

Public (1899) Department.

ORDINARY MS.

G.O., No. 122

Dated 27-1-98

INDEXED.

[Despatch Abstract.]

Declining to interfere on behalf of civil Apothecary A.S. Vithal Rao in the matter of his appeal against the punishment of one year's suspension ~~of one year's suspension~~ awarded him by the President of the Mangalore Taluk Board; and stating that the attention of the President, Dist Board, South Canara will be invited in the L & C dept to the rules governing the question of the Apothecary's right of appeal to Court.

BACK PAPERS.

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

FURTHER PAPERS.

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

Cuo 1528/98 (Vital Nao)
Cuo 2240/98 (S.S.)

Public (1898) Department.

CURRENT No. 3992

From

Surgeon General.
L. S. Thorpe Esq. M.A.
Surgeon-General
with the Govt. of Madras.
No. 570.



Dated 17th December 98

Received 20

Registered 20 } 12-1898

Enclosures 3

Spare copies.

SUBJECT.

Submitting with remarks
Memorial from Civil
Society A. P. Vithal Rao
attached to the Local Fund
Dispersary, Bantwal, Poud
Conara St.

As the petition appeal is apparently
one against the orders of the President
of the Board of - (Vide para 12 of the Petition
+ para 3 of the Surgeon General's letter S)

Submitted to the Local Fund
be transferred to the Local Fund
with a view to see 71.1 of the Local Fund

Order Enclosed
Transferred to the
Local and Municipal
Department

By: Under Secretary.

7.1.99
5.1.99

Re. In. 20
26/12/98

BACK PAPERS.

G.O.	No	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

To

HIS EXCELLENCY THE RIGHT HONOURABLE

SIR ARTHUR ELIBANK HAVELOCK, G. C. M. G., G. C. I. E.,

Governor and President in Council,

FORT SAINT GEORGE.

Thro' The District Medical and Sanitary Officer, South Canara, and
The Surgeon-General with the Government of Madras.

The Humble Memorial of Civil Apothecary, A. S. VITHAL RAU,
lately in charge of L. F. Hospital, Bantval, Mangalore
Taluk, South Canara District, Dated 21st September
1898.

MOST RESPECTFULLY SHEWETH,

That, feeling highly aggrieved by the order of the President of the Mangalore Taluk Board, dated the 13th of July 1898, suspending Your Excellency's Memorialist for one year for alleged "neglect of duty" on the occasion referred to therein, Your Excellency's Memorialist humbly begs leave to appeal against the said order in the hope of satisfactorily showing that there was no neglect of duty whatever on the part of the Memorialist and that the heavy punishment inflicted on him is altogether undeserved.

2. From the depositions taken down by the said President in an inquiry held in circumstances which will be explained in the sequel, and from other papers, of which copies have been supplied to the Memorialist, it appears that on the afternoon of the 4th May last, two persons who had been injured by the fall of a house in a neighbouring village were brought to the Bantval Hospital, of which the Memorialist was in charge. Narayana Shetty, the owner of the house, accompanied the patients and is alleged to have sent a man to inform the Memorialist of their arrival at the Hospital, but the deponent does not remember who this man was and he has not yet been traced. The deponent says:

"I sent word to the Apothecary when we arrived at the Hospital. I sent a man but I do not remember who."

3. Shortly afterwards, a Vakil, named A. J. Lobo, who was putting up in the midwife's house close by, came to the Hospital with one of his friends, and as the "Apothecary had not turned up," he sent a man called Inaas Sequeira to inform the Magistrate about it. This man saw the Magistrate and he deposes:

"The Magistrate told me to go and call the Doctor, so I went to his house. A man who was there outside told me that there was a marriage ceremony inside, and that they were sitting for meals and that Doctor would come presently. The man did not go inside before I left but told me this of his own accord. I reported this to the Vakil and went about my business."

The Vakil, however, deposes:

"The man came back and said that the Apothecary had been sent for by the Magistrate." The Vakil's word ought to be the more reliable of the two, and this witness did not evidently go to the Memorialist's house at all. Even in his later statement, made before the President there is nothing to show that the Memorialist was apprised of the necessity or the purpose of his presence in the Hospital.

