Public (1899) Department.

1.
938

ORDINARY MS.

G.O., No. 938
938

Dated 21 8 99

INDEXED.

[Despatch Abstract.]

Informing Civil Apothecary
A. S. Vithal Rau that the Govt decline
to modify its order No 122 Public of
27-1-88 which was passed on a
full consideration of the pros of the
President Dist Board South Canara
reducing the term of his suspension
to four months.

I
23/8/99.

epartment.	Date.	G.O.

FURTHER PA

Department.	Date.	G.O.

பாதுகாப்பு பிரிவு-1

செப்பனிடுபவர் பெயர்: அா. விஜயமோகன்

செப்பனிடுவதற்காக எடுத்துக் கொள்ளப்பட்ட நாள்: 12/07 8/08

5/8/08
சரிபார்க்கும் முதல் பணியாள கையொப்பம்

11/08/08
சரிபார்க்கும் 2ம் பணியாள கையொப்பம்

11/8/08
ஆராய்ச்சி உதவியாளர் கையொப்பம்

Lt. Code 2/80 11/1/94

CP Rules 2/938

Public (1899) Department.

CURRENT No. 1528

2

To await receipt of the orig. petition.

2/ Pl. circ. in black bd. Re 3/6/99

Cm 2/6.99

AK 3/6/99

From

Civil Apothecary A. S. Vithal Rao
Ch[illegible]di, South Canara

No.

Order

Dated 10 May /99

Received 23 "

Registered 26 "

Enclosures -

Spare copies .

SUBJECT.

Submitting duplicate copy of his memorial to the Dt. Medl. & Sanitary Officer South Canara regarding the proper Channel for submission of his appeal to Govt against order of the President Dt. Board S. Canara.

BACK PAPERS

G.O.	No.	Department.	
	122	Pub:	27.1.98
	111	"	16.2.94
	2	"	6.1.90

FURTHER PAPERS

G.O.	No.	Department.	

'Duplicate' in continuation of my memorials No 14/26.1.99 and 30/30.[illegible]

CURRENT No.

3/938

No 141

CHIEF SECRE
23. MAY.
GOVERNMENT OF MADR

Charmadi,
South Canara,
10th May 18

From
Civil Apothecary, A. S. B.
Charmadi, South Ca

To
The District Medical and Sanitary
Officer, South Ca.

Sir,

I beg to [illegible] the receipt
to-day of the appea tions and the en-
closures thereof wi icating the order No 1387 dated
the 6th instant Co the Surgeon-General
2596 of the Sec containing the State-
dated the 1st inst. has been disposed
-ment that the mat to
of by Government. I hum
observe that the G.O. referre
Secretary to the Surgeon-Gene
already been communicated to m
before, and the very G.O. itself clearly
thereto that I can submit my appea
to

10 Government against the order of the
President of the District Board.

...ain, most respectfully and
...eg to state that the matter already
...of by Government in its order No
..., dated 27th January 99 was the
...ted 21st September 1898 on the
...an-Taluk Board President dated
...last, and the Memorial dated
... Sep... ...nnot be Considered
... a... ...rder of the President
... District Boo S. Canara dated
...ovember 1898 ...ides, the order of
...aluk Board ...dent Mangalore
...d 13th Jul... ...st. the memorial
... September last or differ widely
... the ...der of the ...dent of the Dis-
... ...ed 25th November 1898
...morials No 14 and 15 of January
... Inclosures thereof. Moreover,
... to the Surgeon-General, after
... my duty at the Bantval Hospital
...n November 1898, Ordered me through the
District Medical and Sanitary Officer
S. Canara

S. Canara to inform him whether I wished
that the memorial of the 21st September last
was to be forwarded. I prayed then that
the memorial Submitted by me in Sep-
tember last was not to be acted upon
for reasons stated therein as I h...
to submit an appeal on the order of
the President of the District Board under
Article 71-A of the Local ... Code. Not-
withstanding that M...ria... was sub-
-mitted to Gover...nt the reason whereof
I am at a loss ...derstand. The G.O.
No 122, Public, da... 7th January 99 that
was passed ...cordingly as I ex-
-pected. The Gov... ...t in the first para
of the above quoted G... declined to interfere
as it was an appeal against the order of
the Taluk Board Presid... and there was
an intermediate authority viz. the President
of the District Board to dispose of the
case against whose order, if not satisfied
with, I have a right of appeal to
Government. The second para thereof
itsel...

itself also clearly shows that I have
a right of appeal to Government against
the order of the President of the District
Board. (vide also paragraph 687 (2) of the
Medical Code of 1898).

3. Now I humbly and most respect-
fully beg to state that I feel highly
aggriev the order No. 2596 dated the
1st instan Secretary to the Surgeon-
General, re y memorials Nos 14
and 15 of Jan with the enclosures
resubmitted for m time with my
paper No 123 date ultimo with
the remark that has been dis-
posed of by t. No one can
understand m matter as contained
in my appea titions on the order of
the District President could be
disposed of by Government before the
appeal was duly submitted by me against
the order of the President of the District
Board dated 5th November 1898 which I
have done only in January last from
this

this place. Under both the
and Local Fund Codes of 189
No 122, Public, dated 27th January
could submit an appeal within
from the date of the order appealed agai
i.e., within 3 months from 5th November 18,
and I have submitted my appeals Nos
14/26.1.99 and 15/30.1.99 with the enclosures in
January last. The memo dated 21st
September last was not and cannot be
considered as an appeal against the
order of the Pres of the District Board
dated 5th Novem 98, the order of the
President Di t Board being one of
a later date than the date of the memorial
of September last. Moreover, the order of
the President, District Board, contains several
other points not referred to in the former
memorial on the order of the President of
the Taluk Board and need be referred to
in the memorial to be submitted to
Government, in my interests and

of justice. The G.O. No 122,
d 27th January last is not and
considered as an order on the
contained in the Memorials Nos 14
d 15 and the enclosures. On the other
hand, I am fully confident that the
Government will certainly pass favourable
orders on a appeal petitions of January
last as I a nocent and the
records also are in my favour.
The President Dis Board S. Canara
in his order dated vember '98 has
found fault with e case that
I ought to have seen ne or more
of the hospital servants are always in
attendance; whereas the very orders of
the then District Medical and Sanitary
Officer Captain C. Donovan I.M.&S. who
, the present Secretary to the Surgeon-General,
le ly show that I am not to put one
more of these men always in attendance;
nd in my not having posted one or more
these men always on duty I merely
obeyed

[redacted]

---

obeyed the District Medical and Sanitary
Officer for which I have been found fault
with by the President of the District Board
and punished. I humbly and most respectfully beg to state that I am fu ly
confident that a subordinate will not
be punished for having obeyed the orders
of his superior. I therefore most humbly
and respectfully pray that you will be
kindly pleased consider that the
appeal petitions d the enclosures herewith resubmitted for the fifth time as
per both the Lo Fund and Civil Medical
Codes of 1898 b submitted to Government through the Surgeon-General with your
favourable remarks and have the whole
punishment quashed.

4. I am exceedingly sorry to say that the
Secretary to the Surgeon-General, Captain C.
Donovan I.M.&S. has again returned the
petitions Nos $\frac{14}{26.1.99}$ and $\frac{15}{30.1.99}$ with the ind
submitted m in January last to Government
through the ordinary official ch although

[redacted]

Although G.O. No 2, Pub. dated 6th January 1890 and 111, Pub. dated 6th Feb. 1894 and paragraph 687(9) of the Civil Medical Code direct that [illegible]ead of the office or department will [illegible]nce forward the petition to the Government through the ordinary official channel and may make such remarks as he may consider necessary in regard to the accuracy of the statements made and inferences drawn in the app[illegible]tition; he will also forward such re[illegible]t submitted by the appellant, as m[illegible] be properly consulted in order to [illegible]losal of the appeal."

