M.R.O. 14-5,450—22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 179 Press ~~Mis~~

3776-3779

Dated 15-1-1867.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, 15th January 1867.

No. 377 F. Read the following letter from the Superintendent Government Chinchona Plantations, to the Secretary to Government, Revenue Department, Fort Saint George, dated Ootacamund, 30th August 1866, No. 47 :—

1. With reference to Endorsement No. 1,760, dated 9th July 1866, on the petition of Mr. Smith, late an Assistant Superintendent on the temporary Establishment of the Chinchona Plantations, and formerly a Dispenser in the shop of Messrs. Flyn & Co., Madras, I have the honor to remark that, in this instance, it appears the petitioner was not required to conform to the rules prescribed by Government noted in the margin.* Attached to this communication are the documents A. and B., which, in the first instance, should have accompanied the petition, as these papers explain the cause of Mr. Smith's discharge.

* "Revised Petition Rules.
Paragraph 2.—"The Government will not "receive a petition on any matter, unless it "shall appear that the petitioner has first "applied to the local authority, &c.
* * * *
"Fort Saint George,
"2nd March 1859."

2. I would observe that the cause of Mr. Smith being summarily relieved from his duties on the occasion in question, was, that while admitting his neglect, and the loss caused thereby, he thought fit to threaten me with the influence of the Honorable A. J. Arbuthnot, Chief Secretary to Government, as he said, for reasons best known to myself in the case of Lieutenant Nichol, that gentleman would protect him against me. For his neglect of duty aggravated by this insult offered to me, and by this gross insubordination, I summarily dismissed him ; and I would respectfully explain, that so long as the Government hold me entirely and individually responsible for injury sustained in this undertaking by the acts of my subordinates, that I shall in all cases punish wilful neglect and insubordination by summary dismissal.

3. I return the original petition, and request the favor of the same being furnished to me, with the permission of Government, to file in evidence, should I decide to adopt proceedings for criminal defamation.

4. I have not considered it advisable to engage a person to replace Mr. Smith, as that will depend on the removal of an impression which appears lately to have spread among my subordinates to the effect, that the Government will not only deal leniently with, but absolutely pass over, neglect of duty and insubordination in the persons under my orders. The facts and circumstances which have given rise to this impression will be immediately submitted in detail, for the consideration of Government, with reference to Proceedings No. 1,855, dated 20th July 1866, in the case of Lieutenant Nichol.

(A.)

From Mr. W. E. SMITH, to the Superintendent in charge of Government Chinchona Plantations, dated Ootacamund, 19th June 1866, No. 1.

1. As I have been summarily discharged without any legitimate cause, I respectfully beg you will give me a written order assigning your reasons for having done so.

2. I seek this order for two-fold reasons, first, to have a written reason by me for the satisfaction of myself and friends as to the cause of dismissal, and upon which to base any appeal I may wish to forward to Government to vindicate and exonerate myself ; secondly, to satisfy any body under whom I may seek employment that my integrity remains unimpeached in my dismissal.

3. As Mrs. Smith is now in a precarious state, and it is difficult to find a house at once within my circumscribed means, I beg you will allow me to occupy the house I am now living in for one month.

4. In conclusion, I beg you will not withhold granting me the above requests in justice to yourself.

(B.)

From the Superintendent Government Chinchona Plantations, to Mr. W. E. SMITH, Dodabetta, dated Ootacamund, 19th June 1866, No. 21.

In reply to your letter, I have the honor to inform you that your services are dispensed with from this date, in accordance with the notice given you on the 23rd of February last, on account of your conduct of affairs on the plantation, while I was absent in Madras. No one is better acquainted with your acts at that time than yourself, but as you wish my reasons for dismissing you, I repeat them, thus, first, for attempting to cause a mutiny among the prisoners; second, for entire neglect of the work entrusted to you during my absence; third, for using the most offensive and disgusting language towards the subordinates in the department, for which you was fined by the Magistrate 100 Rupees. These and other acts of negligence and unsatisfactory conduct caused me at that time to give you notice that your services would not be required, and warned you to look for other employment, which you have since been doing, but as hitherto unsuccessfully; out of consideration for your interests, I have allowed you to remain until your open insubordination and neglect to carry out orders render imperative your removal from the plantation. Your negligence of yesterday, in allowing upwards of 3,000 fine Chinchona plants to be thrust into the ground, with their roots turned up, in a condition in which they must have died on the first return of dry weather, negligence I could not pass over, and as you thought proper, on my finding fault with this to offer me the most gross insolence, and to add to this a threat to report me to Arbuthnot," I regret I cannot grant you permission to occupy the house for one month, especially as your quarters will be required by your successor, who must be engaged at once, in order to conduct the planting operation, you will therefore be required to vacate the house on Saturday the 23rd current.

