

Revenue (1896.) Department.

MISCELLANEOUS SERIES.

G.O., No. 2628.

DATED 4th July

[Despatch Abstract.]

M.R.Ry. A.Aravamuthu Aiyangar, late Deputy Tahsildar and Sub-Magistrate of Tettagudi, South Arcot district.

Passing orders on the review petition from -----.

BACK PAPERS.

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To
His Excellency
The Governor in Council,
Fort St. George,
MADRAS.

The humble Petition of **A. ARAYAMUTHU** ~~ANGAR~~,
late Deputy Tahsildar and Sub-Magistrate
of Tittagudi, South Arcot.

MOST RESPECTFULLY SHEWETH—

That by an order of Government, R. D., dated 24th June last, petitioner has been reduced from his original post of Deputy Tahsildar and Sub-Magistrate to that of a Taluk Head Accountant on a charge of having compelled his Office Masalchi to resign his appointment under a threat of remanding him to jail as he was found in possession of a cap under suspicious circumstances.

2. Government appears to have held that the petitioner, out of dislike, compelled the Masalchi to resign and thus used his powers and position for private ends. In arriving at this conclusion, the Government had for their consideration only the report of the Collector to the Honorable the Board of Revenue, the recommendation of the Collector, the approval by the Board of such recommendation, and a statement of the petitioner (necessarily imperfect, as he then had not an opportunity of reading the Collector's report) making known the real facts of the case. Petitioner now feels that if all the facts had been brought by petitioner to the kind consideration of Your Excellency in Council, and if he had given his explanations to the statements and arguments of the Collector in his said report as he is now able to do, justice would have been done to him and his innocence established beyond all doubt.

3. Petitioner therefore begs to submit, for the kind consideration of Your Excellency in Council, the following facts and observations.

4. On the 4th July 1894, when petitioner was Sub-Magistrate of Tittagudi, one Namasivaya Pillai was brought under arrest before him by the Station-house Officer of Mangaluru with a regular charge sheet and witnesses to prove the same. The matter was taken up for inquiry by the petitioner, when the Inspector of Police requested the release of the prisoner on bail on the ground that the Station-house Officer's proceedings were incomplete. Petitioner thought it was a strange request to emanate from the Police Inspector at that stage, and after some correspondence with him refused to comply with it and remanded the prisoner for further inquiry. On the same evening, as petitioner was returning from the office, he was accosted by

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the Inspector, who lived next door to the petitioner's office, as to why he would not accede to his (the Police Inspector's) request, and petitioner, out of politeness, answered him, when the Inspector stated he had a ruling in support of his request. Petitioner had in consequence to stay at his pial for some time; while he was there, the Masalchi, whom the petitioner is alleged to have compelled to resign, passed along the street with something tied in his cloth and which he tried to conceal. When questioned as to what it was, after a good deal of evasion showed up a good flannel cap, which he said Seetharamiah, the Magisterial Clerk in petitioner's office, gave him, and he then went away. Then the remand in the matter of Namasivaya Pillai was talked about, and the Inspector, after expressing his dissatisfaction at the grant of the remand, asked petitioner if he had made any remarks against him in the proceedings granting it. Petitioner merely replied that he had noted the correspondence. At that time petitioner recollecting that the copy of the proceedings granting the remand had not been signed for being sent up to the Divisional Magistrate as required, sent for the Magisterial Clerk to bring it up for signature, who accordingly brought it up. It was read in the presence of the Inspector and signed, and the Police Inspector was very much annoyed at the remarks made therein as to his attitude towards the prisoner. Seetharamiah was then casually questioned whether he gave the cap to the Masalchi, and he denied it saying he owned no cap at all. Then the Masalchi was called back, and he, retracting his former story, said that he had picked it up; but as no information could then be had as to its ownership, it was detained and petitioner went home promising to send a memorandum about it to the Police Inspector.

The next day (i.e. on the 5th July 1894) petitioner went to office as usual and the masalchi also attended to his business in the ordinary course; but having had no business of a serious nature to do, and feeling rather unwell, petitioner returned home early at 2 P.M.; before leaving the office, however, petitioner sent up a memorandum to the Police Inspector to find out, if possible, the owner of the cap and also as to how the masalchi came to be in possession thereof, and petitioner also censured the masalchi while in the office as to his general conduct and also with reference to the cap. On this the masalchi became greatly vexed and irritated and in his usual way (whenever he was censured or found fault with) grew highly impertinent and said he did not care for his appointment, that he was being severely dealt with, having been already reported for dismissal, and that he would resign and look to his cultivation. Your Excellency in Council will find, from the previous papers against him, that this masalchi had never been caring at all for his appointment (which had also been brought to notice in the previous reports), had several times been fined and finally had been recommended by petitioner for dismissal or two years' suspension and transfer in the alternative on account of his indifference and disobedience to orders added to a generally impertinent behaviour. This last recommendation petitioner begs to point out, at the time the masalchi tendered his resignation, was pending with the Divisional Officer for orders, and so he could have absolutely no motive to extort a resignation from the masalchi under the circumstances at that time, as in the ordinary course of business he would be dismissed or otherwise suitably dealt with, without any intervention on the part of the petitioner. After despatching the memorandum as above said, he returned home at about 2 P.M., and about nightfall the masalchi came to