4. The Vakil, without satisfying himself that the Memorialist had really been made aware of the arrival of the patients and much less of the urgency of medical attendance in the case, perhaps discovered an opportunity of giving ignorant men the benefit of his counsel and advised the above-named Narayana Shetty to present a petition to the Magistrate, and afterwards got a brother of one of the injured men to send a telegram to the District Surgeon at Mangalore! On receipt of the petition the Magistrate sent a peon (Rozario Souza) to the Memorialist, and the peon deposes:

"I went and informed the Apothecary. The Apothecary was taking his meal, but I told the boy who was there to tell him. The boy went in and returned saying that the Apothecary would come after finishing his meal. As soon as I returned and informed the Deputy Tahsildar, the Apothecary came to the Hospital."

It will thus be seen that the Memorialist lost no time in coming to the Hospital directly he learnt that his presence was needed there.

5. But on this evidence the Taluk Board President finds the Memorialist "guilty of most culpable neglect of duty in that he did not attend for 2½ hours on two injured men wavering between life and death, and one of whom shortly afterwards died," and suspends the Memorialist for one year. The expression "shortly afterwards" means 4 days after the arrival of the patient at the Hospital. The death was due to the internal injuries received by the patient, and was neither caused nor accelerated by the delay, whatever its length might have been—about which more will be said below—and whoever was responsible for it.

6. Your Excellency's Memorialist explained to the President:

"Before the peon came from the Deputy Tahsildar I had no information from anybody and the witnesses themselves admit that they have not seen me; the only man who was sent was the peon and he says that he sent some one inside when I was taking my meal. At that time my meal was almost over. Then I said 'I have just finished my meal and will follow.' I dressed myself and followed him, and within ten minutes from the moment I received the information I reached the Hospital."

The President, referring to this, says: "The Apothecary denies having received any information of the accident,"—which is hardly accurate—and proceeds:

"But this I cannot believe, for it is said that information was given when the injured men were being brought to the Hospital first, and then at about 1 p. m. by witness Inaas Sequeira and subsequently by the Deputy Tahsildar's peon."

7. As to the first message, it has already been pointed out that strangely enough the identity of the messenger is neither remembered nor ascertained. There were preparations for a marriage being made in the house in which the Memorialist was living and a number of busy people about the place. Supposing the undiscovered first messenger did see "some one" there, that "some one" without realising the urgency of the situation might have of his own accord sent away the man with a reply that the apothecary would be informed and that he would come after taking his meal. It does not require more than an ordinary acquaintance with the ways of servants and village folk in this country to believe that such a mishap should have occurred. As to the second messenger, he told the Vakil that he had not gone to the Memorialist, and the President that he had gone to his house, but was sent away by some one outside who of his own accord gave an off-hand reply that the Memorialist would "come presently." This witness says that he was reluctant to go to the Magistrate's house and that he was pressed by the Vakil to do so. Most probably he did not go to the Memorialist's house. Admittedly neither of these two men saw the Memorialist personally, nor did either make sure that the information was conveyed to him. In the circumstances it is very hard that Your Excellency's Memorialist should be disbelieved, and he should be found guilty and punished so severely on a vague surmise that he must have received the information some form and through somebody a considerable time before his arrival at the Hospital.

8. The President infers from the evidence of the witnesses that the injured men did receive medical assistance for about 2½ hours. The Memorialist, having no direct knowledge of the time when the patients arrived at the Hospital, is unable to state how long they had to it, but inasmuch as the length of the interval must have formed an important consideration with the President in concluding the Memorialist's culpability as well as in fixing the measure of the punishment, the Memorialist begs to point out the unreliability of the statements on which the President's conclusion is based. The Magistrate had admittedly no clock or watch, and much less could the villagers have had any means of accurately ascertaining time. The men were, according to their own statements, passing through an anxious period, when notions of time are apt to be considerably exaggerated. Vakil A. J. Lobo testifies that the injured men were brought to the Hospital a few minutes after 12-30 in the afternoon, but his statements possess no special recommendation for accuracy. In his letter of 15th May to the District Surgeon he states that before asking Narayana Shetty to present a petition to the Magistrate he waited for about three hours—thus making a part of the interval greater in the whole. According to the Vakil and the Magistrate, Narayana Shetty presented his petition at 1-30 or 1-45 p. m. The Magistrate states that he saw the Memorialist approaching the Hospital not more than half an hour afterwards—*Vide* his letter to the District Surgeon. Thus the Memorialist was at the Hospital at about 2 p. m. This—setting aside the question of the Memorialist's knowledge—reduces the whole interval to 1½ hours, and at too on the doubtful assumption that the patients arrived so early as 12-30. The President states that just after 2-50 the Apothecary came to the Hospital, and that this is borne out by the Deputy Tahsildar and others. A perusal of the record will show that this is entirely a mistake.