No. 377 G. ORDER THEREON, 15th January 1867, No. 179.

Miscellaneous.

1. Mr. Smith will be informed that the Government decline to interfere in his behalf.

2. The Government have separately passed orders on Mr. McIvor's representations regarding the rules to be observed in regard to the appointment and removal of Assistants, and to those rules Mr. McIvor must strictly conform in future.

(True Extract.)

(Signed) J. D. SIM,
Secretary to Government.

To the Superintendent Government Chinchona Plantations.
,, the Petition Department.

Exd. S. T. Augustin.

G.O. 9 Feb 65, 273
27 Sept 65, 2325

This is an appeal from Mr Smith, Assistant Superintendent in the temporary Cinchona establishment against his summary dismissal by Mr McIvor.

Mr Smith says he was employed on the establishment 3 years 7 months.

In para 41 of report dated 9th July 1864 & para 42 of report dated 16th Aug 1865 Mr McIvor expresses his satisfaction with Mr Smith's diligence & care.

On the 19th June Mr
Mc Ivor discussed
Mr Smith tendered
him to vacate his
house by the 23rd of
the same month. His
letter dated the same
day Mr Mc Ivor
says: "Your negligence
of yesterday in allowing
upwards of 3000 fine
Cinchona Plants to be
thrust in to the ground
with their roots turned
up in a condition in
which they must
have died on the first
return of dry wea
ther, such negligence
I could not pass over,
& as you thought
proper to find any
fault with this work

for me the most
gross insolence, & add
to this a threat for me
Mr Arbuthnot,
I regret I cannot grant
your request to occupy
the house for one month
especially as your
quarters will be required
by your successor who
must be engaged at
once in order to conduct
the planting operations.
You will therefore be
required to vacate the
house on Saturday the
23rd inst. In the
commencement
of the same letter Mr
Mc Ivor says that
he dismisses us in
accordance with
notice given in the

23rd Feb 18[illegible] because Wm Smith attempted to excite a mutiny amongst the convicts, and because hearing neglected his work & 3rd because he used the most offensive & disgusting language to his subordinates was fined R100 for it by the Magistrate, whilst Wm McIvor was in Madras.

Note. Wm Smith denies that he received such a notice

2[illegible] June
On the ~~2nd July~~ Wm Smith after a lot of Cont, denying that he had done any thing wrong with the Cinchona plants.

On the 2nd July he submitted a countin adcar of his appeal Enclosed the letter

From Wm McIvor dated the 19th June and as quoted above.

The first part was sent to Wm McIvor for report on the 9th July. The second part was not sent with the Circulars charges against Wm McIvor of employing Govt coolies on private estates, & kept it on my table until Wm McIvor's report was received.

On the 14th July Wm Smith submitted ~~his record~~ of ~~his~~ services before the Court of Magistrate, in which he had charged Wm McIvor with having taken horse on the morning of the 22nd

of Dine, & committed a violent assault in the course of which he broke a bed post over Wm Smiths head. The Magistrate said he did not believe the first of the story about the bed post, & concluded his decision thus: "It is very evident that a most unseemly struggle has taken place between prosecutor & defendant, but who first assaulted seems very doubtful, although defendant positively swears that the prosecutor was the aggressor."

Wm Mc Ivor's report on the subject is dated the 30th Aug 1866. He first remarks that the petn does not require to be confirmed the forfeiture to be prosecuted by Govt attending to para 2 which requires Petitioners to send copies of orders passed by local authorities at the time of forfeiture.