5. Paragraph 687 [illegible] Civil Medical Code says:- "Every petition must be submitted through the head of the office or department to which the petitioner belongs or belonged. But there is no objection to the petitioner transmitting a duplicate copy [illegible] tition direct to the Government provided that he marks it as a 'duplicate'. But the endorsement order No 1387 dated [illegible]th instant of the Distri[illegible] Medical and

Sa

7/938

Sanitary Officer, S. Canara, while returning the appeal memorials resubmitted for the fourth time, says that "he will clearly understand that on no occa[illegible] whatever will his petition be again for[illegible]ded." Then it will have to be considered that the regulations of the Codes, e.g., art: 71-4, 72, and 74 of the Local Fund Code and paragraphs 152, 668 and 687 of the Civil Medical Code [illegible]re intended for no practical applic[illegible]

6. Though the he[illegible] of the office or department has hither[illegible] refused to forward the appeal petitions [illegible] which have been submitted as per paragraph 152 of the Civil Medical Code and art 71-4 of the Local Fund Code framed for guidance, although the above-quoted paragraph 687(9) of [illegible] Civil Medical Code clearly says that the head of the office [illegible]tment will at once forward to Governmen[illegible] petition[illegible] or petitions with their remarks and other necessary records, I humbly and most respectful

-spectfully beg to state that as I cannot
go otherwise than to follow the direction con-
-tain in the above quoted paragraph 687(8)
il Medical Code, I have again
rewith resubmitted for the fifth time the
Memorials Nos 14/26.1.99 and 15/30.1.99 with the en-
-closures with my humble prayer that
you will be kindly pleased to forward the
same to Government through the Surgeon-
General as per pa ph 687(9) of the
Civil Medical Code

7. As I have fu dence and faith
in the Almighty God His Excellency
the Right Honourable Arthur Elibank
Havelock's Governmen that under His
Excellency's benign and just Government
ustice will be done to me ultimately
t least, I have submitted a duplicate
py of this to His Excellency the Governor
that if you still adhere to
u determination as stated in your order
1387 of the 6th instant, His Excellency's
rnment will order you through the
Surgeon-General

Surgeon-General that the appeal petitions
and other records are to be submitted to it
for disposal inasmuch as the appeal petitions
Nos 14/26.1.99 and 15/30.1.99 with the enclosures have
been legally and duly submitted as per regu-
-lations laid down by Government and as
the Head of the Office or department can-
-not dispose of petitions to Government, but
will have to forward them to Government
with their remark as per G.O. No 2, Pub.
dated 6th Jan: 189 nd 111, Public, dated
16th Feb. 1894 and ragraph 687(9) of the
Civil Medical

8. In Conclusion, as my appeal on the order
of the President of the District Board sub-
-mitted as per regulations of the Codes
framed for guidance (Vide Art. 71-A of the
Local Fund Code and paragraph 152 of the
Civil Medical Code) need be sent to
Government and the same will have to
be submitted through you as per paragraph
687(8) of the Civil Medical Code and you

12

will have to forward petitions to Government with your remarks through the Surgeon-General to Government as per paragraph of the Civil Medical Code, I beg to be instructed by what channel I should submit the appeal to Government in case you stick to your determination of not forwarding it at all on any account whatever as stated in your order No 1387 dated the 6th instant.

g to remain,

Sir,

Your obedient Servant

C. S. Vittal Rao

Civil Apothecary

Chairman

South Canara

9/938

Public (1899) Department.

CURRENT No. 1719

awaits receipt of original petition

Cn 15-6-99

An 16/6/99

From

Civil Apothecary S. Vittal Rao, Putt
South Canara

Order

No.

ed 7 June 99

Received } 14 " "

stered

Enclosures -

Spare copies -

SUBJECT.

Praying that his appeal peti dated 26th & 30th January an submitted for the 6th time m be admitted, that the orde suspending him may b cancelled and that he ma be paid his salary for t time he was under suspen

Duplicate XII $\frac{10}{938}$

To

His Excellency the Right Honourable
Sir Arthur Elibank Murray
G. C. M. G., G.C.
Governor and President in Council
Fort Saint George

Through the Surgeon-General with the
Government of Madras.

CHIEF SECRETARIAT
14 JUN
GOVERNMENT OF MADRAS

The humble memorial of
apothecary A. S. Vithal Rao,
, South Canara, dated
7 June 1899, in continuation
to the Manuscript one dated
the 5th January last with its
Enclosures and the printed
one dated 30th January, 99

Most Respectfully Sheweth,

That, feeling highly aggrieved
order of the President of the
of South Canara, dated the 5
1898, Suspending His Excellency's
-rialist for four months for alleged
neglect of duty on the occasion

to therein, the Memorialist humbly begs to state that he submitted an appeal against the said order in January last through the District Medical and Sanitary Offi Canara.

2. That, under article 71-A of the Local Fund Code of 1898 and paragraph 152 of the Civil Medical Code of 1898, the Memorialist i titled o the right of appeal to Gove nt ainst the order of the President the District Board now under appeal.

3. Yet the a l petitions dated the 26th January t with its enclosures and the one dated the 30th January last, had, previous to this, to be submitted to the Memorialist six times, and on each occasion returned by the District Medical and Sanitary Officer South Canara.

4. That, while returning the appeal petitions resubmitted on the third occasion, the District Medical and Sanitary Officer object

objected that the petitions were not
within the time limit prescribed by
152 of the Civil Medical Code. But w
submitting it for the fourth time with my p
No 123 dated Charmady, 7th April '99, the
District Medical and Sanitary Officer South
Canara was satisfied that it was not time-
barred, and agreeing with the Memorialist,
submitted it [illegible] Secretary to the Surgeon-
General to be [illegible]rded to Government

5. But the [illegible]ary to the Surgeon-General
Captain C. Do[illegible]an I.M.S. returned it
again endorsing that it was disposed of
by Government. The Memorialist is at a
loss to understand how the matter was
finally disposed of by Government, whereas
it was clear that the Memorialist had to
submit an appeal to Government against
the order of the President of the District Boa
and as the appeal time limit was till 4th
February last and that he prayed in
reply from Bantval Hospital to

Secretary to the Surgeon-General through the District Medical and Sanitary Officer S. Canara that the former Memorial of September last was not to be acted upon for reasons stated therein and he will submit a regular appeal against the order of the President of the District Board within three months from the date of the order, i.e., from 5th November 1898 [illegible]t the Memorialist is exceedingly sor[illegible]o state that the former Memorial of [illegible]eptember last was submitted to G[illegible]ment, presumably after the receipt [illegible] the reply of the Memorialist to the order of the Secretary to the Surgeon-General whether the same need be forwarded. - Now the appeal petitions &c. have been returned quoting G. O. No 122, Public, dated the 27th January 99 as an authority. The very G. O. itself is clear enough on the point and states that it "declines to interfere", because presuma that there was an intermediate Author

viz., the President of the District Board an
the appeal was against the order of the Presi
of the Taluk Board. Moreover, the secon
para of the very G.O. states that the
an appeal to Government against the orde
of the President of the District Board. The
Memorialist submitted his appeal petitions
only in January last and the former
Memorial of September last cannot be
construed to be an appeal against the order
of the President of the District Board, an
order of a later date than that of the
Memorial. The Secretary to the Surgeon
General has hitherto returned the appeal
petitions of January last, presumably
as per paragraph 687 (S. C) stating that
the matter has been disposed of by Govern-
-ment. But as per this very paragraph
itself, the petitions of the Memorialist dated
26th and 30th January last and the Enclosures
…erewith resubmitted for the sixth time can
…ill be submitted to Government as they
di

disclose new facts or circumstances which afford grounds for a reconsideration of t case, if it is still considered that the matt has been disposed of by Government. For, as an instance, the very orders of the then District Medical and Sanitary Officer Captain C. Donovan I. M. & S. who is the present Secretary to the Surgeon-General go against the view expresse the President, District Board in his order dated 5th November 1898 and that practically the Memorialist has been punished for having obeyed the orders of his superior, probably for the reason that the President of the District Board S. Canara was not aware of those orders of the late District Medical and Sanitary Officer Captain C. Donovan I. M. & S. who is the present ~~[illegible]~~ late Secretary to the Surgeon General.

6. This Memorial and its enclosures have not been submitted through the District Medical and Sanitary Officer S. Canara

in accordance with his order No. 15
27th May 1899 which directs that if m
-rialist continues to submit his petition me-
on this matter through his office, he will b
fined.

7. Therefore, Your Excellency's humble
Memorialist earnestly and most respectfully
prays that Your Excellency may be gracio
-ly pleased to admit the appeal petitions
dated the 26th and 30th January last and
the enclosures herewith resubmitted for
the sixth time, adjudge him innocent, cancel
the order of suspension and order the pay-
-ment of his salary for the period of
suspension.