9. Simple as the case is, it has been made unnecessarily complicated by the extraordinary doings of the Vakil, who does not seem to cherish the kindest of feelings towards the Memorialist, perhaps because his evidence in the well-known Kundapur police torture case was largely instrumental in securing the conviction of one D'Mello, who was being "given meals" by the Vakil at Bantval, and who is said to be in his service. He got a telegram sent at his own expense to the District Surgeon at Mangalore "to direct medical aid" at Bantval, but did not think it fit to countermand it when within a few minutes its unwarrantedness became apparent. Indeed it is not improbable that the telegram was sent after the Memorialist came to the Hospital. For, as has already been pointed out, according to the Vakil's deposition, Narayana Shetty presented his petition to the Magistrate in the first instance at 1-30 or 1-45 p. m.; and the Magistrate deposes that within half an hour of this, (i. e. at 2 or 2-15 p. m.) the Memorialist was seen at the Hospital. The telegram was sent to the Post Office at 2-45 and despatched by the office at 2-50 p. m. The District Surgeon referred the telegram to the Memorialist, who explained the real state of affairs, and in corroboration of the explanation forwarded a statement made and signed by Subba Moolya, the sender of the telegram, before a number of respectable gentlemen—one a leading merchant, another a rich landlord, a third a leading pleader and the fourth a graduate—who also attested it. To the Magistrate, the Memorialist forwarded a statement made by Narayana Shetty in his own hand-writing, explaining the part played by the Vakil and expressing his regret. The Vakil, who had perhaps not expected that he would be betrayed, now found himself in an awkward position and was constrained to justify his doings. He induced Subba Moolya to give him another statement, which the Memorialist has not seen but which apparently refers to his former statement. Subba says: "I did not know what was in the paper before the Vakil gave it to me. The Vakil read it over to me and I then knew what it contained. I did not ask them to write so and so. The Vakil has taken the paper." The President mentions that Subba "denies all knowledge of the statement," made to the Memorialist before so many respectable gentlemen, but this is natural after the process through which he appears to have gone at the Vakil's hands. Fortunately, however, he substantially corroborates all that is said in the statement. The Vakil made further representations to the District Surgeon complaining of the Memorialist's conduct and protesting that he had himself acted from "mere feelings of humanity." A gentleman who was acting from mere feelings of humanity would perhaps have first sent a note to the Memorialist and ascertained whether he had been informed of the arrival of the

patients and what was the cause of the apparent delay, instead of improving the occasion to get up documentary evidence against the Memorialist and diverting the attention and energies of Narayana Shetty and others from the tending of the sick and the obtaining of medical aid so near at hand to petitions and other unavailing resources of his own profession. The representations of this Vakil which contain several serious mis-statements, such as that the Magistrate had to send a peon *twice* to the Memorialist's house, appear to have resulted in the President's inquiry. Apart, however, from the prejudice which a belief in the disinterestedness and wisdom of the Vakil's activity is apt to engender, the circumstances of the case go wholly to show that the Memorialist is innocent of the charge brought against him. The parties who are really interested have not of *their own motion* thought it reasonable to complain.