Not at all; the H.C. might not have accepted his resignation. He was a very bad man.

petitioner to his house and presented his resignation and behaved in a very defiant manner which clearly indicated confidence and impertinence. Petitioner was satisfied from the way in which the masalchi then behaved that he was being set up by some persons outside and that he did not care for, or appear to care for, his post. This conduct, with the previous experience of the petitioner with the man, decided your petitioner in sending up the resignation with a free and honest expression of his opinion as to the general conduct of the masalchi and recommending its acceptance, and as petitioner had already recommended his punishment for specific neglect of duty, a reference to it was also made therein.

5. The above, your petitioner humbly begs to submit, is what actually took place, and it will be quite evident therefrom and from the records that your petitioner had earned the enmity of the Police Inspector and the ill-will of the masalchi. On these facts petitioner is now charged with having compelled the masalchi to resign under a threat of remanding him to jail with reference to the possession of the cap above mentioned.

6. The story against petitioner, as far as he is able to gather from the papers (and it is really difficult to find a consistent story from the inconsistent, exaggerated and discrepant accounts of the witnesses) is that petitioner detained the masalchi at the office during the day and in the evening threatened to put him into jail unless he resigned his post, and the latter incident is supposed to have taken place at the pial of the Police Inspector's house.

7. To prove the utter falsity of the above story, petitioner humbly begs to submit the following matters, any one of which would ordinarily be held in a criminal proceeding to be fatal to the prosecution, and the petitioner craves only for such justice as would be meted out to a person accused of an offence, and especially in the present case where the consequences to the petitioner are even worse than even in a criminal trial:—

- (a) The absolute want of adequate motive or sufficient inducement on the part of the petitioner to do the act he is alleged to have done.
- (b) The utter absence of necessity on the part of petitioner to take the steps he is alleged to have taken in order to get rid of the masalchi and the futility of the measure itself.
- (c) The proved enmity developed into a thirst for revenge on the part of the witnesses who speak against the petitioner, especially of the Police Inspector, the Masalchi and Ibrahim Sheriff.
- (d) The proved falsity of the major portion of the evidence of the witnesses who speak directly against petitioner. Petitioner would humbly beg to remind Your Excellency in Council that even the Collector has been obliged to admit that the evidence of the witnesses ~~was~~ grossly exaggerated and a large portion of it was false.

The masalchi's nature of the evidence was only concerned by Govt.

Notice to Masalchi, Ibrahim Sheriff, & Ibrahim Sheriff. He had previously recommended.

Necessity shown when petitioner recommended Masalchi's transfer, H.C. refused to do more than fine him. It is by no means following that the H.C. has accepted his resignation.

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- (e) The fact that the evidence of these interested witnesses was not tested by a cross examination so essentially necessary to convey a correct idea of any matter under investigation, especially when no documentary evidence could be produced.
- (f) The proved falsehood of the very serious charge voluntarily brought against the petitioner by the Police Inspector, who again was chiefly instrumental in bringing this charge also.
- (g) The gross inconsistencies and discrepancies in the evidence itself and the utter want of corroboration of one principal witness by another.
- (h) The gross improbability of the manner in which the petitioner is supposed to have acted and the extreme probability on the other hand of the resignation being the outcome of strong persuasion by the Inspector and others for their own sinister purposes.
- (i) The utter despicableness of the character of the witnesses who depose against the petitioner.

8. There is nothing in the papers to show any motive on the part of the petitioner to do the very silly act which he is alleged to have done. Even if the petitioner had wanted to get rid of the masalchi, his wishes were very near fulfilment, as the Head Assistant Collector, as he himself admits, was on the point of drawing proceedings in the matter, and petitioner as a man of ordinary sense would not precipitate matters and so direct any undue attention by proceeding in the way he is alleged to have done; and besides no personal enmity or dislike towards the masalchi is deposed to by any of the witnesses or by the masalchi himself, and whatever the petitioner did was solely with reference to his official duties. No immediate personal offence is said to have been given to the petitioner by the masalchi about the time which would have induced petitioner to have recourse to this sort of silly procedure.

9. As above said, there was no necessity for the petitioner to have taken so much trouble in getting a resignation from the masalchi with the certain consequence of a complaint by him and an inquiry into the matter when, by pressing a charge of criminal misappropriation against the masalchi with reference to the cap, as on the admitted facts he certainly was guilty, the petitioner could have taken a safer and surer way of getting rid of him. Further, the resignation was absolutely useless, being retractable and could only do a great deal of harm (as it has now actually happened) if it had been taken under compulsion, and petitioner could certainly have anticipated a complaint if he had deliberately done such a grossly unjust act as threatening the masalchi to resign in a public place as alleged by the witnesses and could not have hoped to remain secure and without further troubles.