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

C. S. Wincislaus
Civil Apothecary
now in charge of L. F. Hospl
Puttur, South Canara
Dist.

T.S. Tw[illegible]
P.N. & P.
MR 2677

Public dep

Memo. No. 193
26

The duplica
of a memorial to G
dated 7 June 1899, h
been received from
apothecary, A.S. Vittal
the Surgeon Genl. is
requested to report
when the original m
be expected.

24.7.99. 25.7.99

To the Surgeon Genl.) Despd
26/7/99

18/938

Public (1899) Department.

CURRENT No. 2117

k/

To await reply from the S.G. to memo No 1933/26.7.99.

Cw/1-8-99.

Order

From

Civil Apothecary A. S. Vittal Rau
arnadi, South Canara

No.

Dated

Received 29 July 99

Registered 31. " "

Enclosures 1

Spare copies -

SUBJECT.

Appealing against the order of the President District Board of South Canara suspending him for 4 months for neglect of duty.

19
938

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 a 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 ca[illegible] nor accelerated by the delay, whatever its length might have been—about which more [illegible] id below—and whoever was responsible for it.

6. Your Excellency [illegible] list 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 in 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 not recieve 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 wait, 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 measuring 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 states 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 10th 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 than 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 that 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 kindliest 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 "gi[illegible] meals" by the Vakil at Bantval, and who is said to be in his service. He go[illegible] 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. [illegible] of 25th April 1889, and Art. 72 of Ch. VII of the Local Fund Code of 1898, th[illegible]ent was bound before passing any order regarding the punishment to consult the District Medical and Saintary 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 the 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. Vithal Rau

Civil Apothecary, ~~Bantval~~.

Now in charge of L. F. Hospl

Puttur, S. Canara

1891
Pub Dept.
Enclos. No. 1
To
C. No. 2117

CURRENT No. 2117

'Duplicate' resubmitted in accordance with order No. 3506 of the Secretary to the Surgeon-General with the Govt. of Madras dated 16th June 1899.

21
938

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.

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

CHIEF SECRETARY
29. JUL. 1899
GOVERNMENT OF MADRAS

The humble Memorial of Civil Apothecary A. S. Vithal Rau, Charmadi, South Canara, dated 30th January 1899 (as revised on the 28th June 1899 at Puttur, South Canara, containing the same matter with a few additions from the MS. one dated 26th January 1899, submitted in lieu of the long MS. one dated 26th January 1899).

Most Respectfully Sheweth,

That, feeling highly aggrieved by the order of the President of the District Board of South Canara, dated the 5th of November 1898, suspending Your Excellency's Memorialist for four months for alleged neglect of duty on the occasion referred to therein, the Memorialist humbly begs leave to appeal against the said order under Article 71—A of the Local Fund Code and paragraph 152 of the Civil Medical Code of 1898, 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 President of the Mangalore Taluk Board, and from other papers, of which copies have been supplied to the Memorialist, it appears that on the afternoon of the 4th May 1898, two persons who had been injured by the fall of a house in a neighbouring village were brought to the Bantwal Hospital of which the Memorialist was then 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.* He 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."

Apparently, therefore, this witness did not go to the Memorialist's house at all, but whether true or untrue, there is nothing in his statement to show that the Memorialist was apprised of the necessity or the purpose of his presence in the Hospital.

4. The Vakil, without satisfying him[illegible]f that the Memorialist had really been made aware of the arrival of the patients and much [illegible] the urgency of medical attendance in the case, advised the above-named Narayana Shett[illegible] a petition to the Magistrate, and afterwards got a brother of one of the injured men to [illegible]gram to the District Surgeon at Mangalore. On receipt of the petition the Magistrate sent [illegible]zario Souza) to the Memorialist, and the peon deposes:—

> "I went and informed the Apothecary. The Apothecary was taking his meal, but I told a 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. On this evidence the Taluk Board President found the Memorialist "guilty of the 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"—*i. e., 4 days* afterwards from the internal injuries received—and suspended the Memorialist for one year. On appeal the District Board President reduced the suspension to 4 months—a period which, as the major portion of it had already elapsed, enabled the Memorialist to travel from the place where he then was and to rejoin duty almost immediately.

6. The District Board President finds the Memorialist guilty of neglect of duty for three reasons, namely, (1) it is not probable though it is possible, that the Memorialist did not receive information through the first two messengers, (2) that whether the information reached him or not, the considerable delay that had occurred argues a careless administration of the Hospital, and (3) that even after the third messenger carried the information to the Memorialist, he did not come as quick as he might.

7. As regards the first reason, Your Excellency's Memorialist regrets his misfortune, that he should have been visited with a heavy punishment for what is apparently a neglect on the part of others. The first messenger alleged to have been sent to him has not yet been traced: the second messenger, if indeed he went to the Memorialist's house, distinctly states that he did not take care to see that the information he had brought was conveyed to the Memorialist, but

that he went away when some unknown person in the multitude which must have been busy about the marriage pandal, gave him an off-hand reply of his own that the Memorialist would take his meal and come. It is very hard that in these circumstances the Memorialist should be punished with four months' suspension on the mere surmise that he must somehow or other have been informed of the necessity of his presence at the Hospital.

8. As regards the remark of the District Board President that one or more of the Hospital servants ought to have been in attendance, Vakil Lobo deposes that the ward cooly *was* on the spot: he might very well have been sent to the Memorialist's house. But apparently nobody thought that the case was as urgent as the Vakil represented it to be, for which the Memorialist is not responsible. The original reluctance of the messenger Inaas Sequeira to move in the matter, and his conduct in going away with the self-authorised reply of somebody, point to the same probability.

9. As regards the delay that had occurred after the Sub-Magistrate's peon had brought the information, the peon himself says:

> "As soon as I returned and informed the Deputy Tahsildar, the Apothecary came to the Hospital."

The Magistrate says that within half an hour of *his sending* the peon, the Memorialist arrived at the Hospital (vide his letter to the Dt. Surgeon). This leaves very little margin for delay on the part of the Memorialist who had to finish his meal which was almost over, dress himself and walk down to the Hospital. The District Board President thinks that the Magistrate must have under-estimated the interval. But the Magistrate says that he told Narayana Shetty to resubmit his petition on water-marked paper at the same time as he sent the peon to the Memorialist, and by the time the petition was fair-copied and presented he saw the Memorialist nearing the Hospital. The petition is only half a page and would not require more than ten minutes to copy, and consequently the Magistrate cannot at all be accused of under-estimating the interval. On the other hand, the statement of the Memorialist that he arrived within ten minutes after the receipt of information from the peon is correct. The peon's statement that the Memorialist came as soon as he returned and informed the Dy. Tahsildar has not been taken into account, because the peon is said to have been despatched at 1-30 or 1-45, and the telegram which is said to have been despatched before the Memorialist came to the Hospital, was despatched by the Telegraph Office at 2-50 P. M. It is, however, easy to perceive that one who could under-estimate the interval between the despatch of the peon and the arrival of the Apothecary might as well have made a mistake as to the time when the peon was despatched, and perhaps the peon was really despatched within half an hour before of the Memorialist's arrival.

10. With regard to the incidental remark of the President District Board, in para 11 of the Proceedings appealed against, the Memorialist solicits reference to the copies of Testimonials, etc., enclosed herewith, especially to the favourable remarks recorded by the professional superiors of the Memorialist, including Capt. C. Donovan, I. M. S. regarding the Memorialist and his work. With reference to the observation of the President District Board that marriage preparations were going on in the Memorialist's house, he begs to state that he had nothing to do with the marriage preparations, and it is a fact publicly known that the Memorialist was present on duty at the Hospital when the wedding actually took place.

Mr. M. Subba Rau, referred to by the President District Board, is not quite a disinterested witness, as supposed. He is a man of broken fortune and a tenant and co-Vakil of Mr. Lobo, and he is also a relation of the Bantwal Hospital Compounder B. Ananthaya, recommended by the Memorialist and Capt. C. Donovan, I. M. S., for dismissal. Further Vakil Lobo would have sent the telegram *in his own name*, if he had acted *bona fide*.

