Revenue (1897) Department.

ROUTINE SERIES.

G.O., No. 1634

DATED 10th Septr

[Despatch Abstract.]

Referring Kumbalavy, Malabar District, to the orders already passed in his case and informing him that all further communications from him on the subject will remain unnoticed.

BACK PAPERS.

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

FURTHER PAPERS.

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

0/18 4,000—19-7-97.

Revenue (189) Department.

CURRENT No.

From Kunhalavy, Malabar Dt.

Order

No.

Dated 16th August 1897

Received

Registered

Enclosures

Spare copies.

SUBJECT.

Praying that the rules under which his appeal to the Govt of India was withheld may be relaxed in his case

BACK PAPERS.

G.O.	No.	Department.	Date
	3736		
	4141		

FURTHER PAPERS.

G.O.	No.	Department.	Date.

To

His Excellency,

The Governor General in Council,

Calcutta.

THE humble appeal of A. V. P. KUNHALAVY, late Adighari of Pallayur Amshom, Ponnani Taluk, Malabar District.

MOST RESPECTFULLY SHEWETH,

The Petitioner appeals against the Proceedings No. 4141 dated 19th October 1896 of the Government of Madras declining to interfere with the decision of the Board of Revenue dated 14th August 1896 No. 3737 Mis. supporting the decision of the Collector of Malabar dated 30th May 1896 confering the decision of the Head Assistant Collector of Malabar who dismissed the Petitioner from the post of Adighari of Palayur Amshom on the ground of temporary misappropriation of the Abkari collection in three different occasions.

That before proceeding to deal with the evidence embodied in the records to which he has been granted access, Petitioner must submit that he was not furnished with copies of all the reports sent up against him by the Tahsildar. As all those reports must have played a combined part in affecting his dismissal he should properly have been served with copies of all of them. If there should be anything in them which requires an explanation from him. Petitioner begs that before final orders are passed on this appeal he may be graciously allowed an opportunity of having his say on them.

That it has been held that Petitioner temporarily misappropriated money because he delayed remitting it into the Treasury. That he humbly submits that although there has been delay, no fraudulent intention—which constitutes the essence of the offence of misappropriation

—has been proved against him. Nor is there any evidence or attempt at it that he actually misappropriated it. The exclusion arrived at is based upon mere supposition without any foundation. That it must be kindly remembered that unless Petitioner had timely help in the matter from the Amshom Menon, delay in remitting must necessarily have happened. It was the duty of the Menon to prepare the accounts, after which alone the money could have been remitted. There was delay on the Menon's part and for that delay Petitioner has been made to pay very heavily.

That the post of an Adighari is by no means a *sinecure* and unless he has the co-operation of the other village official, he must sometimes be a little behind hand with his work, just as in the instances which led to his undeserved dismissal.

That when he was giving his explanation to the Deputy Tahsildar, he was seriously handicapped inasmuch as he was obliged to limit his replies strictly to the questions that were addressed to him. He was thereby precluded from enlarging on the extenuating circumstances of his case.

That unhappily for him when his case was heard before the Collector, his Vakil made an irresponsible statement to the effect that his client (Petitioner) had been guilty of gross neglect of duty. The Vakil was not at all instructed to make such a remark, for that was never Petitioner's plea. It was very hard that Petitioner should have been condemned on an unwarranted admission of that sort which did not really emanate from him.

That the Head Assistant Collector describes the sums delayed to be transmitted by Petitioner as "considerable." It will be kindly seen that while the totals of the remittances were pretty large—they were, however, by no means considerable—, those totals were made up of petty individual sums collected little by little. It is improbable that Petitioner could have been in an impecunious condition so as to be compelled to misappropriate trifling sums

at a time when he was in a position to remit those sums in combined amounts. Besides, Petitioner is a man owning property worth about Rs. 5000 and he had given a security of Rs. 1500 for his post. Under the circumstances, it is unlikely he would have trifled with Government money when his position would have helped him to obtain money by much safer means.

That Petitioner is a Moplah of respectable family and had a service of 10 years, during which period, prior to the misfortune which led to his dismissal, he was always found to discharge his duties honestly and to the satisfaction of his superiors. Large sums of money passed through his hands during these years and there was never a single complaint against him. The enclosed certificates will show that Petitioner was held in esteem by the District Officers.