10. The Police Inspector, from the way in which he has deposed against the petitioner and by the manner in which he has voluntarily brought two charges against the petitioner before the Collector, which have been deemed not to

have been substantiated, has exhibited an intense enmity towards the petitioner. That rightly or wrongly he thought himself badly treated and wanted to revenge himself is apparent from the whole of his conduct with reference to this charge as well as from his personally, unasked for, bringing forward false and trumped up charges before the Collector to ruin the petitioner completely. Petitioner is greatly surprised that the Collector could ever believe that petitioner and the Police Inspector were on cordial terms at any time when, from the statement of the facts above set forth, it would be evident that the Police Inspector was harbouring vengeance against the petitioner on account of the remand proceedings in the case of Namasivaya Pillai and several other previous incidents, and a perusal of his evidence would clearly show that the Police Inspector had, from the very outset, been anxiously trying to represent the petitioner in the worst possible light and that he was at the bottom of this charge. He was found also to be too ready only a few days previously to falsely accuse petitioner of forgery when one of his own constables had made certain alterations in a summons. As for the masalchi, his motive is apparent, and petitioner does not think it necessary to waste any more time in proving his malice and motives. The other witnesses—the peons—are found by the Collector himself to have been carried away by friendly feeling to a brother peon and to have spoken falsely against petitioner, even accusing him of a forcible confinement within a room; and no surer indication could there be as to enmity against petitioner or interest in some one else who is an enemy to petitioner. Petitioner had been strict in the discharge of his duties and had often to censure the remissness and carelessness of his office clerks in the discharge of their duties, and this has led to a not pleasant feeling between the petitioner and his subordinates. Further, petitioner was new to the station while the subordinates have long been in that office and friends with each other and also friends with the Police Inspector.

11. Your petitioner would only beg to draw the attention of Your Excellency in Council to the fact that the witnesses who profess directly to speak of petitioner's connection in the matter, viz., the peons, attempted to make out that petitioner put the masalchi in confinement within the store-room under lock and key, but this grossly ridiculous story being impossible under the surrounding physical circumstances was disbelieved by the Collector who found it to be false, and petitioner humbly begs to submit that, if a witness is proved to have deliberately spoken untruth in material particulars, the rest of his evidence also should be viewed with the greatest suspicion, and according to this test the whole of the evidence against petitioner is thoroughly unreliable as being the statements of proved liars.

12. The petitioner also states, for the consideration of Your Excellency in Council, that the witnesses who spoke against him were not cross examined or subjected to any of the usual tests to which they would have been subjected to in a judicial proceeding. They could therefore freely indulge their feelings of revenge and speak anything they chose, not having been bound by oath or affirmation. Petitioner here begs to correct a misapprehension of the Collector when he says that petitioner declined to cross examine the witnesses before the Head Assistant Collector. The petitioner begs to state that he was never asked to cross examine, and as a matter of

The Collector said: "The Collector cannot be conclusively proved to have a strong suspicion of the Sub-masals' enmity."

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fact he was not even present when two of the chief witnesses (the Inspector included) were examined. From the records of the inquiry made by the Head Assistant Collector it will be evident that the Head Assistant Collector did not ask petitioner to cross examine any of the witnesses, but only asked petitioner if he wanted to make any remarks on the statements, and petitioner, intending to make a detailed explanation when asked for in the usual course, did not think it necessary to make any remarks then, and the Head Assistant Collector has also recorded accordingly "Asked (Sub-Magistrate) if he wishes to make any remarks on the statements of Vythinatha Sing, Ibrahim Sheriff, Vencataramanachari and Sitaramier" (Ans.) "I do not wish to make any remarks now." But petitioner never dreamt that the charge now seriously urged against him would be sustained on such flimsy and evidently false evidence and that an opportunity would not be given him to cross examine the witnesses, and when at the time of the Collector's visit just before petitioner was placed under suspension he applied for permission to cross examine the witnesses in respect to this charge, it unfortunately was not granted. There was no inquiry as such made by the Collector with reference to this charge and no cross examination was made of the witnesses who had spoken about it as the records will clearly show. Petitioner feels confident that, if such an opportunity had only been accorded by the Collector, the utter falsity of the evidence in support of this grossly improbable charge would have been made manifest, as was the case with the other and more serious charge brought against the petitioner at the instance of the Police Inspector and inquired into on the spot by the Collector. The Collector would, petitioner feels confident, unmistakeably have understood the motives of the witnesses and would have himself exonerated petitioner fully and from all blame.

