

Revenue (1898). Department.

MISCELLANEOUS SERIES.

G.O., No. 2602

DATED 18th June

[Despatch Abstract.]

Declining to interfere on behalf of Inayat Hussain late Registrar of the Deputy Collector's office, Madras ~~in the~~ with the Board's order compelling him to resign his appointment.

BACK PAPERS.

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

FURTHER PAPERS.

[illegible]

Revenue (1898) Department.

CURRENT No. 3/2/

1876

Read again 90.257 R & 10.298^P From
Read also hds Ref Robo & 20-5-98^D
Order misc no. 2602 d/18th June 98.

The Govt declines
interfere.

114
 176158
 To the 8d L.R. with 158
 the Petr. } 186158
 Dep't
 12.6.28

Return all 27 enclosures. Spare copies
of this page to be kept:

The Board of Revenue, Land
Revenue, Madras.

Ref. 

Dated 20th April 1398.

Received 26-2

Registered 24

Enclosures/3.

SUBJECT.

Submitting to Government the
 Appellate judgment of the High Court
 relating to the case of Inayeth
 Hussain Sahib, late Registrar, Deputy
 Collector's Office, Madras.

21.5
17/6/95
P. Q.
11/8/95

BACK PAPERS.

G.O.	No.	Department.	Date.
Pro.	387	Pro.	10.2.95

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Petition from Inayet Husain
Saib, dated 10 December 1897, addressed
to His Excellency the Governor.

Submitted, with the enclosures
to the Commissioners of Land Revenue
for transmission to Government.

2. The Acting Collector has no
remarks to offer. The history of the
case is sufficiently set out in the
petition.

Madras Collectors' office
14th December 1897.

J. N. Atkinson
Ag. Collector.

12/12/97

Submitted through the Collector of Madras
in obedience to Rev. Department Indorsement
No 2232 Routine dated 3rd December 1897 with
enclosures in original

Marg Husain
10/12/97

To

His Excellency

SIR ARTHUR ELIBANK HAVELOCK, G.C.M.G., G.C.I.E.
Governor of Fort St. George, Madras.

The humble petition of INAYET HUSAIN:
late Registrar, Madras Deputy Collector's
Office, Madras.

RESPECTFULLY SHEWETH,

Your Petitioner was entertained in the Government service in the year 1881 in the Land Revenue Branch of the Board of Revenue, and thence rose to the post of Registrar in the Madras Collectorate on Rs. 60 a month, which office he held till May 1897, thus having in all put in a total service of nearly 16 years. During the period he so served, he had won a good opinion of his superior officers, and among many, as per Exhibit A, appended hereto, the following is the one:—

"During the month that I have acted as Collector of Madras, Inayet Husain Khan's work has been such that he has been thrown into communication with me frequently. I have been pleased with his appearance and manner, and he has done everything with intelligence, accuracy and despatch.

13th November 1886.

(Sd.) J. GROSE."

1. That your Petitioner has never behaved since in any way in the service as to fall short of the above opinion in the eye of his superiors, whether Collector or the Deputy Collector of the District under whom he has been serving, but on the other hand they have on different occasions recorded a high opinion of the Petitioner's conduct in the discharge of his duties, so much so that the Petitioner was once put in charge of Madras Thasildari when the permanent incumbent went on leave, in preference to many in service above him.

2. That your Petitioner belongs to the old ruling families of the Carnatic, being connected on his mother's side with Mohamed Ali Wal-laja, and on the father's side with Nabob Chanda Sahib of Carnatic and the Tippu Sultan of Mysore. In this connection he would beg to state that he is the nephew and son-in-law of Ali Dost Khan Bahadur, a well-known distinguished servant of Government who was the other day nominated by Government, Agent to the Begum Sahiba of Carnatic. As a member of the Carnatic family, your

He is related to Mr. Mohamed Raza Khan
the Statutory & being his cousin & brother
in-law.

2
Petitioner had a small amount of pension, which he converted into a bonus after he joined the Government service.

3. That your Petitioner has four children to support besides his old parents depending on him who only draw about Rs. 20 a month as their royal share of the State revenue.

4. That in the month of January 1893, your Petitioner foolishly, for the first time, with a view to improve the condition of his family, took part in the transactions of buying and selling Government promissory notes in share with one Raja Iswer Doss, a wealthy personage in Triplicane (once a servant of our Carnatic Royal House). But that your Petitioner was never a habitual speculator, nor was he then aware that dealings of the kind were against Public Service rules, until the 30th May of the same year, when your Petitioner was served with a printed copy of rules regulating the personal conduct of Public Servants. On receipt of this pamphlet, and on perusing rule 22 of the same book in which Government servants were required to abstain from speculative investments, your Petitioner at once informed the Deputy Collector and the Collector, that he had, through ignorance, taken part in the transaction, and that in future he had no more dealings of the nature to perform, and at the same time informed Iswer Doss that the Petitioner had ceased his connections with him, but would only attend to the settlement of account at the end of the month. This was in June 1893, soon after the receipt of the pamphlet.