11. Great as has been the misfortune of Your Excellency's Memorialist in having been adjudged guilty at all, it has been further accentuated by the severity of the punishment. The Memorialist knows an instance where an Apothecary was fined two Rupees on the recommendation of the District Medical Officer of South Canara for having positively refused to attend on a patient, who died shortly afterwards. If the Taluk Board President had consulted the District Medical and Sanitary Officer, as he is required to do under Article 72 of Local Fund Code, the Memorialist ventures to think, that his case would not have taken the turn that it now has. To the initial irregularity of the Taluk Board President is attributable the heaviness of the punishment, through which the Memorialist had already passed when the District Board President disposed of his appeal, and which though reduced to a third of its original extent is, the Memorialist humbly ventures to plead, out of all proportion to the delay which had occurred in attending on a patient, whoever might have been responsible for it.

12. The District Board President notice [illegible] serious irregularity, namely, that under S. 42 (3) of the Act, the order of the Taluk [illegible] esident should not have been given effect to until the consent of the Governor in Counc [illegible] een received or until three months' time had expired after giving the notice required. It seems on reading Articles 71—A. and 72, appendix E. (5) of the L. F. Code of 1898, and the definition of "President" on page xii of the L. F. Code that the order of the Taluk Board President suspending the Memorialist was *ultra vires.* These irregularities have greatly prejudiced the Memorialist and placed him in a difficult situation.

13. The papers mentioned in the accompanying list are herewith submitted.

14. In conclusion, therefore, Your Excellency's humble Memorialist earnestly and respectfully prays that Your Excellency may be graciously pleased to adjudge him innocent, cancel the the order of suspension and order the payment of his salary for the period of suspension.

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

A.S. Vitthal Rau

Civil Apothecary,
now in charge of L. F. Hospital,
Puttur, South Canara.

TESTIMONIALS.

Madras Medical College,
17th July 1886.

A. S. Vittal 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.

Lieut-Colonel W. A. Lee, I. M. S., remarked in the Visitors' Book at the Puttur Hospital that "Mr. A. Vittal Rau has fully maintained the popularity of the institution."

Major W. B. Bannerman, I. M. S., remarked at th Coondapoor Hospital that "the attendance has increased since he came."

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

Extracts from Visitors' Books of Coondapoor and Bantwal Hospitals.

Date of visit	Name and Designation of the visitor.	Remarks.
21st May 94.	S. F. Brito, Dt. Board Member.	No in-patients at present. Hospital and buildings kept clean. It is creditable to the Medical Subordinate attached that the attendance is increasing. The average monthly attendance from January to April 1894 is 789 as compared to 510 of the corresponding months of 1892 when it was in the charge of his predecessor. Last year's average for the corresponding months is 683. (Signed) S. F. BRITO.
9—9—94.	V. Rama Rao, Vice President, Taluk Board.	During my stay at Coondapoor for nearly 3½ years I have paid several visits to the Hospital and found it always clean and everything connected with it in good order. It is very creditable to Mr. Vittal Rau that there has been a rapid increase in the attendance since he took charge of the institution so much so that the number of patients for 1893 was 9174, while it was only 6124 in 1891—a state of things that certifies to the popularity of Mr. Vittal Rau. (Signed) V. RAMA RAU, *Vice President.*
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.*
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. Vittal 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 up to 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 (and Dt. 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.)

(True copies, extracts and translations.)

C. S. Vittal Rau
Civil Apothecary.

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* The fourth in-patient was a child.

Public (1899) Department.

Curs. 1528, 1719, 2117 + 2180/99.

CURRENT No. 2180

Lodged pending receipt of the orig. petition

CHIEF SECRETARY
-7 AUG 1899
GOVERNMENT OF MADRAS

~~Order~~

Note File to be returned to Public Ref. intact after the currents have been closed.

From Surgeon General
C. Sibthorpe CB, IMS
Surgeon-General
with the Govt. of Madras.

No. 18/424

Dated the 5th August 99.

Received } 7
Registered }

Enclosures -

Spare copies -

SUBJECT.

Stating that the memorial having been sent direct to this office by Civil Apothecary A. S. Vittal Rao it has been sent back to him to be resubmitted through the District medical & sanitary officer and President District Board for their remarks on the memorial.

[1]

CURRENT NO. 2180

25
938

No. 784-24

Office of Surgeon-General
with the Government of Madras,
Camp Ootacamund, the 5th August 1899.

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,

With reference to your Memorandum No. 1933, Public, dated the 26th July 1899, I have the honor to stat that the memorial having been sent direct to this office by the Apothecar it has been sent back to him to b resubmitted through the District Medi and Sanitary officer and the Presiden District Board to enable those office to make their remarks on the same.

I have the honor to be,
Sir,
Your most obedient Servant,

C. Sibthorpe

Surgeon General
Surgeon-General
with the Govt. of Madras.

Public (1899) Department.

CURRENT No. 2240

14 AUG 1899
GOVERNMENT OF MADRAS

From Surgeon General
C. Sibthorpe C.B., Q.H.
Surgeon-General
with the Govt. of Madras.

No. T8/447

Order

Dated the 13th August 99

Received } 14 "
Registered }

Enclosures 9

Spare copies -

SUBJECT.

Forwarding another memorial from Civil apothecary A. S. Vittal Row appealing agains his suspension for four months

BACK PAPERS.

G.O.	No.	Department.	Date
	122	Pub.	27-1-99
	111	"	16-2-948
	2	"	6-7-90

27/938

Enclosure No. 1 to Letter No. 79/447 d/13/8/99

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.

Through 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, Charmadi, South Canara, dated 30th January 1899 (as revised on the 28th June 1899 at Puttur, South Canara, containing the same matter with a few additions from the MS. one dated 26th January 1899, submitted in lieu of the long MS. one dated 26th January 1899).

Most Respectfully Sheweth,

That, feeling highly aggrieved by the order of the President of the District Board of South Canara, dated the 5th of November 1898, suspending Your Excellency's Memorialist for four months for alleged neglect of duty on the occasion referred to therein, the Memorialist humbly begs leave to appeal against the said order under Article 71—A of the Local Fund Code and paragraph 152 of the Civil Medical Code of 1898, 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 President of the Mangalore Taluk Board, and from other papers, of which copies have been supplied to the Memorialist, it appears that on the afternoon of the 4th May 1898, two persons who had been injured by the fall of a house in a neighbouring village were brought to the Bantwal Hospital of which the Memorialist was then 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.* He 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."

Apparently, therefore, this witness did not go to the Memorialist's house at all, but whether true or untrue, there is nothing in his statement 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, 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 a 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. On this evidence the Taluk Board President found the Memorialist "guilty of the 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"—*i. e., 4 days* afterwards from the internal injuries received—and suspended the Memorialist for one year. On appeal the District Board President reduced the suspension to 4 months—a period which, as the major portion of it had already elapsed, enabled the Memorialist to travel from the place where he then was and to rejoin duty almost immediately.

6. The District Board President finds the Memorialist guilty of neglect of duty for three reasons, namely, (1) it is not probable though it is possible, that the Memorialist did not receive information through the first two messengers, (2) that whether the information reached him or not, the considerable delay that had occurred argues a careless administration of the Hospital, and (3) that even after the third messenger carried the information to the Memorialist, he did not come as quick as he might.

7. As regards the first reason, Your Excellency's Memorialist regrets his misfortune, that he should have been visited with a heavy punishment for what is apparently a neglect on the part of others. The first messenger alleged to have been sent to him has not yet been traced: the second messenger, if indeed he went to the Memorialist's house, distinctly states that he did not take care to see that the information he had brought was conveyed to the Memorialist, but that he went away when some unknown person in the multitude which must have been busy about the marriage pandal, gave him an off-hand reply of his own that the Memorialist would take his meal and come. It is very hard that in these circumstances the Memorialist should be punished with four months' suspension on the mere surmise that he must somehow or other have been informed of the necessity of his presence at the Hospital.

8. As regards the remark of the District Board President that one or more of the Hospital servants ought to have been in attendance, Vakil Lobo deposes that the ward cooly *was* on the spot: he might very well have been sent to the Memorialist's house. But apparently nobody thought that the case was as urgent as the Vakil represented it to be, for which the Memorialist is not responsible. The original reluctance of the messenger Inaas Sequeira to move in the matter, and his conduct in going away with the self-authorised reply of somebody, point to the same probability.

9. As regards the delay that had occurred after the Sub-Magistrate's peon had brought the information, the peon himself says:

> "As soon as I returned and informed the Deputy Tahsildar, the Apothecary came to the Hospital."