13. That the discrepancies in the evidence are large and glaring is admitted by the Collector. But he appears to think that, leaving all the evidence of the witnesses aside, there may be a modicum of truth which might be held to prove that there was some sort of compulsion put upon the masalchi to get his resignation. Petitioner could only point out some very gross discrepancies and inconsistencies in the statements of the witnesses which could not but stamp the evidence as palpably false. The three most important witnesses against petitioner are the Police Inspector, Ibrahim Sheriff, and the masalchi himself. The facts held to be proved against petitioner are that he restrained the masalchi in the office during the day and that he threatened him with a remand into jail should he refuse to resign. As to the first portion, even the Police Inspector is obliged to admit that he had never heard of any bad treatment of the masalchi by the petitioner nor of any locking up in the room, and also that, when he went and saw the masalchi in the evening at the office, he did not complain to him of any confinement or restraint though he freely complained to him of severity. This conclusively proves that the alleged restraint in the office could not be true, as otherwise it would surely have been communicated to the Police Inspector. The masalchi himself does not state in any of his three statements that he was put under any ordinary restraint in the office under the supervision of the Jail Warder. One clerk says that the Jail Warder was watching though the watch did not prevent him from going out whenever he chose and even of taking himself away altogether, while the other clerk cannot even say that the masalchi was being

watched, so that there is no evidence at all to show that the masalchi was under any restraint. On the other hand, now that the statement of the masalchi, that he was locked up in the store-room and confined, is found to be false, the evidence of the Police Inspector clearly indicates that there was no restraint at all. The admitted omission of the peons to intimate during the day the fact of the restraint of the masalchi to the clerks in the same room is a piece of conduct quite inconsistent with sympathy for a brother peon, and the entire absence of all complaint of such a thing by the masalchi himself to the clerks who were working there, unmistakeably indicates the absence of any such restraint. There was besides an utter want of necessity for petitioner to order such a restraint, as the masalchi would for the mere asking have remained in the ordinary course of business, the more so when he was suffering under a guilty conscience in regard to the cap affair.

14. As regards the other portion, that petitioner threatened to remand the masalchi to jail if he would not resign, the only two witnesses who give evidence connecting petitioner in the matter are again the Police Inspector and Ibrahim Sheriff. Other persons do not speak anything about petitioner's connection in the matter. No doubt the masalchi's evidence must also be important. How little of a threat there was, and how utterly false the whole story is, will be obvious on a comparison of the Police Inspector's statement with that of Ibrahim Sheriff, and these two persons alone profess to have a personal knowledge of the affair. The Police Inspector says that petitioner himself called for the masalchi and questioned him and threatened to remand him into jail, while Ibrahim Sheriff says that he was asked to go and ask the masalchi at the office if he would resign or else he would be remanded to jail. Again the answer which the masalchi is supposed to have given is totally different in the statements of these two persons. The Police Inspector says that the masalchi replied "that he would consult his father," while Ibrahim Sheriff says that the answer was "that he would not resign as he had committed no fault." The two statements are not only different but directly contradictory, and in the nature of things could not possibly have been the answers of the same man. Of these two persons available, the Police Inspector speaks of a direct communication of the threat by petitioner, while the other speaks of an indirect communication, each negating the other. This, the petitioner humbly begs to submit, clearly shews that the whole of this incident is a pure fiction, and apparently it is only this piece of evidence and on this point against petitioner seems to have been believed as establishing both a direct and indirect communication of a threat of a remand.

Worse still the evidence of the Police Inspector and Ibrahim Sheriff is conclusively proved to be untrue by the total absence of any reference to this alleged incident in the evidence of the masalchi himself. If this had at all been true, considering that this incident is the most serious alleged against petitioner, the masalchi could not but have stated it, and his reticence is possible only because what the Police Inspector and Ibrahim Sheriff profess to speak about is a gross falsehood and did not at all take place.

Again it is deposed by the Police Inspector that a remand form was sent for, filled up at the Inspector's house, but while the Inspector wishes to make out

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that at his instance the remand form was not sealed and completed and petitioner proceeded homeward to reconsider the matter, directing Ibrahim to bring seal and pad to petitioner's house, Ibrahim Sheriff says that at the Inspector's place the remand form was signed and sealed, and the seal, too, returned to him to be taken back to the office. On this simple point, which, however, is the most important in the whole case against petitioner and which apparently has been believed by the Collector, the two most important witnesses, and the only two, hopelessly contradict each other, and seeing that one of them is a Police Inspector and the other an experienced attendant of a Magistrate's Court, the only inference which could be made is that they are only indenting on their imagination and are both speaking a falsehood. Though vaguely agreeing in the one point that there was a threat in all other important particulars connected with the same, viz., how, when and where, and by whom, the threat was conveyed, there are hopeless contradictions as would be expected from persons giving false evidence.

Petitioner at this place begs to bring to the consideration of Your Excellency in Council the fact that the Police Inspector had been noted as a bad man not only by the Collector but also by his own official superiors, and that Ibrahim Sheriff is a suspect on the confidential watch of the Police and so under the thumb of the Inspector, and on the discrepant, contradictory and, petitioner begs to submit, false statement of these two untrustworthy men, petitioner has been condemned and reduced from the post of Deputy Tahsildar and Sub-Magistrate with very good prospects of promotion and creditable service under Government to that of a Taluk Head Accountant with one half of his original salary, with his character broken and his good name tarnished, and himself rendered an object of suspicion to all his superior officers.

15. As to the place where the resignation of the masalchi is said to have been written, there is the same sort of contradiction, and petitioner humbly submits that, throughout the whole case, not one witness corroborates the other in material particulars, which is a sure and certain test of falsehood.