10. Your Excellency's Memorialist has served as an Apothecary during the last 12 years and in several places, and throughout his career and in every place, as the testimonials hereto appended will prove, he has been popular and known as a readily obliging, conscientious and pains-taking medical man. He has never shown himself to be capable of refusing to attend on persons hovering between life and death: few indeed would be guilty of such callousness and he humbly prays that he may be adjudged innocent of it. It is doubtful if there really was an interval of 2½ hours before the patients received medical aid, whoever may be responsible for the delay: it is certain that the delay did not produce any appreciable consequence to the patients: and it is clear that there was no delay or neglect of duty on the part of the Memorialist.

11. According to G. O. No. 918 L. of 25th April 1889, and Art. 72 of Ch. VII of the Local Fund Code of 1898, the President was bound before passing any order regarding the punishment to consult the District Medical and Sanitary Officer. But the President states in his order that "any action taken by me has already been approved in anticipation in his Demi-official to the President of the District Board." The Memorialist ventures to think that the District Medical Officer could not have intended to surrender his privilege by giving his approval in anticipation to an unknown order, and that the President ought properly to have consulted the District Medical Officer after the inquiry and before passing the order regarding the punishment in accordance with the Government Order. When the order was passed, the Officer referred to by the President was no longer in the District and had been succeeded by another.

12. Your Excellency's Memorialist understands that under the G. O. and the Code referred to in the last preceding paragraph, it is not clear whether a Taluk Board President can suspend a subordinate of the Government Medical Department without previously obtained permission of the District Board President, and secondly, whether, when such an order has been so passed and it is received by the District Board President and forwarded by him to the Surgeon-General, he impliedly confirms the order, and the appeal lies to Government. The Taluk Board President's order does not refer to the approval of the District Board President (*Vide* Copy enclosed), but it is understood that the order has been forwarded by the District Board President to the Surgeon-General. As the period of three months allowed for a valid appeal may be exceeded if the appeal is preferred first in one quarter, and, if it turns out to be not the proper one, then in another, this appeal has been simultaneously made to the District Board President and to Government. For which the Memorialist begs to be excused.

13. In conclusion, Your Excellency's Memorialist most humbly prays that Your Excellency may be graciously pleased to set aside the order of the President under appeal and to restore him to his appointment with arrears of pay and allowance.

For which act of kindness and justice, Your Excellency's Memorialist will, as in duty bound, ever pray.

A. S. Bitha Rao
Civil Apothecary, Bantval.

residing at No 68, Vallala Street,
Purawalukum
Madras

Proceedings of the President of the Mangalore Taluk Board,
dated July 13th, 1898.

Read depositions given in an enquiry into the conduct of Civil Apothecary A. S. Vithal Rao in respect of a charge of breach of duty.

ORDER.

Mr. A. J. Lobo states that a few minutes after half past twelve on the afternoon of May 4th, two persons who had been injured by the fall of a house were brought to the Bantval Hospital. The men were in a serious condition and there was no one to attend to them. It was said by the people there that the Apothecary had been informed when the men were being brought to the Hospital. Mr. Lobo returned to his lodging after seeing the men at about a quarter to one. At about one o'clock a message was sent to the Deputy Tahsildar and he sent a man to inform the Apothecary. Narayana Shetty, the owner of the fallen house, at about 1-30 or 1-45 took a petition to the Deputy Tahsildar asking him to call the Apothecary. The Deputy Tahsildar then sent a peon to call the Apothecary. At 2-45 Mr. Lobo sent for the friends of the injured man and advised them to telegraph to the District Surgeon which was accordingly done. Runner Subba took the telegram which was handed in at the telegraph office at 2-50. Just after this the Apothecary came to the Hospital.

This is borne out by the Deputy Tahsildar and Mr. M. Subba Rao, Narayana Shetty, the owner of the house, the peon who went to call the Apothecary and the man who was first sent to the Deputy Tahsildar and whom the Deputy Tahsildar sent to the Apothecary all corroborate the above.

The runner Subba went to the Hospital and found his brother Timma lying there at 1-30 unattended. He gave him water and sugar crystals as the poor man was parched and suffering. He took the telegram to the office as he was instructed by Mr. Lobo. Timma subsequently died of his injuries and the other injured man is disfigured for life.

The District Surgeon called for the Apothecary's explanation and the Apothecary said he took a statement from Subba, but Subba denies all knowledge of the statement and says that he was called in by the Apothecary and made to sign a paper.