The Magistrate says that within half an hour of *his sending* the peon, the Memorialist arrived at the Hospital (vide his letter to the Dt.-Surgeon). This leaves very little margin for delay on the part of the Memorialist who had to finish his meal which was almost over, dress himself and walk down to the Hospital. The District Board President thinks that the Magistrate must have under-estimated the interval. But the Magistrate says that he told Narayana Shetty to resubmit his petition on water-marked paper at the same time as he sent the peon to the Memorialist, and by the time the petition was fair-copied and presented he saw the Memorialist nearing the Hospital. The petition is only half a page and would not require more than ten minutes to copy, and consequently the Magistrate cannot at all be accused of under-estimating the interval. On the other hand, the statement of the Memorialist that he arrived within ten minutes after the receipt of information from the peon is correct. The peon's statement that the Memorialist came as soon as he returned and informed the Dy. Tahsildar has not been taken into account, because the peon is said to have been despatched at 1-30 or 1-45, and the telegram which is said to have been despatched before the Memorialist came to the Hospital, was despatched by the Telegraph Office at 2-50 P. M. It is, however, easy to perceive that one who could under-estimate the interval between the despatch of the peon and the arrival of the Apothecary might as well have made a mistake as to the time when the peon was despatched, and perhaps the peon was really despatched within half an hour before of the Memorialist's arrival.

10. With regard to the incidental remark of the President District Board, in para 11 of the Proceedings appealed against, the Memorialist solicits reference to the copies of Testimonials, etc., enclosed herewith, especially to the favourable remarks recorded by the professional superiors of the Memorialist, including Capt. C. Donovan, I. M. S. regarding the Memorialist and his work. With reference to the observation of the President District Board that marriage preparations were going on in the Memorialist's house, he begs to state that he had nothing to do with the marriage preparations, and it is a fact publicly known that the Memorialist was present on duty at the Hospital when the wedding actually took place.

Mr. M. Subba Rau, referred to by the President District Board, is not quite a disinterested witness, as supposed. He is a man of broken fortune and a tenant and co-Vakil of Mr. Lobo, and he is also a relation of the Bantwal Hospital Compounder B. Ananthaya, recommended by the Memorialist and Capt. C. Donovan, I. M. S., for dismissal. Further Vakil Lobo would have sent the telegram *in his own name*, if he had acted *bona fide*.

11. Great as has been the misfortune of Your Excellency's Memorialist in having been adjudged guilty at all, it has been further accentuated by the severity of the punishment. The Memorialist knows an instance where an Apothecary was fined two Rupees on the recommendation of the District Medical Officer of South Canara for having positively refused to attend on a patient, who died shortly afterwards. If the Taluk Board President had consulted the District Medical and Sanitary Officer, as he is required to do under Article 72 of Local Fund Code, the Memorialist ventures to think, that his case would not have taken the turn that it now has. To the initial irregularity of the Taluk Board President is attributable the heaviness of the punishment, through which the Memorialist had already passed when the District Board President disposed of his appeal, and which though reduced to a third of its original extent is, the Memorialist humbly ventures to plead, out of all proportion to the delay which had occurred in attending on a patient, whoever might have been responsible for it.

12. The District Board President notices another serious irregularity, namely, that under S. 42 (3) of the Act, the order of the Taluk Board President should not have been given effect to until the consent of the Governor in Council had been received or until three months' time had expired after giving the notice required. It seems on reading Articles 71—A. and 72, appendix E. (5) of the L. F. Code of 1898, and the definition of "President" on page xii of the L. F. Code that the order of the Taluk Board President suspending the Memorialist was *ultra vires*. These irregularities have greatly prejudiced the Memorialist and placed him in a difficult situation.

13. The papers mentioned in the accompanying list are herewith submitted.

14. In conclusion, therefore, Your Excellency's humble Memorialist earnestly and respectfully prays that Your Excellency may be graciously pleased to adjudge him innocent, cancel the the order of suspension and order the payment of his salary for the period of suspension.

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

A.S.Vittal Rau

Civil Apothecary,
now in charge of L. F. Hospital,
Puttur, South Canara.

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TESTIMONIALS.

MADRAS MEDICAL COLLEGE,
17th July 1886.

A. S. Vittal 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.

Lieut-Colonel W. A. Lee, I. M. S., remarked in the Visitors' Book at the Puttur Hospital that "Mr. A. Vittal Rau has fully maintained the popularity of the institution."

Major W. B. Bannerman, I. M. S., remarked at the Coondapoor Hospital that "the attendance has increased since he came."

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

Extracts from Visitors' Books of Coondapoor and Bantwal Hospitals.

Date of visit	Name and Designation of the visitor.	Remarks.
21st May 94.	S. F. Brito, Dt. Board Member.	No in-patients at present. Hospital and buildings kept clean. It is creditable to the Medical Subordinate attached that the attendance is increasing. The average monthly attendance from January to April 1894 is 789 as compared to 510 of the corresponding months of 1892 when it was in the charge of his predecessor. Last year's average for the corresponding months is 683. (Signed) S. F. BRITO.
9—9—94.	V. Rama Rao, Vice President, Taluk Board.	During my stay at Coondapoor for nearly 3½ years I have paid several visits to the Hospital and found it always clean and everything connected with it in good order. It is very creditable to Mr. Vittal Rau that there has been a rapid increase in the attendance since he took charge of the institution so much so that the number of patients for 1893 was 9174, while it was only 6124 in 1891—a state of things that certifies to the popularity of Mr. Vittal Rau. (Signed) V. RAMA RAU, *Vice President.*
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.

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. Vittal 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 up to 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 (and Dt. 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.)

(True copies, extracts and translations.)

A S Vithal Rau
Civil Apothecary.

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* The fourth in-patient was a child.

30/938

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 a 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 in some form and through somebody a considerable time before his arrival at the Hospital.

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8. The President infers from the evidence of the witnesses that the injured men did not recieve 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 wait, 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 measuring 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 states 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 10th 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 than 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 that 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 kindliest 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 Saintary 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 the 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.

C. S. Vitthal Rau

Civil Apothecary, Bantval.

Now in charge of Road Frontier Inspection
Station, Charmady, South Canara Dist
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To
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No 15

Enclosure No. 2 to Letter No. T8/447 d 13/8/99.

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.

Through 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. Vittal Rau, Charmadi, South Canara, dated 30th *January 1899.* in continuation of the manuscript one dated 26th January '99 and its enclosures

MOST RESPECTFULLY SHEWETH,

That, feeling highly aggrieved by the order of the President of the District Board of South Canara, dated the 5th of November, 1898, suspending Your Excellency's Memorialist for four months for alleged neglect of duty on the occasion referred to therein, the 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 President of the Mangalore Taluk Board, 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 Bantawal Hospital of which the Memorialist was then 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.* He 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."

Apparently, therefore, this witness did not go to the Memorialist's house at all, but whether true or untrue, there is nothing in his statement to show that 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, 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 a 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. On this evidence the Taluk Board President found the Memorialist "guilty of the 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"—*i.e., 4 days* afterwards from the internal injuries received—and suspended the Memorialist for one year. On appeal the District Board President reduced the suspension to 4 months-a period which, as the major portion of it had already elapsed, enabled the Memorialist to travel from the place where he then was and to rejoin duty almost immediately.

6. The District Board President finds the Memorialist guilty of neglect of duty for three reasons, namely, (1) it is not probable though it is possible, that the Memorialist did not receive information through the first two messengers, (2) that whether the information reached him or not, the considerable delay that had occurred argues a careless administration of the Hospital, and (3) that even after the third messenger carried the information to the Memorialist, he did not come as quick as he might.

7. As regards the first reason, Your Excellency's Memorialist regrets his misfortune, that he should have been visited with a heavy punishment for what is apparently a neglect on the part of others. The first messenger alleged to have been sent to him has not yet been traced: the second messenger, if indeed he went to the Memorialist's house, distinctly states that he did not take care to see that the information he had brought was conveyed to the Memorialist, but that he went away when some unknown person in the multitude which must have been busy about the marriage pandal, gave him an off-hand reply of his own that the Memorialist would take his meal and come. It is very hard that in these circumstances the Memorialist should be punished with four months' suspension on the mere surmise that he must somehow or other been informed of the necessity of his presence at the Hospital.

8. As regards the remark of the District Board President that one or more of the Hospital servants ought to have been in attendance, Vakil Lobo deposes that the ward cooly *was* on the spot: he might very well have been sent to the Memorialist's house. But apparently nobody thought that the case was as urgent as the Vakil represented it to be, for which the Memorialist is not responsible. The original reluctance of the messenger Inaas Sequeira to move in the matter, and his conduct in going away with the self-authorised reply of somebody, point to the same probability.