16. The extreme improbability of the story, as given by the witnesses against the petitioner, is again remarkable. While his previous report against the masalchi was pending for orders before the Head Assistant Collector (and petitioner had absolutely no reason to expect unfavorable orders) and while the said masalchi could easily have been got rid of by a criminal prosecution for misappropriation in respect of the cap, with no adequate motive or necessity for doing so, petitioner is supposed, or at least alleged, to have restrained the masalchi first in a store-room, then in the Office hall, even without a definite knowledge on the part of the clerks seated in the same room, and in the evening in the public street, in the presence of the Police Inspector, who was an undoubted enemy, to have threatened to send the masalchi to jail unless he tendered a resignation, which resignation could easily be withdrawn under such circumstances, that a charge of a serious nature could be brought against petitioner with the necessary proof ready to hand. Petitioner has only to state this to show how utterly improbable this whole thing is. After the petitioner had sent a memorandum about the matter to the Police Inspector, he could not, while the memorandum was in force, do anything in the matter, and he would not in common prudence

have proceeded to remand the masalchi or even threaten him to do so, more especially in the presence of Police Inspector. For the purpose of threatening him, the memorandum would have been quite as good as a remand. Petitioner begs to point out that the remand is not said to have been handed over to any of the peons to threaten the masalchi with, nor is it said any of them was asked by petitioner to convey the threat of the remand to him. The Police Inspector and the clerks of the office and the peons have admittedly discussed the matter among themselves in the office with the masalchi before them and while petitioner was absent in his house. The remand form not having been entrusted to anybody, it has to be considered how a fear that it would be executed could have sprung in the masalchi's mind after the above discussion, and how the peons, who are no other than his friends in office, could have threatened him in the manner alleged, and whether they would not have acted with fellow-feeling, of which they were ready to exhibit plenty in speaking of a wrongful confinement. The resignation has only been given after consultation and deliberation and is the result of deliberation and not of a threat as alleged. The immediate intimation to the Police Inspector by Ibrahim Sheriff of the tender of the resignation will strongly corroborate this fact. Petitioner was sure of it and so sent it on. The previous day's remand affair has now been used by the Inspector and others for a story against petitioner.

17. Petitioner does not feel justified (in this his review petition) in traversing all the arguments used by the Collector, but he has answered the main points against him. He does not think it necessary to traverse the statement in the report of the Collector that the Police Inspector was then in friendly terms with petitioner. The omission to give positive evidence about the wrongful confinement, cited by the Collector as proof of such friendly relations, is deliberate as it would otherwise have at the very outset exposed the falsity of the story and would have led to the immediate dismissal of the charge as being out of the limits of possibility. There is ill-feeling proved between the witnesses and the petitioner, as has already been set forth in the previous answers, and how unfounded their statements are, will be seen from a perusal of the papers. His not having sent up with the resignation the usual declaration that the masalchi understood its consequences, his having sent it up through the Tahsildar, are all noted against petitioner, but he begs to submit that they do not amount to anything and are capable of an obvious answer. If he had power to extort a resignation, he could as easily have got also the other declaration. The usual way in which he could despatch the resignation or any report is through the Tahsildar, and if on any previous occasion it was not so done, it must be a mistake of the despatching clerk.

18. Petitioner begs to submit that the result of this enquiry would have been totally different from what it is now, but unfortunately for him his case had been prejudiced by some remarks as to his character previously made. Petitioner did not consciously do anything to earn a bad name, but probably his plainness of character and openness of manners had earned it for him. He therefore humbly submits that his case ought not to be judged with any bias, as the remarks which had been made against his previous character were based on mere hearsay statements made necessarily by interested persons. In proof of the fact that his case has suffered by

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this sort of prejudice, petitioner begs to submit the following incident referred to by the Collector.

Petitioner had ordered the reduction of the Jail Warder's pay—a very small sum of twelve (12) annas—for neglect of duty. The stoppage ought properly to have been made in the pay bill. But at the time the bill was put up for signature he was in a hurry to meet the Head Assistant Collector, having been sent for by him, and as the office was to be then inspected, he signed the bills in a hurry without examining them. But happening to examine them subsequently, he found the deduction not made, and after finding fault with the clerk, sent a revised bill with the deduction. For this very small incident it has been inferred by the Collector that the petitioner sent the first bill without the deduction to induce the Jail Warder^{not} to give evidence in connection with the present charge, but when he found that he gave evidence (in connection with the wrongful confinement) he revised the bill and made the deduction. If really petitioner wanted to hold out an inducement to the Jail Warder, Annas 12 is absurdly small, and further petitioner would have only waited till after the enquiry should be over, or to avert suspicion have made out the bill with the deduction paying the difference himself. Even the Collector and the Head Assistant Collector hold that the explanation of petitioner seems probable, and yet this point also must be taken against him. This clearly proves that his case had to some extent been prejudged and that it came to be viewed with a certain amount of prejudice which, unfortunately for the petitioner, is quite natural under the circumstances. But petitioner humbly submits that, in accordance with the humane principles of British justice, petitioner ought not to be held guilty before hearing him finally and that his statements also must be tested fairly and judged of fairly. Even the Collector is unable to find from the evidence what was the actual threat conveyed, or how conveyed, but merely states as his opinion in somewhat general terms that there must have been some sort of threat of a remand to compel the masalchi to resign. While finding that almost all the important and serious allegations of the witnesses are false, he holds that there must be some basis of truth for this and holds against petitioner. In fact his report will ~~show~~ show that no manner of a discussion of the evidence in support of the case has been attempted, but that his ~~own~~ opinion has alone been prominently set forth and a few points in the defence touched and finally the petitioner has been deemed guilty of having used some indefinite compulsion. Petitioner begs to submit that, when once it is found that witnesses are proved false in respect to material particulars, their whole evidence must be discredited, and especially so when the preponderance of probabilities justifies it, and the petitioner should have been honorably cleared and an indefinite conclusion should not be formed against him after an elimination of the most important and material portions in the evidence.

