

Revenne Consultation

N^o 676

Dated 17th May 1859

676

*Proceedings of the Madras Government, Revenue Department,
from 11th to 17th May 1859.*

Nos. 55 & 56. Read the following Appeals from Mr. H. A. D'Sylva, late a Clerk of the Sea Customs Department.

Appealing against his dismissal from Office. | (Here enter 11th March and 5th April 1859.)

No. 57. ORDER THEREON, 17th May 1859, No. 676.

Mr. D'Sylva lately employed as a Clerk in the Sea Customs office appeals against the decision of the Collector confirmed by the Board of Revenue dismissing him from office.

It appears that petitioner applied for and obtained one day's leave for Friday the 30th of April 1858; his application for the next day and the following Monday was refused. On the 3rd of May petitioner sent in an application for six months' leave, which was also declined, notwithstanding which petitioner absented himself and his name was consequently struck off the list.

From the papers before Government it appears that the cause of Mr. D'Sylva's thus absenting himself was debt, and that previous to this he had twice passed through the Insolvent Court.

Government do not consider him a fit subject for leniency, and decline interfering on his behalf.

(Signed) W. C. SIM,
Acting Deputy Secretary to Government.

To
The Right Honorable
George Francis Robert Lord Harris,
Governor in Council
Fort St. George.

The Humble Petition of
Henry Adrian D. Sylva
late a Clerk of the Sea
Customs Department.
Humbly Sheweth.

Para 1. That your Petitioner
served as a Clerk in the office of the Collector
of Sea Customs for a period of nearly twelve
and half years. The Collector describes him
as "active" and "intelligent," and as having
performed his duties "satisfactorily." He
was for the first year of his service a
Writer on Rupees 40 a Month, was then
promoted to ~~Assistant~~ ^{Assistant} ~~to~~ ^{to} ~~the~~ ^{the} ~~Collector~~ ^{Collector} ~~as~~ ^{as} ~~General~~ ^{General} ~~Manager~~ ^{Manager}
on Rupees 48 a Month, three and half years
afterwards made General Correspondence
Writer on Rupees 58 Monthly, and in
1855 appointed Drawback Writer
on Rupees 65 per mensem.

*
vide enclosure
No 1.

2. That in the year 1855, at the Madras Exhibition, your Petitioner was employed by the Collector to assist in the Department over which Mr. Underwood held superintendence. - The manner in which ~~it~~ was discharged is explained by the Collector. -

3. That in consideration of the services rendered on this occasion, services for which he obtained no substantive remuneration, Mr. Underwood promised to allow your Petitioner six (6) Months leave of absence from the office. -

4. That having no occasion at the time for the promised indulgence, your Petitioner did not avail himself of it, but continued to attend to his duties as theretofore. -

5. That your Petitioner sometime after the close of the Exhibition, was directed with another Clerk to attend the Government Office, under the Revenue Secretary, J. D. Bourdillon Esq, to afford the Manager of the Department, S. Jeyram Chetty, such information as might be required, with a view to modifying the Rules

of the Sea Customs Department, for its better management. - Your Petitioner and the other Clerks were frequently detained until a late hour at night. -

6. That your Petitioner in the Month of May 1858 having occasion to proceed to Pondicherry and Cuddalore to see his relatives, among whom his presence was particularly needed, - Your Petitioner asked the Collector on the 4th May, for six Months leave of absence from the office. - Permission was refused. - The urgency however of the necessity did not permit of a moment's loss of time, your Petitioner's son also being then ill, and living at a distance of six miles from the Presidency, he waited on the Collector at his private residence, on the 10th May, and having explained all his circumstances to him, the Collector consented to give him leave for six (6) Months, expressing at the same time a desire, that your Petitioner should not return to the office after the expiration of the term referred to, but seek himself with a situation elsewhere. -

7. That having obtained the Collector's consent, as stated above, your Petitioner

on the 10th May sent in his amended applica-
tion for the curtailed term of four (4) months
to Mr. Underwood's house, as that gentleman
had no office to attend to on that day, which
was a public holiday on account of the
Presentation of Colours to the Volunteer Guard,
and your Petitioner took his departure forth-
with, as the leave was to commence from the
day following, the 11th May.

8. That your Petitioner with all
deference, begs respectfully to notice, that he
did not acquiesce in the Collector's desire,
the application did not contain any condition
whatever, and that this of itself is an evident
proof that your Petitioner did not agree
to the condition.