9. As regards the delay that had occurred after the Sub-Magistrate's peon had brought the information, the peon himself says :

> "As soon as I returned and informed the Deputy Tahsildar, the Apothecary came to the Hospital."

The Magistrate says that within half an hour of *his sending* the peon, the Memorialist arrived at the Hospital. This leaves very little margin for delay on the part of the Memorialist who had to finish his meal, dress himself and walk down to the Hospital. The District Board President thinks that the Magistrate must have under-estimated the interval, and perhaps the peon's statement is to count for nothing, because the peon is said to have been despatched at 1-30 or 1-45, and the telegram which is said to have been despatched before the Memorialist came to the Hospital was despatched by the Telegraph Office at 2-50 P.M. It is, however, easy to perceive that one who could under-estimate the interval between the despatch of the peon and the arrival of the Apothecary might as well have made a mistake as to the time when the peon was despatched, and perhaps the peon was really despatched within half an hour before of the Memorialist's arrival.

10. Great as has been the misfortune of Your Excellency's Memorialist in having been adjudged guilty at all, it has been further accentuated by the severity of the punishment. The Memorialist knows an instance where an Apothecary was fined two rupees on the recommendation of the District Medical Officer of South Canara for having positively refused to attend on a patient, who died shortly afterwards. If the Taluk Board President had consulted the District Medical and Sanitary Officer, as he is required to do under ~~S.~~ art. 72 of Local Fund Code, the Memorialist ventures to think that his case would not have taken the turn that it now has. To the initial irregularity of the Taluk Board President is attributable the heaviness of the punishment, through which the Memorialist had already passed when the District Board President disposed of his appeal, and which though reduced to a third of its original extent is, the Memorialist humbly ventures to plead, out of all proportion to the delay which had occurred in attending on a patient, whoever might have been responsible for it.

11. The District Board President notices another serious irregularity, namely, that under S. 42 (3) of the ~~Local Fund Code~~ Act, the order of the Taluk Board President 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. These irregularities have greatly prejudiced the Memorialist and placed him in a difficult situation.

12. In conclusion, therefore, Your Excellency's humble Memorialist earnestly and respectfully prays that Your Excellency may be graciously pleased to adjudge him innocent, cancel the the order of suspension and order the payment of his salary for the period of suspension.

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

A. S. Vittal Rau
Civil Apothecary
Now in charge of Frontier Inspection Station
Charmady.
South Canara District

G. A. NATESAN & CO., PRINTERS, ESPLANADE ROW, MADRAS.

1899
Pub Dept.
Enclosure No 2
To

Dis. No. 747/D.B./98 37/938

Proceedings of the President, District Board of South Canara, dated 5th November 1898.

OFFICE OF THE DISTRICT MEDICAL & SANITARY OFFICER SOUTH C
8 NOV. 98

Enclosure No. 3
13/8/99

Read petition, dated 21st September 1898, from Civil Apothecary A. S. Vittal Rau, appealing against order dated 13th July 1898, Dis: No. 148/M.F.B. of the President of the [illegible] for one Taluk Board suspending peti[illegible] of duty—for year for culpable neglect warded by the District Medical & Sanitary officer, South Canara, with his endorsement No. 2238, dated 3rd October 1898.

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

Order.

1. 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, suspend 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 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

at effect shall have been given to the vernor in Council.

3. The appellant Vittal Rao is a Government servant whose services were lent the Board. Suspension is clearly a removal om employment [illegible] m of opinion that though the Pres[illegible]oard, had power to pass e order of [illegible]pension should not have been iven effect to until the consent of the Governor in Council had been received or until 3 months' time had expired after giving he 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 appellant has not been dismissed or permanently reduced – vide article 70 of L F 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

though repeatedly informed of the fact appell 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 [illegible]e evidence two persons were sent to ca[illegible]e apothecary before the Sub Magistrate [illegible]timately sent his peon. The first man is not known and it is possible though not probable that he did not go. The second man went 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, wardcooly, midwife, toty &c. It is the

e duty of the apothecary in charge to see that ne or more of these people at least s always in attendance to bring him in-tant 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 the apothecaries' house is only a few minutes' walk from the office and hospital (which are contiguous). The Sub Magistrate says he did not come f[illegible]ore than half an hour. As a fact i[illegible] an under estimate by the Sub-Magistrate [illegible]or the time specified on 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 Rau who testifies that the telegram was despatched before the apothecary arrived.

9. The appellant's attack on Mr. Lobo and his motives for interfering appears to me

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 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 & 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 2½ 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 the term of suspension might in this instance be reduced

reduced without affecting its deterrent effect. I therefore reduce the punishment to 4 months' suspension.

(Signed) A. F. Pinhey,
President,
District Board.

True copy communicated to Civil apothecary A. S. Vittal Rau through the District Medical & Sanitary Officer, South Canara.

for President
District Board,
South Canara.

Fd.
LG.
W

Forwarded to Civil Apothecary A. S. Vittal Rau.

C. Muniappa

Mangalore
8. 11. 98 } Dist. Med. & Sany. Officer

189.4

98/938

Enclosure No. 4 to letter No. 78/44 / 13/8/99

To

THE PRESIDENT,

DISTRICT BOARD,

SOUTH CANARA.

Thro' The District Medical and Sanitary Officer, South Canara.

The Humble Petition 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 Honour's Petitioner for one year for alleged "neglect of duty" on the occasion referred to therein, Your Honour's Petitioner 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 Petitioner 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 Petitioner, 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 Petitioner was in charge. Narayana Shetty, the owner of the house, accompanied the patients and is alleged to have sent a man to inform the Petitioner 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 Petitioner's house at all. Even in his later statement, made before the President there is nothing to show that the Petitioner was apprised of the necessity or the purpose of his presence in the Hospital.

4. The Vakil, without satisfying himself that the Petitioner 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 Petitioner, and the peon deposes:

> "I went and informed the Apothecary. The Apothecary was taking his meal, but I told a 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 Petitioner 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 Petitioner "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 Petitioner 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 Honour's Petitioner 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 Petitioner 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 Petitioner, 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 Petitioner 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 Petitioner's house. Admittedly neither of these two men saw the Petitioner personally, nor did either make sure that the information was conveyed to him. In the circumstances it is very hard that Your Honour's Petitioner should be disbelieved, and he should be found guilty and punished so severely on a vague surmise that he *must* have received the information in some form and through somebody a considerable time before his arrival at the Hospital.

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8. The President infers from the evidence of the witnesses that the injured men did not recieve medical assistance for about 2½ hours. The Petitioner, having no direct knowledge of the time when the patients arrived at the Hospital, is unable to state how long they had to wait, but inasmuch as the length of the interval must have formed an important consideration with the President in concluding the Petitioner's culpability as well as in fixing the measure of the punishment, the Petitioner 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 measuring 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 states 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 10th 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 than 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 Petitioner approaching the Hospital not more than half an hour afterwards—*Vide* his letter to the District Surgeon. Thus the Petitioner was at the Hospital at about 2 P. M. This—setting aside the question of the Petitioner's knowledge—reduces the whole interval to 1½ hours, and that 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 kindliest of feelings towards the Petitioner, 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 Petitioner 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 Petitioner 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 Petitioner, 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 Petitioner 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 Petitioner 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 Petitioner 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 Petitioner'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 Petitioner 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 Petitioner 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 Petitioner'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 Petitioner 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 Honour's Petitioner 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 Petitioner.

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 Saintary 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 Petitioner 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 Honour's Petitioner 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 the 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 Petitioner begs to be excused.

13. In conclusion, Your Honour's Petitioner most humbly prays that Your Honour 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 Honour's Petitioner will, as in duty bound, ever pray.

A. S. Vithal Rao

Civil Apothecary, Bantval.

Now in charge of Frontier Inspection Station Charmadi

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* The certified copy of the order having been submitted with the Memorial to Government a printed copy of the same is herein enclosed.

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. $\frac{148/98.}{\text{M. T. B.}}$

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.

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

MANGALORE,
15th July 1898.

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-Lieut-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 Petitioner 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.*
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 satisfactroy * * * * (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-patiens 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.)

(True copies, extracts & translations)
A. S. Vithal Rau
C. Apothecary

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* The fourth in-patient was a child.