The Petitioner is driven to the conclusion that he owes his undeserved misfortune to the then Tahsildar of Ponnani (Mr. T. Kunhambu now retired) who was obviously eager to replace Petitioner by his (Tahsildar's) own friend and casteman, one C. M. Krishnan, who was recommended as Petitioner's successor in preference to one Achuthan Nair, a Taluk gumastah. While the latter belongs to Ponnani, Krishnan is native of North Malabar, and of the place where the Tahsildar himself hails from. Besides, Krishnan having been dismissed from the Nilgiri Collectorate for temporary misappropriation of money entrusted to him as an Income-tax clerk, was ineligible for Government service. The chances are the Tahsildar was not unaware of all these. And the fact remains that Achuthan Nair appealed against the Tahsildar's recommendation and succeeded in having it set aside. Petitioner lays weight on these circumstances because they clearly point to a strong bias against him on the part of his then superior. That bias must have gone a great way in influencing the decision of both the Head Assistant Collector and the Collector.

Financial Dept
Govt. of Mad.
28-6-97

No 391

For the reasons hereinabove set-forth, and in consideration of the fact that he was the only Mapila Adighari in the Taluk, and is only 35 years of age and the hard sentence that is passed upon him for a supposed charge of temporary misappropriation, Petitioner humbly begs that he may be reinstated, or if he is adjudged guilty of having displayed slackness in the discharge of his duty, he at least humbly prays that his hard sentence may be committed into suspension, and thus encourage the rest of his community to seek education and try to secure Government footings, and thus enter into the paths of civilization.

For which justice, he shall as in duty bound,

Ever Pray,

A. V. P. KUNHALAVY.

18th June 1897.

PETITION

0697

REVENUE DEPT

To,

His Excellency.

The Governor in Council,

Fort Saint George,

Madras.

CHIEF SECRETARY
24 AUG. 1897
GOVERNMENT OF MADRAS

The humble memorial of A. V. P. Kunhalavy, late Adighari of Palayur Amshom, Ponnani Taluk, Malabar District.

Most Respectfully sheweth,

In resabmitting herewith the Memorialist's humble appeal addressed to the Government of India which was withheld and returned to him with reference to "Rules nos (2)7, and (3) 10 of section III, the Memorialist most humbly begs Your Excellency may be graciously pleased to reconsider his case on the following grounds.

(1) That it is a matter of

unbearable and lasting sorrow to the Memorialist that such a ~~sentence~~ sentence as dismissal from service was passed upon him for a supposed charge of temporary misappropriation which was chiefly brought up by the Tahsildar of Ponnani (Mr. T. Kunhambu, now retired) who apparently wanted to replace the Memorialist by his (Mr. Kunhambu's) own friend and Casteman one C. Mr. Krishnan. That it has also been great disgrace and lasting blemish on the Memorialist who is of a respectable family of Malabar community and who had been faithfully and very humbly serving the Government for the last 10 years, and he deeply regrets to submit that his insufferable grievance is not redressed by the Government Proceedings No. 4141 dated 19th October 1896 declining to interfere with his diresome case.

(2) That after the communication of the above-said Government Proceedings the Memorialist was in consultation with some persons informed and was really under impression that he has 12 months' time to prefer an appeal and further the humble Memorialist was suffering from a fever and had been unfortunately bedridden for 3 months from March to June last and he was consequently not able to get an appeal petition prepared and printed, and submit the same to the Government of India before the 18th June last when it was returned with the remarks that it should be submitted to the Government of Madras.

That, Under the reasons herein above set forth

Your Excellency's humble Memorialist most humbly and respectfully begs that Your Excellency may be graciously pleased to interfere in his distressed case and take his long and faithful service of 10 years into reconsideration for the sake of MERCY and pass an order that he may be reinstated or if he is adjudged guilty of having displayed any slackness in the discharge of of his duty, he atleast humbly pray that his hard sentence may be committed to suspension, or that Your Excellency may be pleased submit the accompanying Appeal to the Government of India with Your Excellency's favourable remarks.

For which act of MERCY and justice he shall as in duty bound,

Exr Pray,

16th August 1897.

A. V. P. Kanhalavy

C. no 7379 of 97

C. O. (Aon) no 1634 dt 1st Sept 97

The petitioner is referred to the orders already passed in his case and informed that all further communications from him on the subject will remain unnoticed.

Writ

To the Petitioner with enclosures.

DAS. 6-9-97

C.R.

30 aug 97

When given for copying ——
When copied ——
When examined ——
When signed ——
} 189

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

ENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A
LETTER OF GOVERNMENT.							
STATEMENT, WITH DITTO.							
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.							

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