He then goes on to say that Wm Smith was summarily removed from his duties for admitted neglect & goes on subordinate to para 2 to report. Wm McIvor & the Chief Secretary he adds: "I would respectfully explain that so long as the Govt

hold me individually responsible for injury sustained in undertaking by the acts of my subordinates, that I shall in all cases punish wilful neglect & misbehaviour by summary dismissal.

He requests that the papers may be returned to him with permission to file it in evidence if he decides to adopt proceedings for Criminal defamation.

He says he has not considered it advisable "to replace Mr Smith,

as that would depend on the removal of an impression which appears lately to have spread among the subordinates of the effect that the Govt will not only deal leniently with but absolutely pass over neglect of duty & misbehaviour in the persons under my orders. The facts & circumstances which have given rise to this impression will be immediately submitted in detail for the consideration of Govt with reference to Pros. No 1855 dated 20 July 1855".

In these Proceed

Gov^r order that the
Balance to the credit
of Lt Nichols shown
by his account shall
be paid to him, & direct
Wm McIvor to report
his arrangements for
checking the expenditure
of his subordinate.
In G.O. 26th Mar
1866 N 780 about Lt
Nichols dismissal
the Govr says that Wm
McIvor has not the
power to dismiss his
assistants summarily
once permanently
appointed an assistant
becomes entitled to
the same privileges as
other public servants."
This order is indistinct
in its terms as every public
officer has the power
of dismissing subordinates
summarily - subject
of course to appeal.
Wm McIvor goes
out of his way to explain
that he intends to pay
no attention to this
order, for the two cases
in wh he has dismissed
men (Lt Nichols & Mr
Smith) - he has certainly
managed matters so
that his statement
is made impracticable
In the report for
65-66 just received at
para 16 Wm McIvor
says: "In our establish
ment some inconvenience
has been ~~exceed~~ ex
perienced in consequence
of Government having
shown undeserved

Are Mr Smith's allegations as to Mr McGinn employing Govt labourers on private estates to be noticed?

Is Mr McGinn's request that the papers may be returned to him, so that he may make it the substratum of a Criminal action to be acceded to?

J. G.

I. D. S

to persons considers me to have been guilty of neglect of duty & misconduct in not noticing those charges, I think the taken of the most summary way in which Mr McGinn refers to the "timidity" of Govt in the case of Lt Nichols, & to the manner in which he cites as an additional reason for summarily dismissing Mr Smith that he has advised his first Mr McGinn to Mr Arbuthnot, & as Mr Smith explains, that he intimated an attempt intention of appealing to Govt

2-179

18th day of 67.

Mr Smith will be informed that the first decline to interfere in his behalf.

The first named separate bastardy order on Mr McCoon representations regarding the rules to be observed in regard to the admittance and removal of attys and to those rules Mr McCoon must strictly conform in future -

Ent. Pet. accordingly.

12/4 Tobo Supt Gal Chas Plantations Dept. Feb 6 Feb
Petitions Dept

In Mr Smiths first Petition Mr McCoon is charged with the practices of which is clearly denied - Mr #

Rebellion was sent for report to Mr McLoon who has not noticed the allegations of the Bill in any way - Motion to dismiss bill for want of prosecution - Counsel for Complainant consents to dismiss bill - Motion granted

Counsel refuse to return to Mr McLoon as he has requested, the Petition of Mr Smith in order to let Mr McLoon determine whether he shall found an action for damages for defamation - If he request he can formally dismiss of Mr McLoon may be repealed it.

WS

W. Smith by petition
Leave not to be given
to W. McLoon -
but with the return
of W. Smith endorsed
as above directed

GK

The petition and affidavit
of W. Smith for leave to
not to be given to the Clerk
in Question - & Motion
for an order that Mr Smith
pay the costs of this application
Mr Smith to state
from day to day the 20th Mr
Lloyd Cocks in Court to say
on his behalf to work. But
that the Petitioner should
from Gratuitous for
Counsel for Complainant to work
on this application

Revenue 1867 Department
Pro of Govt for January

No 179

Pro: of the Madras Govt
Dy 15th January 1867

No 377 Dy 3772.