Enclosure No. 5 to Letter No. 78/447 13/8/97

Testimonials

Extracts from visitors' book of Coondapoor Hospl.

Date of visit — Remarks.

21st May '94 — No in patients at present. Hospital and buildings kept clean. It is creditable to the Medical Subordinate attached that the attendance is increasing. The average monthly attendance from January to April '94 is 789 as compared to 510 of the corresponding months of 1892 when it was in the charge of his predecessor. Last year's average for the corresponding months is 683.

(Signed) J. F. Brito.

9.9.94 — During my stay at Coondapoor
nearly 3½ years I have paid several
visits to the Hospital and found i
always clean and everything conne
with it in good order. It is very
creditable to Mr. Vittal Rau that
has been a rapid increase in the
attendance since he took char
of the institution so much so
the No. of patients for 1893 was
while it was only 6124 in 18
state of things that certifies
Mr. Vittal Rau

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Enclosure No. 6 to Letter No. 78/447 | 1

To

His Excellency [illegible] Righ

Sir Arthur Elibank Hav

G. C. M. G., G. C.

Governor and President in Coun

Fort Saint George.

Thro[illegible] the District Medical & Sanitary
Offici, South Canara, and the Surgeon-
General with the Government of Madras.

The humble memorial of
Civil apothecary A. S. Vithal Rau,
Charmadi, South Canara, dated 30th
January 1899, as revised on 28th
June 99 at Puttur, South Canara
(Containing the same matter with a
few additions from the manuscript
one dated 26th January 99 - herein
marked with red ink for ready refe
& submitted in lieu of the long manu
-script one dated the 26th January '99

Most Respectfully Sheweth,

That, feeling highly aggrieved by the
order of the President of the District Board
of South Canara, dated the 5th of November 1898,
Suspending Your Excellency's Memorialist
for f[illegible] months for alleged neglec
de

The Memorialist humbly
against the said order under
Local Fund Code and parag
Medical Code of 1898 in the h
showing that there was no neg
-ect on the part of the Memori
the heavy punishment inflicte
together undeserved.

2. From the depositions taken down by the President of the Mangalore Taluk Board, 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 then 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. He says:

"I sent word to the Apothecary when we arrived at the Hospital. I sent a man but I donot remember who."

3. Shortly afterwards, a Vakil, named A. J. Lobo
putting up in the midwi
who

Close up, Came h
friend, and as
up" he sent a
to inform the Mag
Saw the Magistrate

"The Magistrate told m
Doctor, so I went to his house
was there outside told me that th
marriage ceremony inside, and tha
sitting for meals and that Doctor w
presently. The man did not go in
I left but told me this of his own
reported this to the Vakil and went
business."

The Vakil, however, deposes :-
"The man came back and said th
Apothecary had been sent for by the
apparently, therefore, this witness
te Ma

Advise

present

-wards

to sen

Ma

May

Memo

" S

Ap [illegible]

by [illegible] there to tell him. The boy

nd returned saying that the Apothec

ome after finishing his meal. As so

returned and informed the Deputy

the Apothecary came to the Hospital."

It will thus be seen that the Memo

lost no time in coming to the Hospi

he learnt that his presence was n

In this evidence the Tal

the Suspension
h, as the Major po
passed, enabled the Mem
the place where he then
almost immediately.

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6. The District Board Pr[illegible]
Memorialist guilty of neglect of duty,
reasons, namely, (1) it is not probable
it is possible, that the Memorialist did not
receive information through the first two
Messengers, (2) that whether the information
reached him or not, the considerable delay
that had occurred argues a careless
administration of the Hospital, and (3) that
after the third Messenger carried the
formation to the Memorialist, he did not
as quick as he might.
Four
[illegible]

78/930

not take care to see that the
had brought was conveyed to
but that he went away when some
person in the multitude which [illegible]
busy about the marriage pandal, gave
off-hand reply of his own that the Me
would take his meal and come. It is
hard that in [illegible]ces the Mem
-rialist should be punished with four mon
Suspension on the mere surmise that he
must somehow or other have been informed of
the necessity of his presence at the Hospital.

8. As regards the remark of the District Board
President that one or more of the Hospital
servants ought to have been in attendance,
Vakil Lobo [illegible] that the ward cooly was
on the spot: he might very well have been
sent to the Memorialist's house. But apparently
[illegible] presented
tune, that he should [illegible]
punishment for what is appar
ct on the part of others. The first
alleged to have been sent to
traced: the second
indeed he went to the Memo

the Sub-Magistrate's peon ha
formation, the peon himself
"As soon as I returned
Deputy Tahsildar, the A
Hospital."
The Magistrate says that
hour of his sending the peon
[illegible]ed at the Hospital. (Vide his le
Surgeon). This leaves very little o
on the part of the Memorialist wh
his meal which was almost over,
and walk down to the Hospital. T
"I [illegible] thinks that the Mag
under-estimated the interval
says that he told Narayana Shetty
his petition on water-marked paper,
time as he sent the peon to the
and by the time the petition was fair
presented he saw the Memor
Hospital. The petition is only
would not require more than
Copy, and consequently the
not at all be accused of una
interval On the other hand

the Memorialist came as soon a
and informed the Deputy Tahs
taken into account, because th
to have been despatched at 1.30
telegram which is said to hav
before the Memorialist came to
was despatched by the Telegrap
P. It is, however, easy to
one who could under-estimate
-ween the despatch of the peon
of the Apothecary might as well a
a mistake as to the time when
despatched, & perhaps the peon jus
-patched within half an hour. Bu
-rialist's arrival.

10. With regard to the incidental re
President, District Board, in para
-ceedings appealed against th
solicits a reference to th
enclosed herewith, especially
-marks recorded by the Profess
of the Memorialist including
I.M.S. regarding the Memoria
work.

With [illegible] to the obs

begs to state that he had no
Marriage preparations and
publicly known that the Memor
on duty at the Hospital when the
took place.
Mr. M. SubbaRau referred to by the
Board is not quite a disinterested witne
supposed. He is a man of broken fortun
a tenant and co-vakil of Mr. Lobo, and
also a relation of the Bantval Hospita
Compounder B. Ananthaya recommended
the Memorialist and Captain C. Donovan
for dismissal. Further Vakil Lobo would have sent the
telegram in his own name, if he had acted Bona fid

11. Great as has been the misfortune of Your
Excellency's Memorialist in having been ad-
judged guilty at all, it has been further
accentuated by the severity of the punish-
-ment. The Memorialist knows an instance
where an Apothecary was fined two rupees
on the recommendation of the District Medical
Officer of Sou Co having positively
refused to a patient, wh
the Taluk B

the Memorialist ventures to think

case would not have taken the turn

now has. To the initial irregular

Taluk Board President is attributab

heaviness of the punishment, through

the Memorialist had already passed w

the District Board President disposed

appeal, and which though reduced to a

of its original extent is, the Memorialist

ventures to plead, out of all proportion to th

delay which had occurred in attending

a patient, whoever might have been respon

for it.

12. The District Board President notices another serious irregularity, namely, that under sec. 42(3) of the Act the order of the Taluk Board President 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.

also Appendix E(5) of the Local Fund Code of 1898 (page 11

It seems on go Art: 71-A and 72 and

the d ent' on page xii of

of 1898 that the order

have greatly prejudiced the
placed him in a difficult

13. The papers mentioned in the accom
list are herewith submitted.

14: In Conclusion, therefore, Your Excell
humble Memorialist earnestly and respe
prays that Your Excellency may be g
-ly pleased to adjudge him innocent,
the order of Suspension and order the pa
of his salary for the period of suspensi

For which act of justice and Kindness
Excellency's Memorialist shall, as in duty
bound, ever pray.

A.S. Vithal Rau
Civil Apothecary
now in charge of L.F. Hosp
Puttur, South Can
District.

54/938

Dis No. 3902/D13/99. II

Enclosure No. 7 to letter No. 78/147

Mho 2

6th/14/7

Memo.

The memorial and other papers
with his letter No. 162/28.6.99 are herewith retu
to Civil Apothecary A. S. Vittal Rao w
attention is drawn to G. O. No. 122 Publ/27-1-9
communicated to him through the District M
and Sanitary Officer with his office Dis/8
which declined to interfere in the ma
of his suspension.