The Apothecary denies having received any information of the accident but this I cannot believe for it is said that information was given when the injured men were being brought to the Hospital first and then at about 1 o'clock by witness Inaas Sequira and subsequently by the Deputy Tahsildar's peon. The people at the Hospital were saying that the Apothecary had been informed and I cannot believe that they would not have made sure that such was the case.

I find the Apothecary A. S. Vithal Rao guilty of most culpable neglect of duty in that he did not attend for 2½ hours on two injured men wavering between life and death and one of whom shortly afterwards died and I order that he be suspended for 1 year.

(Signed) P. A. BOOTY,
President.

Dis. No. 148/98.
M. T. B.

True copy forwarded to the District Medical and Sanitary Officer. Any action taken by me has already been approved in anticipation in his Demi-official to the President, District Board. The District Medical and Sanitary Officer is requested to give effect to this order as soon as possible.

MANGALORE,
13-7-98.

(Signed) P. A. BOOTY,
President, Taluk Board, Mangalore.

No. 1622

True copy communicated to Civil Apothecary A. S. Vithal Rao who will hand over charge of the Hospital to 1st Class Civil Hospital Assistant, C. P. Verghese.

MANGALORE,
15th July 1898.

(Signed) C. P. GANAPATI,
Acting District Medical and Sanitary Officer,
South Canara.

1 True copy
A. S. Bitha Rao
Civil Apothecary

TESTIMONIALS.

MADRAS MEDICAL COLLEGE,
17th July 1886.

A. S. Vithal Rau has been a student of the Medical College for four years. He has been under my personal observation during the whole of this period and has left the impression on my mind that he is an exceedingly industrious and a careful student. He does thoroughly whatever he undertakes. He is honest and upright in all his dealings. He accompanied me last year when I was ordered to visit the late Maharajah of Travancore. He did his work satisfactorily on that occasion also. He is a trustworthy young Brahmin in whose career I have been much interested. I hope he may succeed in pleasing his future superiors by his good conduct and attention to his duties. So far as I have been able to judge, I believe him to be a trustworthy young man.

(Signed) JAS: KEESS,
Brigade-Surgeon,
Principal, Medical College.

Surgeon-Lient-Colonel W. A. Lee remarked in the Visitor's Book at the Puttur Hospital that "Mr. A. Vithal Rau has fully maintained the popularity of the institution."

Surgeon-Major W. B. Bannerman remarked at the Kundapur Hospital that "the attendance has increased since he came."

[The Memorialist regrets he has not been able to secure the full texts of these and other remarks before submitting the appeal.]

Extracts from Visitors' Book of Bantval Hospital.

Date of Visit.	Name and Designation of the Visitor.	Remarks.
10-7-96.	BANTVAL KRISHNA PRABHU, Member, Mangalore Taluk Board.	When I visited the hospital this morning, the hospital was clean and everything was in order. Within 1½ hours in the morning about 40 persons took medicine. There are 2 in-patients. There is separate arrangement for dispensing for male patients through the window on one Verandah and for female patients through the window on another Verandah. And the Apothecary is useful to many people of the place, and many people take him. I have learnt that by his treatment many are cured. He sits later than the time he ought to be in the hospital and gives medicine to the people. An almirah is necessary for keeping the books. I also think that it would be better if a house is provided near the hospital for the head officer of the hospital. 10th July 1896. (Signed) KRISHNA PRABHU. (A true translation.)

18-11-96. P. DURAISWAMI AIYANGAR,
President, Taluk Board.

Visited the hospital this morning. It is kept in a neat condition. There are two female in-patients and two males—altogether four. * * *

(Signed) P. DURAISWAMI,
President.