19. Petitioner is a very young man, a graduate, and entered Government service about 10 years ago, and by his diligence and satisfactory work rose from the lower ranks of service to the post of Deputy Tahsildar and Sub-Magistrate and was satisfactorily doing his duty as Sub-Magistrate. His judgments during the three years he worked as Sub-Magistrate have never had to be found fault with by any superior tribunals and scarcely has any* judgment of his been reversed by the appellate authorities. It sometimes

* Except two.

becomes the duty of Sub-Magistrates to find fault with the Police in the discharge of their duties and naturally make enemies both in the Police Force and outside, so that petitioner humbly submits they are entitled to protection from the Government. From such a position as Deputy Tahsildar and Sub-Magistrate, which duty petitioner was satisfactorily discharging, he was suspended on the spot pending further orders without definite information as to what charges were held to be strong against him so that he could adduce evidence in his defence, and ever since then up to the receipt of the Government Order reducing him, viz., for a space of over 9 months and odd, was left without even the subsistence allowance which used to be granted to public servants suspended pending enquiry into their conduct. Petitioner is a poor man, solely dependent on his pay for his maintenance and looking only for promotion in the service to better his prospects. He was giving satisfaction to his superiors and was hoping to do useful service to the Government in the new sphere of his responsible duties and looking forward to higher work as the reward of his diligent, earnest, and untiring work. From this he is now thrown down, doomed to disappointment, which is considerably disheartening to him.

20. Petitioner, in conclusion, most earnestly prays Your Excellency in Council to reconsider the facts of the case and judge him fairly and in consideration of the circumstance that he has unconsciously become the victim of intrigue and clamour to which, Government hold in principle, executive public servants ought not to be victimised, kindly reinstate him in his former appointment, and petitioner begs to submit that this blame has been forced upon him which he would willingly submit to if his conscience had not with a clear voice pronounced him innocent, nay if he might not with safety appeal to the justices of Government with unqualified success.

21. Petitioner begs, in addition, to submit that his case has been dealt with in an unprecedentedly severe manner. The punishment inflicted on him is quite out of proportion to the offence held to be proved. The petitioner has been punished with suspension for six months, then reduced to an appointment carrying one half of the previous salary (not even sufficient to keep his family on a starvation allowance), and lastly declared to be unfit for the post of a Deputy Tahsildar and Sub-Magistrate. Further, owing to the delay in passing orders in his case he has been left without an appointment for three months and odd in addition, which involves an unforeseen consequence of a forfeiture of his past services extending to about ten years in the Department—a consequence which was not evidently contemplated either by the Collector or by the Board or by the Government itself. Petitioner humbly begs to submit that if even in spite of so many improbabilities he should be considered to have committed this *act of slight indiscretion* which could evidently not profit him in any manner, this sort of punishment is too severe on him, entirely disheartening, and to thus blast out during his early career the prospect of a promising and hardworking young graduate of acknowledged abilities, is not in accordance with the humane principles of the British administration. All that petitioner to his conscience was guilty of is a little of haste in transmitting the resignation carried away by the defiant and impertinent behaviour of the masalchi, and for this slight haste he has suffered more than amply in reputation, prospects and pay, and has had enough of locus penitentie and the punishment he has undergone is in itself too heavy for him.

For which act of grace petitioner will, as in duty bound,

EVER PRAY.

30^o April 1896.
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PRINTED AT THE SCOTTISH PRESS, MOUNT ROAD BRANCH, MADRAS—1896



Proceedings of the Board of Revenue

(Land Revenue),

Dated _____

28 May 1896.

No.

2438

Mis

Routine.

READ Endorsement of the Clerk of South Brod, dated
20 May 1876. No. 2166
Peter

Resolution

Submitted to Government

with reference to G.O. No. 2514¹ ¹2115, dated
24 June 1895 - Renewal.

2. The Board has no remarks to offer.

/ True Love /

To the Secretary to Govt.
Recd: Sept^r 11th with
letter of Mrs Sedgwick. Two
encls. in reply.

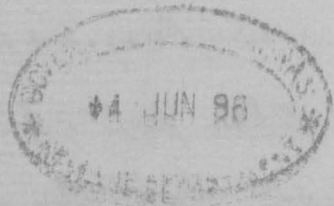
Receivd
ag. Constant

VB 24m

Rev 1896. Sept
Board of Revenue
(Land Revenue),
MADRAS.