OFFICE OF THE DISTRICT MEDICAL & SANITARY OFFICER, SOUTH CANARA.
14 July 1899

Mangalore
8th July 1899

for Presi
Dt.
S. Can

compd. SG. Copd. GD.

To
Civil Apothecary A. S. Vittal R
through the District Med
Sanitary Offic

No 2034. III

Forwarded with the enclosures.

~~[illegible]~~

N

I.N. no 231.

L. F. Hospital. Puttur,
South Canara,
25th July 1899.

Civil Apothecary A. S. Vithal Rau
Puttur, South Canara

The District Medical and Sanitary Officer
South Canara.

OFFICE OF THE DISTRICT MEDICAL & SANITARY
28 - 99.
SOUTH CANARA

1899
Dept.
No.
2244

In obedience to your order N
20th June 1899 and order No 3506 of the
-tary to the Surgeon General, I beg to stat
that I submitted my appeal to the Presid
District Board, for favour of his remar
with a prayer that the same may be ret
to me to be resubmitted to you as per you
above quoted order. With reference to the
remarks of the President, District Boar
I most respectfully beg to state that I sub
-mitted my appeal dated 21st September
to Government inasmuch as it was not cle
Whe[illegible] under articles 71-A and 72, appendix
of the L. F. Code and the definition of Presiden
on page xii of the Code, a Taluk Board Pre
can suspend a subordinate of the Governmen
Medical Department without the previously
obtained permission of the District Boar
President, and secondly, whether, when
an order has been so passed and it is re
by the District Board President and forwa
by him to the Surgeon-General he implicitl
Conforms the nd the appeal lies
Government rict Board Pres

ted 5th November last, herewith enclosed,
question viz., that by the for-
ding by him of the order of the Taluk Board
ident he has not implicitly confirmed the
der.

The G.O. No 122, Public, dated the 27th
nuary 1899 referred to by the President, District
rd in his remarks Dis. No $\frac{390 D}{D.B/98}$ dated the
instant was an order on my appeal against
order of the Taluk Board President. The appeal
norial dated 21st September last cannot be
trued as an appeal against the order
President of the District Board, an order
a later date than that of the Memorial.
Government in its order No 122 Public, abo
red to declined to interfere because it was
appeal against the order of the Taluk Board
ident and not an appeal against the
of the District Board President who is an
nediate authority (as per paragraph 687.
the, Madras Civil Medical Code of 1895);
d it will consider my case in the regular
rse if the appeal is preferred against the
der of the President, District Board, dated 15th
vember 1898, as per laid down
ove the "second of the above
G.O. No 122 P. I can
ty

appeal to Government against
President, District Board. The Secr y to t
Surgeon-General was at first of the same
opinion; but after my explanation was
-mitted he has directed me through you t
resubmit my appeal so that the Presiden
District Board may be able to make his re
-marks thereon.

3. I therefore beg to resubmit the appeal
petition with a printed copy of the revised
Memorial and testimonials, with the enclosu
and humbly and most respectfully beg to req
you will be kindly pleased to adjudge me in
-nocent and forward the same to Govern
-ment through the Surgeon-General with you
kind and favourable remarks, for which
of kindness and mercy, I shall, as in duty bo
ever pray.

I beg to remain,
Sir,
Your most obedient and humble s
C.S. Ethoekan
Civil Apothecary
in charge of Vellur

Appeal to Government

99

President District Board

Surgeon General
with the Government of Madras.

Opinion

June 1899 to
Civil Apothecary [illegible] tal Rao.

District Board

It is not proved that the civil apothecary failed to attend on the [illegible]
door as the information reached him.

Bangalore
July 1899

Senior Officer

Report and forward the same to you through the Surgeon General with his kind and favourable remarks, for which act of kindness and mercy I shall as in duty bound ever pray.

Your [illegible]

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938

No. 1851 **Memo** Enclosure No. 8 to Letter 18/447

OFFICE OF SURGEON-GENERAL WITH GOVT. OF MADRAS
4- AUG. 1899

Civil Apothecary A. S. Vittal Rau is to resubmit his appeal (returned herewith) to the Resident, [illegible] Board South [illegible] and then to [illegible] signed.

Bangalore

(Signed) George V. Worthi
Lt. Col.
Offg. Dr. Med. & San.
S. Canar

(True copy)

A. S. Vittal Rau
Civil Apothecary
28. 6. 99

List of Papers se

Enclosure No. 9 to Letter No. 18/44

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1. Revised Memorial i.e., the M

dated 30th January 99 as revised and containing the same matter with a few additions from the lo nuscript one dated 26th January 99. I is submitted in lieu of the long ript one dated 26th January 99

2. Printed Memor dated 30th January 99

3. Memorial dated 21st September 1898

4. Proceedings of the President District Board dated 5th Nov: 1898

5. Appeal to the President District Board dated 21st September 1898. – Copy of.

6. Copy of the Proceedings of the President Taluk Board

7. Testimonials and Extracts from Visitors' Book (printed copy of 2 pages)

8 Manuscript Copy of Extracts from Visitors' book of Coondapoor Hospital.

Puttur Hospital, }
28.6.99 }

C.S. Vithal Rau
Civil Apothecary

Note. A printed copy of the revised Memorial and testimonials also ~~is~~ are herewith enclosed.

C.S. Vithal Rau
Civil Apothecary

1899
Pub
Number No. 1

No. 18/4467

WITH THE GOVERNMENT OF

Camp Ootacamund, 13th August 1899.

From

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938

SURGEON-GENERAL C. SIBTHORPE, C.B., F.R.C.P.I.,
SURGEON-GENERAL WITH THE
GOVERNMENT OF MADRAS,
Madras.

To

THE Honorable the
Chief Secret[illegible]y to
Gover[illegible]ent Public Dept:

SIR,

C

With reference to G.O. No. 122, Public, dated 27th January 1899, I have the honor to forward another Memorial from Civil Apothecary A. S. Vittal Row now attached to the Local Fund Hospital Puttur, South Canara appealing against his suspension for four months.

2. As far as I can see the Civil Apothecary has not adduced any fresh or convincing arguments in favor of his contention that he is not responsible for the delay in proceeding to see the injured patient and I am therefore unable to recommend his appeal for favorable consideration.

I have the honor to be
Sir
Your most obedient Servant
C. Sibthorpe.
Surgeon General.

C S/

60/938

No. 1528 From ~~the~~ Civil apothy A. S. Vittal Rao, No. —, dated 1[illegible]-5-1899.

" 2117 " " — do —, " [illegible] -7- 1899.

" 2180 " " Surgeon genl, " 124 5-8-1899.

" 2240 " " — do —, " 447 13-8-1899.

For orde

Attention is invited to the notes at B. in G.O. No 122 Public dated 27.1.95.

2. The petitioner maintains that the petition disposed of by the G.O. above quoted was an appeal against the punishment of a years' suspension inflicted by the President Taluk Board, whereas his present petition are appeals against the modified sentence of four months' suspension passed by the President District Board. It is submitted however that in passing the

Issue on 21-9-99

[illegible], Govt. [illegible]

the proceedings of the President
Dis[illegible], & that it was
wit[illegible] punishment of four
mon[illegible] suspen[illegible] that the
Govt. [illegible]ined [illegible] interfere –
3. The [illegible] amendment
might [illegible] petition
order No. 9[illegible] 99.

The petition[illegible] will
be informed that [illegible] Govt.
declines to modify its order
No 122 Public dated [illegible] Jany:
1899, ~~in framing wh[illegible]~~ which was based on a
full consideration of [illegible]
~~Govt. should supersede~~ the pros.
of the President Dist. Board
dated 5th Nov. 1898, reducing
the term of the petitioner's
suspension to four months.

Ch
18.8.99.

K
20.8.99

938 –
d/ 21.8.1899

To the Superintendent Genl. C[illegible]

Desp.
24.8.99

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NOTE FOR THE [illegible]

The [illegible]
register show[illegible]
note flagged [illegible]
circulated [illegible] Hon.
Mr Ar[illegible] 19-1-[illegible]
& that [illegible] came back
on 23[illegible]9 [illegible] unseen
by [illegible] H.ble.

The H.M. was
un[illegible] at the time,
& a number of other
papers were sent back
to the office without
being seen by the Hon.

When the note
flagged B was returned
~~by the~~ on 23.1.99, the
Ch. Secy. noted "Same
order as above". The
G.O. flagged C. was then
drafted & issued.

Ch
19.8.99. Seen.