Date of Visit.	Name and Designation of the Visitor.	Remarks.
27-11-96.	Surgeon-Captain C. DONOVAN, District Surgeon.	Inspected the Hospital, found in a very clean state, instruments &c. in a very satisfactory condition. * * * * (Initialled) C. D.
13-4-97.	Surgeon-Captain, C. DONOVAN, District Medical and Sanitary Officer	Inspected the hospital,—3 in-patients. Found everything satisfactory * * * * (Initialled) C. D.
22-6-97.	J. L. SALDANHA, Tahsildar and Vice-President, Taluk Board.	Inspected the hospital building and out-houses and found everything kept clean and tidy. There are 3 in-patients all well cared for. Some of the medicines are out of stock. A new supply is expected. I am glad to hear that the Apothecary in charge Mr. Vithal Rao is very popular here. (Signed) J. L. SALDANHA.
5-10-97.	A. PINTO, President, Taluk Board.	Inspected the hospital without notice. Found every one on duty and the hospital and compound in good order. Books upto date. Very pleased with all I saw. (Signed) A. PINTO.
6-1-98.	P. SITA RAU, Deputy Collector, and President, Taluk Board.	Visited the hospital this evening. There are four in-patients all males. They seem to be looked after well. * * * Instruments are clean. 6th January 1898. (Signed) P. SITA RAU.
22-7-98.	K. RAMA RAU, Member, Taluk Board.	On my visiting and inspecting the hospital at 8 A.M. to-day the hospital is very clean. On asking 3 of the 4 in-patients now present, they say that medicine and diet are given in proper time. The clothes given them for use are very clean. Instruments are clean. I have now personally observed the patients now come here being well examined and given medicine. People say that when the people of the place desire (the Apothecary) to come to their houses, he immediately goes and sees the patient and gives good medicine and cures. I am glad to hear also that he is very acceptable to all persons. (Signed) K. RAMA RAO.

(A true translation.)

1 true copy, extracts & translations!

C. S. Bittacblau
C. Apothecary

* The fourth in-patient was a child.

143 3276 of 98
3

Dis: No 747 of 1898.
D.B.
Proceedings of the President, District Board,
South Canara, dated 5th November 1898.

3 12 1898
Read petition, dated 21st September 1898,
from Civil Apothecary A. S. Vittal Rau, appeal-
ing against order dated 13th July 1898, Dis:
No 148 of the President of the Mangalore
Taluk Board suspending petitioner for one
year for culpable neglect of duty - forward-
ed by the District Medical & Sanitary Officer,
Canara, with his endorsement No 2238,
dated 3rd October 1898.

Read also the order appealed against
and the records of the case.

Order.

Before going into the merits of this appeal
it will be as well to consider if the
order of suspension passed by the President,
Taluk Board, is regular.

2. Under Article 67 of the Local Fund Code
the President of a Taluk Board can fine, sus-
pend or dismiss any servant of the Board
subject to the provisions of Section 42(3) of
the Local Boards Act. Section 42(3) says "No
Government servant employed by the Local
Board"

Board shall be dismissed or removed from such employment without the consent of the Governor in Council or until 3 months' notice in writing to that effect shall have been given to the Governor in Council."

3. The appellant Vittal Rau is a Government servant whose services were lent to the Board. Suspension is clearly a removal from employment. I am of opinion that though the President, Taluk Board had power ~~to~~ to pass the order of suspension it should not have been given effect to until the consent of the Governor in Council had been received or until 3 months' time had expired after giving the notice required.

4. The appellant is in doubt as to the authority to whom an appeal lies whether to the Governor in Council or the President, District Board. Under Article 68 of the Local Fund Code an appeal lies to the President, District Board. Under Article 69 appellant has a further appeal to the District Board as his salary is over Rs. 50 a month. An appeal does not lie to the Governor in Council as the

but see para 152 of this
local fund code
which is based on article 71 A of the L F code
which provides for the case of
President's Board.

as the appellant has not been dismissed or permanently reduced - vide Article 70 of the Local Fund Code.

5. Next ^{as} to the facts:-

On the 4th May two persons, who had been injured by the fall of a house were brought to the Bantval hospital of which appellant was in charge. The President, Taluk Board, has found as a fact that though repeatedly informed of the fact, appellant failed to attend for over 2½ hours. The severity of the injuries in the case of one of the men at least is proved by the fact that he died 4 days later.

6. Appellant denies that he received any information till the peon arrived from the Deputy Tahsildar and Magistrate when he quickly went to the hospital and attended the injured men.