Current number 4033

To The Secretary to Govt
Gene. Dep't



Recd 4.6.96

Reed 4.6.96 E-4

Proceedings, dated 28.3.1896
No. 2438 Mis. Routine.

Subject.

Submitting to Govt. petn.
from M. Dy. A. Arava.
- muttu Aiyengar late
Dy. Tahsil & Sub Magistrate of
Tittagudi, P. Anot. Dt., praying
for a reconsideration of the
order directing his reduction
from post of Taluk Head
Accountant

D 1,000-20-2-96.

Recd again G.O. 25/4/24.6.95
REVENUE DEPARTMENT.

also C. No. 4033 of 96

From

the Board of Revenue (L.R.)

Dated

4.6.1896.

FOR ORDERS.

With the Current to
read above, the Board of Revenue a
submits a petition from A. Arava.
muttu Aiyengar, late Dy. Tahsil
dar and Sub-magistrate of
Tittagudi in the P. Anot District
praying for a reconsideration
of G.O. of 24.6.95 No 2514. In
this order, after a full considera-
tion of the charges framed a-
gainst the petr, and of the latter's
explanation, the Govt expressed
Concurrence in the Board's view
that there was no doubt that
the petr who had been anxious
to get rid of his office masal
ji, compelled him to resign his
post, taking advantage of the
circumstance that he was found
in possession of some property
under suspicious circumstances
The Govt further declared that

FOR ORDERS.

the pete who had thus abused his position and powers as a submagistrate was totally unfit to discharge the responsible functions of Magistrate and Dy Tahsildar, and ^{accordingly} ~~the~~ punished him with suspension for 6 months and with reduction to the post of Taluk Head Accountant.

It appears that, when this order was passed, the Govt had before it three explanations submitted by the pete, extending over 80 pages in all. The pete now alleges that those explanations were necessarily imperfect, as he had not at that time an opportunity of reading the Collector's report in the case, and, in his present petition, he professes to traverse the arguments contained in the Collector's report and to show the extreme improbability of the act he is believed to have done. He dwells at length on the discrepancies in the statements made by the several witnesses, and thoroughly

None of these are now in the Govt office. The Board did not send any of the records at all & the Col's report has then called for; - it has been submitted without enclosures.

and attempts to show that he had unconsciously become the victim of intrigue and clamour on the part of the witnesses who were mostly his enemies.

It will, however, be seen from the notes under G.O. dt 24.6.95 (No 2514, that the pete's case has already been fully discussed, that most of the discrepancies in the evidence now pointed out by the pete were ^{then} already noted, and that a belief in the certainty of the act which the pete was reported to have done, was based more upon the undoubted facts and the probabilities of the case than upon the grossly exaggerated and false statements of some of the ^{witnesses} ~~pete's~~ enemies, who attempted to make the case against the pete stronger than it really was.

It is therefore thought that the order of suspension and reduction passed against the pete will not now be reconsidered. The pete, however, winds up his petition with the request that

that if the Govt should conclude
that the case against him should
be held to have been proved
so as to merit punishment, it
may at least order that he
should not be shut out from
promotion to the posts of
submagistrate and Tahsildar
in the future.

The Tahsildar of Kallakurichi
under whom the pet is apparent-
ly now working, makes the
following observation in sub-
mitting the pet's appeal to
Govt: - "I had to stay in the
'Taluk, during a very heavy
'season, when jamabandy
'and Kist Collections had
'to be gone through and so
'far as I have been able to
'judge, the pet has been
'very earnest and hardwork-
'ing and I can safely sub-
'mit that he has, as it were,
established a claim for
'encouragement. His case
'is a hard one and he has
'suffered more than suffi-
'ciently. His abilities which
'are already well known will

It is not for the Ld to criticize
the order of Govt.
H.A.

'will justify the grant of
'the Concessions asked for.
'He has made ample atone-
'ment and I feel I can
'make a hearty recommenda-
'tion on his behalf.'

The permanent Collector, Mr. the
Castlestuart Stuart, who had
reported the pet's case to the
Board, is now on leave. The
ag. Collector, Mr. Dance has
not made any remarks
and the Board which has
submitted the petition to Govt
says 'that it has no remarks
'to offer.'

note as
finsen

portion marked with red tape.

In the note under G.O. dt 24.6.95
No 2514, the Honble Member has
remarked in para 1 that "This
"abuse of magisterial powers
"shows that the submagistrate
"is unfit (at present at all
"events) to be a submagistrate."
although at the end of para 3,
the Honble Member has said: -
"The man cannot, however be
"allowed to take charge of
"the office of submagistrate
"again."

I meant - never to his place
of sub mag. before there was
a vacancy - I did not mean
that he should never again be a
sub mag

It does not seem therefore
.....

seem to be the case that Govt.
therefore, ~~clear that whether~~
~~it is the intention of Govt.~~
~~intended~~ that the order of June '95
should be considered as a
permanent bar to the pet's
promotion to the post of
Submagistrate in the future.