9. That on the 1st June, your
Petitioner addressed a letter to the collector,
asking him to pay the moiety of his salary
to a party at. His letter was ^{*vide}
returned with the enclosure of the col-
lector, that as he (your Petitioner) was absent
from office without leave from the 30th April
he was not entitled to any pay.

10. That not understanding this
reply, your Petitioner addressed the col-
lector.

* vide enclosure
- 4 -

lector, soliciting an explanation, which, the
Collector accordingly gave.

11. That in this explanation your
Petitioner is informed, that, as "he has not
any duty since the 30th April he can draw
his fund, and bring so long absent without
leave the collector was obliged to fill up
situation."

12. The collector admits that he agreed
to give your Petitioner four months leave, and
that this was agreed to by him, upon the con-
dition, that in the letter asking for leave your
Petitioner, resigned his situation at the end
of that period.

13. Your Petitioner states the truth
when he says, that he made no
condition whatever with the collector.
What the collector required was, that he
should agree not to return to the
office without cooperation of the four
months leave. But he never believed
for a moment that in accepting the leave
he agreed to forfeit both pay and post.

14. However your Petitioner humbly
submits, that the point for your Lordship's

kind and favorable consideration is, whether or
not the leave was granted. If it was, he is
entitled to the moiety of his pay, if it was
not, he is only liable to forfeiture of his retire
pay but not his post.

under Sec. VIII
of the Act relative to the

do. do. Sec. II

15. The Collector admits that an
unsubstantiated application was sent, and he returning
it, this never came back to your Petitioner,
and he therefore liable to blame? The leave being
granted by word of mouth, your Petitioner
sent away, and if he did go away without
putting in an application, the Collector, he
admits, gave him at perfect liberty to do as
he pleased, and not wait until your Petitioner
was above 100 Miles from the Presidency, take
advantage of his position, and deal with him so
arbitrarily; on the contrary greater protection is
expected at the hands of Government, through its
Officers, as set forth in Extract Minutes of Com.
Commission dated 5th May 1854. Sec. 21.

based on the suggestions of the Honble. Council.

16. Your Petitioner respectfully
states that he does not admit he had given
grounds to justify the Collector to fill up
his situation.

Your

17. Your Petitioner is fully per-
suaded that the Supreme and your Lordships
Government, would never for a moment entertain
any arrangement clogged with such severe conditions
as those the Collector would make out were im-
posed by him, and which must necessarily
operate to the great injury and detriment of
Subordinates, as a set off to the granting of
an application for leave, which of itself is a
privilege, on the forfeiture of half pay, and
which ~~is~~ is a great hardship.

18. Your Petitioner unequivocally
and emphatically denies having entered into
any condition whatever, it is therefore for your
Lordship in Council to say, whether the
omission of the condition in the letter for
leave, which was never imposed, and could not
therefore have been agreed in, justify the
Collector in depriving your Petitioner of his
situation and salary.

19. That mention is made in the
Collector's explanation of your Petitioner's pecu-
niary embarrassments, and his consequent
irregular attendance at office. The explanation
shows that he was only three days absent.
But your Petitioner submits that the question

of his attendance has nothing to do with the case, and further, that the matter of his pecuniary embarrassments were already disposed of by the Collector in his Report to Government, dated 25th December 1857 No 513 with Minute No. 28 dated 9th January 1858. No 28 recorded thereon, and that with reference to his attendance, the quarterly Return of Absence transmitted to the Board of Revenue, will set the matter at rest.

20. Under these circumstances, the Collector having filled up your Petitioner's situation before the terms of leave granted had expired, your Petitioner respectfully submits, that your Lordship will be pleased to direct that he may be restored to his situation, he having forfeited his entire pay, - and craves this indulgence under Section 2 of the Absentee Rules, and at the same time prays that if your Lordship in Council see any thing in the Petitioner's conduct to induce the opinion that your Petitioner did nothing to justify the forfeiture of his situation in office, your Petitioner begs respectfully that he may be

be permitted to reap the benefit of this favorable consideration of his hard and most unfortunate case. -

21. In support of the foregoing facts, your Petitioner humbly submits several

* vide enclosure
No 5. (seen in
number.)

testimonials & letters of his conduct &c. and further Prays, that your Lordship, at the head of this Government, while reviewing them, and being perfectly aware of the labor and responsibility that devolved upon your Petitioner, during the Exhibition of 1855, -

* vide enclosure
No 6.

contrasting the home of attendance in comparison with those in the Department, his past services, and considering the circumstances that he has a large family dependent on him for support, will be moved to take his unfortunate case into your Lordship's kind and favorable consideration, and Grant the Prayer of your humble Petitioner, for which act of charity, your Petitioner as in duty bound,

Will Ever Pray.

