39, page 71, General Regulations.

No. 97. ORDER THEREON, 13th November 1867, No. 1425.

The Government see no reason for modifying the severe censure passed on Assistant Surgeon Dougall in their Order, No. 567, dated 21st May 1867.

(True Extract).

Chief Secretary.

To the Inspector General, Medical Department.

Public DEPARTMENT.

No. 1700.

From *The Inspector General Indian Affairs Dept.*

Dated 17th October 1867.

FOR ORDERS.

When I saw Mr. Doughty recently at his station he showed me very warmly with reference to the security of the Govt. order concerning his conduct at Niagara Falls and especially respecting that paper in it which recorded the opinion of Govt. that "Under all the circumstances it was impossible for the Government to entertain the slightest doubt that Mr. Doughty granted the certificates having

then to be imposed. —

When I considered that expression
which I believe was founded on my
on personal experience of the case
I certainly did entertain the impression
that Dr. Douglass acted in good
faith and that he had some
reason in doing so which we might
guess at but could not distinctly
affirm. Indeed after hearing Dr.
Douglass's earnest personal appeal
and on a recollection of the
whole case I cannot convince
myself that he acted in good
faith and really believed when

he signed the certificate that the
severance was imperative if going to
London. ^{It is not in my heart to believe}
that Dr. Douglass believed the
severance to be exposed to any danger
in ~~that~~ performing that public duty.
at the same time I do think on
a review of our order that it was not
necessary for you to affirm their
conviction that Dr. Douglass acted in
bad faith for it is impossible to
sound the depths of credulity and to
believe and it is possible that
Dr. Douglass may have believed he
was acting in conformity with the

merits of the case, though I don't
think so. Taking then a merciful view
of the case considering the deep stigma
which the order of Genl. Carlton & Co.
Sonzall I think we might modify
the passage complained of in this

sense. —

Q. Under all the circumstances, the Gov.
are still willing to hope that when Genl.
Sonzall granted the certificates he
did not do so with the distinct
knowledge that they were unfounded
and being desirous to plan the most
indulgent construction possible on his
receipts ^{they} ~~are prepared to deal with~~
him admit that he may merely have
acted with the most culpable carelessness
and forgetfulness of his official duty. —

The moderation of a government
order is certainly to be regretted, but it
could be more to be regretted if we
implied a censure in terms which
were justified in reason.
To attribute a blight on a particular
state of mind to an individual person
is always rather hazardous. It is
almost impossible to do so with
a perfect security of doing right.

As for the circumstances imputed
by Genl. Sonzall to Mr. Farquhar
in connection with the 2^d certificate
and other matters they may be
well founded. Mr. Farquhar is
superior and hasty. I think
he deserves our gratitude for

lately up the case when doing,
so he may very likely have acted
and written with less hesitation.

But these inaccuracies do not in
the least affect my judgment
of Dr Douglass's conduct which
is entirely shared by his officers &c.

I believe as I do not see the
use of raising any enquiry
or correspondence on the subject.

In considering the papers connected
with Dr Douglass's case, I formed an
opinion of that gentleman's culpability
on a very careful review of all the
circumstances which had surrounded

his conduct & his communications with the
Board; and I much regret that there seems
to be nothing in the communication to
Dr Douglass has now submitted that fairly
impugns the correctness of that opinion.

The words concluding of the foregoing
may perhaps be strong, but they correctly
record my own impression of the worthless
character of the two Medical Certificates:
and referring to the deliberate and unen-
amoured feeling of the Council which passed
them I should regret to see them now
modified.

It is to be noted that since the views of
the Board were circulated, the papers on
which they rest, have been seen and considered
by the P. S. Com. of the Med. Depart. who add
by their concurrence to the opinion formed by
the Board of Dr Douglass's gross misconduct - in
regard to the Medical Certificates and state
that had the P. S. Com. spontaneously returned
Dr Douglass's removal he should have felt bound
himself to propose the measure.

W. D. G.

W. D. G.

I do not think that Dr Douglass
 has in his present appeal submitted
 any reason which would justify
 his going in with the Government
 or withdrawing from the same
 unless perhaps upon some
 new ground of expediency: as
 his case has been heard, and a decision
 was given after a careful
 consideration of the evidence
 adduced against Dr Douglass
 and of the statements made
 by him in his defence and I
 am convinced that it was fully
 justified by the facts of the
 case, or in other words that
 Dr Douglass should be given the
 certificate he was properly entitled
 to and that his removal was not
 to ill to attend the Court as to
 stand alone under examination.

The 21 May / 64 No 129 C 121
 - 14 Dec / 66 - 50-51
 - 21 Nov - 123 C 126
 - 3 Oct - 18 C 20

No 13 Nov 1867 - 1425
 Public 1867. Sept

From
 The Inspr General
 Inspr. Genl. Dept.
 Fort St. George
 To
 The Chief Secy. to Govt.
 Public Dept.

Dated 17th October
 Recd: 19

No 1400
 No 403
 Blues

Forwarded appeal from
 Dr Douglass praying re-consideration
 of the conclusion arrived at relative to the
 grant of certificates to
 the Dewan of Koblili

In answer
 With an order

C23 October
 R. & T. 1867
 96-97

6981 to 9965 of 1867
 24th 1867

N^o 1425 - 13 November 1867.

The Government see no reason
for modifying the severe censure
passed on Assistant Surgeon
Dougall in their order N^o 567 dated
21st May 1867.

W.D.B.

N. P.W.

W.D.B.

The Supp. Med. Off. 1867