7. According to the evidence two persons were sent to call the apothecary before the Sub Magistrate ultimately sent his peon. The first man is not known and

and it is possible though not probable that he did not go. The second man went ^{with} ~~with~~ a verbal message from the Sub Magistrate and I find it difficult to believe that the apothecary was not then made aware of the fact that he was wanted. Whether or not the apothecary did receive information from either of these men it is proved beyond a doubt that a very considerable delay of 2 or 3 hours did occur before the apothecary arrived and that such a thing should be possible argues very careless administration of the hospital seeing that it has the full complement of compounder, ward-ecoly, midwife, toty, &c. It is the duty of the apothecary in charge to see that one or more of these people at least is always in attendance to bring him instant word if he is wanted.

8. Even when summoned by the Sub Magistrate's peon about 1.30 or 1.45 the apothecary did not come as quick as he might. The Sub Magistrate says ~~that~~ the apothecary's house is only a few minutes' walk from the office and hospital

D. J. J. J.

and hospital (which are contiguous). The Sub Magistrate says he did not come for more than half an hour. As a fact this is an under estimate by the Sub Magistrate, for the time specified in the telegram despatched to the District Medical & Sanitary Officer is 2.50.

The appellant wishes it believed that the telegram was despatched after his arrival by Mr. Lobo, a pleader, to get him into trouble.

That this was not the case is clear from the evidence of another perfectly independent witness, another pleader, a Brahmin named Subba Rao, who testifies that the telegram was despatched before the apothecary arrived.

9. The appellants' attack on Mr. Lobo and his motives for interfering appears to me uncalled for. This is a common way of meeting a charge. Mr. Lobo's explanation appears sufficient viz. that one of the men injured was a coreligionist and a former tenant of his.

10. It is significant that Subba, who ^{said}

sent the telegram and who is a brother of the man that died, heard of the matter apparently without any special messenger and arrived long before the apothecary.

It is also a fact that preparations for a marriage were proceeding in the apothecary's house.

11. In para. 10 the apothecary pleads previous good character. Neither the late District Medical & Sanitary Officer Captain Donovan nor the present District Medical and Sanitary Officer, whom I questioned hold a high opinion of him or his work.

12. I consider it proved that there was a delay of $2\frac{1}{2}$ hours or more in attending to the injured men and that the apothecary was guilty of gross neglect of duty. A sentence of suspension has far reaching effects of which the immediate pecuniary loss is one of the least. I consider therefore that the term of suspension might in this instance be reduced without affecting its deterrent effect. I therefore reduce the punishment to 4 months' suspension.

(Signed) A. F. Pinkey,
President.

(True copy)

D. Muntz

President, District Board, South Canara.

Put

3

3992

OFFICE OF SURGEON-GENERAL

WITH THE GOVERNMENT OF MADRAS,

Madras, 17th December 1898.

No. 570

From

SURGEON-GENERAL C. SIBTHORPE, C.B., F.R.C.P.I.

SURGEON-GENERAL WITH THE

GOVERNMENT OF MADRAS,

To

THE HON'BLE THE CHIEF SECRETARY TO GOVERNMENT,

Public DEPARTMENT.

SIR,

I have the honor to transmit a memorial to the address of His Excellency the Governor from Civil Apothecary A. S. Tithal Rao attached to the Local Fund Hospital, Bantwal, South Canara District appealing against the punishment of one year's suspension awarded him by the President of the Mangalore Sahy Board.

2. On receipt of the memorial, I forwarded it to the President, District Board, South Canara for favor of any remarks he wished to make before transmission to Government. In reply I received a copy of the President's Proceedings No. 747 dated 5th November 98 (attached) reducing the term of suspension to four months.

3. The Apothecary is not however satisfied with his reduction of punishment and requests the memorial being forwarded to Government which I accordingly transmit.

4. The whole case has been so fully set

between life and death none
of them died shortly afterwards
and suspended for
one year. vide his proceedings
of 12th July 1848 - page 6

of the memorial. I need not say more.