Mury Adrian: D. S. S. S.

Madras

11th March

1859.

exhibited, and further take into consideration the
 amount of labour and responsibility incurred by
 Mr. Dylva, I trust they the Committee will
 consider, that he has established a claim to remunera-
 tion, inasmuch as his services were given previous
 to the Exhibition being opened in conjunction
 with his ordinary duties, and that, he was ^{subsequently} kept in
 the Exhibition Room, and therefore prevented from
 performing his duties at the request of the Director
 of Arrangements.

W. Anderson

President

Local Committee.

Madras ...
 26th July 1856.

Indemnified

26th July 1856
 W. Anderson
 President

W. Anderson
 President

Brass

To, His Excellency

The Honorable

Sir Charles Edward Trevelyan Bart.

Governor in Council

Fort St. George.

May it please Your Excellency,

With sentiments of the greatest respect, I beg to submit herewith for disposal by your Excellency, an appeal intended by me for presentation to the late Governor of Madras Lord Harris, on the subject of my summary removal from the Office I held, for a period of twelve and half years under the Collector of Sea Customs. I felt that I had given no reason for the summary measure adopted towards me by Mr. Underwood and appealed to Lord Harris for redress as the ultimate authority in these matters.

The Unservicant Service Rules require that in cases when a Subordinate finds himself aggrieved by the acts of his immediate superior, an appeal lies in the first instance in the Judicial line to the Sudder Court, and if in the Revenue to the Revenue

Board.

No. 1.

Recd 1859/2/11
28 Nov 1859
Dec 1859
Jan 1860

At Madras

Dec 1859
Enclosure No. 1
Dec 1859
The Secy to Govt
Madras

Board.- The collector of Sea Customs being under the Revenue Board I appealed, from the decision of the collector of Sea Customs, to that authority on the 29th July 1858.

A decision was passed in my case by the Revenue Board, but it did not appear to me one that was justified by the circumstances; and the Petition rules above referred to also providing that a final appeal lies to the Government, on the 11th March 1859. I took the liberty of addressing to Lord Harris the Petition with enclosures I have now ventured to lay before your Excellency.

Lord Harris referred the Petition to Government, and the authorities in the Government Office have returned it to me, with the endorsement which will be seen is affixed to it.

I am required to do what I have done already, as to send it again to the Board of Revenue will subject me to the same reply, I have therefore resolved upon submitting this Petition for the final decision to your Excellency, fully relying on your Excellency to mete out justice in my unfortunate case.

My Petition explains the hardships I am laboring under, the large family dependent on me for support, and my services, I leave to your Excellency to decide how far I have a right to be restored to my former employment.

I beg to remain,
Madras } Your Lordship's most Obedient
5th April } and humble Servant
1859 } Henry Adrian Dwyer

No. 676. Rev. Secy.
 Proceedings of the Madras Government.
 Under date the 17th May 1859.

Read the following letter
 from Mr. W. A. Sylva late a
 clerk of the Sea Customs Depart-
 ment.

(Now entered April 1859. No. 22)

Mr. Sylva lately employed
 as a clerk in the Sea Customs
 Office appeals against the
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It appears that Petitioner
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 leave, which was also declined
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 From the papers before Govt:
 it appears that the cause
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Ally
 W
 G
 W

Presented to
 the Chief Secretary
 to Government

By order

James
 Smith

James
 Smith
 1859.

1856.

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 of the Chief Secretary
 to Government

Mr. W. A. Sylva
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13th April 1859.

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H

1 Copy to Mr. H. A. D'Silva
with 6 Encl.
Dated 18th

1 - to Mr. Dep. with 1 Encl.

copy

Ms 55 at 57.

Received 1859 July 10th
Con: 17: 11/2
1859

Pro: 10: 11/2
July 11/2

Interference on
behalf of Mr. D. H. L.
a Clerk dismissed from
service in the Custom
Office, declined