The first point to notice about this
current is that neither the Board
nor the Collector makes any
comment on the statements made
in the review. The whole object
of requiring Govt. pet's to be sub-
mitted through official channels
is to give the official supervision of
pet's the opportunity of making
recommendations on ^{of the pet's} ~~their~~ behalf, or
of pointing out inaccuracies or
false statements ^{in their pet's} ~~made by them~~.
In this case the Board is not
so much to blame as the Collector,
whose silence would no ~~longer~~ ^{do not}
be interpreted by the pet's as
acquiescence in his statements.
Next as regards the merits of the
case; the complete record of the
case is not here & I have not
sent for it pending orders as to
whether a fresh detailed examination
of the records should be made.

C No 4033 of 96

Review petition from

M. Pravamuthu aiyengar
late Dy Tahsildar of
Tittlagudi
S. Arcot Dist.

The Hon^{ble} J. Grose C.I.E

The petition, moreover, is dated
10 months after the Govt. order.
The following arguments & statements
now brought forward admit of
challenge.

(i) There was no motive whatever
for pet's to retract a resignation from
the Masalehi, as that individual had
previously been reported for mis-conduct
& would "in the ordinary course of
business be dismissed or otherwise
suitably dealt with" —

Pet's report had been pending for
two months & a previous report of his
recommending the Masalehi's transfer
stating that it was useless to fine
him had been disposed of by the
Divisional Officer's ordering a mere
fine to be imposed. — Further, when
forwarding the man's resignation,
Pet's wrote a wholly unnecessary
endorsement animadverting in the
strongest terms on his conduct; this
shows clearly that pet's desired the
man's removal & was afraid his
resignation might not be accepted
unless a strongly-worded endorsement
was added.

(ii) "The proved enmity of the ~~Govt.~~ developed
into a thirst for revenge on the

the part of the witnesses, notably the Police Inspector, the Mandahit Ibrahim Sheriff.

The Col^d infers from the evidence - that the relations between the pet^r & the Police Inspt^r were "at the time... almost cordial." - The Head Asst Magte when recording the Inspt^r's statement noted that in his opinion that officer "did not state all he knows although I pressed him on the point" -

Again the Col^d writes "As regards the allegations against the Sub-magte's own clerks & peons, the Head Asst Magte notes that, with the sole exception of peon Kappasami Naidu who was not examined in the case as a witness, the Sub-magte had never complained against the conduct of any one of his subordinates."

In the face of this fact, his denunciation of them after they had given evidence against him is of little value - I must ^{further} add that the two clerks examined do not, judging from their evidence, appear to have been anxious to bring the Sub-magte into trouble - (they) gave perfectly straight forward evidence."

Had there been a regular conspiracy against the pet^r as he alleges, it seems incredible that the witnesses should not have been better tutored.

(iii) "The gross improbability of the pet^r's alleged actions & the extreme probability that the resignation was the "outcome of strong persuasion by the Inspector & others for their own sinister purpose."

There was nothing improbable in the pet^r's alleged action; & no probability whatever that the Inspt^r or any one else procured the resignation.

(iv) The Inspector's "false & trumped up charges."

The Col^d's finding in regard to these charges was as follows: - [Three Charges], though from their very nature they cannot be conclusively proved, raise a strong suspicion of the Sub-magte's integrity."

(v) The whole evidence against pet^r is thoroughly unreliable, because the witnesses told untruths: -

It is almost needless to point out that the maxim "Falsus in uno, falsus in omnibus" does not apply to the evidence of natives of India.

the witnesses against pet: were not cross examined.

Pet: admits that after recording the depositions the H.A.C. asked him if he wanted to make remarks on the statements & that he answered

"I do not wish to make any remarks now" - what was simpler than for him to have answered: "I should like to

cross-examine them" or "Such a statement is incorrect or false" - which would have led to further questions - or "This

statement by witness A is not consistent with what B said"

~~the~~ In any case.

In any case, I notice that Mr. Aylmer after carefully examining the record noted (vide p. 24 & 25 No.

) - "Taking into consideration the Deputy Sahib's obvious desire to get rid of the Masalehi together with his own version of what occurred it is impossible to avoid the conclusion that he took ad-

vantage of the masalehi's being found in possession of the cap and in suspicious circumstances to compel him to resign."

For this it was evidently Mr. Aylmer's opinion - and Mr. Forbes concurred in it - that the pet: was proved guilty out of his own mouth.

In these circumstances ^{I submit} that it is unnecessary to call for the record of the case, as the pet: makes out so glaring a defence.

If this view is accepted it is for consideration whether Govt. should not pass some such order as the following

P.O.

P.O. No. 262834 July 1896

29
3/7/96

The Govt. sees no reason to reason to exonerate the pet: from the charge of "having taken advantage of the ~~masalehi's~~ ^{his office} circumstance that the masalehi, whom he disliked, was found in possession of certain property under suspicious circumstances to compel him to resign his post."

2. P.O. No. 24 June 1895 No 2574 Rev.

was (not however) intended to create a break.