3. The petition submitted an
Appeal to Govt through the
Surgeon General, who
forwarded it to the President
of Board of Canada for
Army & Navy. He made

to make before transmission
to Govt. I am not sure

The President of Board
after appearing in court
the question of the power
of the Trust. I am not sure

transferred the petition
to the President of Board

and it is clear it proved
that there was a delay of

2 1/2 hours or more was
attended to the injured

men and the apothecary
was guilty of gross

neglect of duty, that
reduced the punishment

* para 12 of his proc

to one of four months
suspension.

In the present petition the
petitioner denies having
received any information
till the Dr. Sahildan
from came when he

was at the hospital.

The Surgeon General in
forwarding the petition

being to state the fact
that there was no direct

evidence to disprove
the petitioner's statement

that he had no information
about the arrival of

the injured men although
the presumption is

that the messengers
previously sent did

so and report the matter
to the apothecary.

Not on the case is fully
7/1/44 reviewed on the order

of the President. District
Proctor

It is not clear that

the Apothecary was informed
of the accident on the arrival
at his home. Of the first two
messengers, assuming that
the men did actually get
there. It is admitted that
a marriage ceremony was
proceeding in the Apothecary's
home, and it is possible
that the servants to whom
the first two messengers
spoken did not wish to
disturb the Apothecary &
did not convey the
message to him as direct
and unequivocal as this, the
Apothecary should, as
recommended by the President
Dist. Board, have made
arrangements in the
hospital, to ensure
instant word being brought
to him when he was
wanted. There was also
delay in his going to the
hospital after he received
the Sub Magistrate's
message through a person

The reduced sentence of
four months' suspension
passed by the President
District Board appears
to have been fully deserved.
Under para 152 of
the Civil Medical Code,
the Apothecary has a
right of appeal to Govt.

Case 7.1.99. Although from the
narratives of the Apothecary's
house to the hospital (vide
para 8 of the Proceedings of
the Dist. Board Pres.)
it is quite likely that the
Apothecary did get word
that the two injured men
had been brought in, but
being occupied with the
marriage, did not move
till the pain came to tell
him, the case, as proved,
is it is submitted hardly
sufficient to justify the
severe punishment
inflicted. Dr. Pinkey
does not adhere to

have been confident of the
justice of the punishment.
His order was passed on 5th
Nov., and Dr. Bosty's order
being dated July 13th, the
four months' suspension to
which the punishment was
reduced must have been al-
ready practically finished. This,
as well as Dr. Pinhey's
general remarks about the
Ap. McCarty's previous conduct,
and his the view that the
Ap. McCarty was seriously to
blame for not making
arrangements to be summoned
if anything occurred, suggest
that Dr. Pinhey's decision
is of the nature of a compromise.
And that he reduced the
punishment partly at any
rate because he thought the
case was weak.

The petitioner appears to
be a Galt servant
but was before Board -
The order of suspension was,
as Dr. Pinhey points out, far

This is with reference to the last
sentence of para 4 of the Pro-
ceedings flagged D.

*
which is based on articles 67 & 73
of the L 7 Code.

graver results than the
actual loss of pay
involved. It is a question
for orders whether the
evidence of his neglect is
so clear as to justify the
infliction of any punishment
beyond, perhaps, a
reprimand for not making
arrangements to be
summoned on the arrival
of patients at the
hospital.
Orders are reported.

At

9/1/99

The attention of the
D^r. Board Pres^t may
it is submitted be
called, in the L & B.
Dept., to the clear
statement as to the
right of appeal in such
cases contained in para.
152 of the Civil Medical
Code.

At

It seems to me that

W. H. R.
JH
17, 199

I am ever as before.

72.1-8

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189	189	189	189
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189	189	189	189

Mis.

no 122 of 27- 1-88

The Government declines to interfere on behalf of the petitioner.

2. With reference to paragraph 4 of the proceedings of the President District Board dated 5th November 1898, in which the question of the right of the appeal to Government is discussed, the attention of the President will be invited, in the Local and Municipal Department, to paragraph 152 of the Civil Medical Code, where the rules governing the question are clearly laid down.

Mr. 257,199

To

The Surgeon-General (Q & O)

L & M Defect (understand) 3/1/99

When given for copying
When copied 24/1
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When signed

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

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DETTO.

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