5. That your Petitioner at once giving notice of his disconnection to the abovenamed individual, created ill-feelings in his mind against the Petitioner, and he flatly refused to settle accounts. Your Petitioner therefore, with the knowledge and permission of the Collector as allowed in rule 60 of the above rules, handed over his case at once to Mr. C. W. Wilson, a Solicitor of the Firm of Messrs. Wilson and King, and that gentleman filed a suit in the High Court against Iswer Doss. Learning that your Petitioner had taken legal steps against him, Iswer Doss's first attempt was to lodge a criminal complaint against the Petitioner in the Egmore Police Court, whereupon your Petitioner also lodged on the same day a counter-complaint through Mr. Wilson against him.

6. Before the Civil Suit was heard, the criminal charges were tried in the Police Court, costing nearly Rs. 10,000 to the Petitioner, owing to the protracted trial resulting in the conviction of Iswer Doss (to imprisonment and fine) and acquittal of the Petitioner, by the Magistrate, Mr. C. G. Kuppuswamy Iyer, who strongly appreciated the conduct of the Petitioner and his witnesses and condemned that of Iswer Doss and his witnesses, as will be seen from the copies of judgments herewith appended, marked B⁽¹⁾ and B⁽²⁾. But on appeal, however, the conviction of Iswer Doss was reversed to the entire astonishment of the public and the legal community, both Europeans and Natives.

3
7. Then after this, in the next year, Mr. Justice Shephard sat to hear the civil suit for about fifteen days continuously, costing the Petitioner about Rs. 6,000, and decided strongly on every point in favour of the Petitioner, taking the exact view of the case as Mr. Kuppuswamy Iyer did in convicting Iswer Doss, and went diametrically against the view taken by the Appellate Court in quashing Iswer Doss's conviction. Mr. Justice Shephard further granted the Petitioner sanction to prosecute Iswer Doss and his witnesses for perjuries committed during the trial before him. Thus the litigation ended so far as the Petitioner was concerned, but no notice whatever till then was taken of his conduct by the Collector, as everything was done with his knowledge and permission. So far it cost Petitioner nearly Rs. 16,000 for expenses of litigation and about Rs. 14,000 for losses sustained on account of Government paper transactions and the failure of Iswer Doss to contribute his share of the loss to the Petitioner.

8. That at the time your Petitioner started with this transaction and entered into litigation, he had at his disposal sufficient amount out of his family estate, but he had only to borrow, when the litigation continued for nearly three years, to meet the expenses, having at the same time regard, that the loans so raised were not from persons who had any official connection with the Petitioner.

9. That in the meantime, it so happened that some charges of corruptions were brought to the notice of the Collector against his late Sarishtadar Verabudriah, and that as both the Deputy Collector, Mr. B. H. Chester, and the Collector, Mr. W. P. Austin, had greatest confidence in the Petitioner, they used to utilize his services during the investigation. This interference of the Petitioner created feelings, as one would naturally expect, in the mind of the Sarishtadar to such an extent that he could do him nothing beyond instigating, among other creditors, one T. Naraina Row, the late Head Accountant of the Revenue Board, to whom the Petitioner was indebted to a small extent, to take legal steps against him.

10. That this conduct of the Petitioner's enemies, added to the worries he had for so many years in the litigation, worked upon his health, and the Petitioner was therefore advised to have rest and apply for long leave. Thereupon your Petitioner explained to Mr. Austin, the then Collector of Madras, and applied for leave. As that officer was fully aware of the Petitioner's circumstances from the beginning to the end, he granted him six months' furlough leave, and advised the Petitioner at the same time to seek the protection of the Court so far as the Petitioner's liabilities were concerned and promised his support in the matter.

11. That depending upon the Collector's advice and help he filed his schedule in the Insolvency Court and went away to Coonoor for change of climate as medically advised. From Coonoor, your

Petitioner wrote to the Acting Deputy Collector, Mr. D'Cruz, giving the approximate account of his schedule as follows:—

R. No. 641.
G.I.

To

B. M. D'CRUZ, Esq.,
Deputy Collector, Madras.

13th June 1896.

SIR,

In due obedience to your memo., No. $\frac{484}{G.I.}$, dated 2nd May last, and in reference to my telegram from Coonoor of the 4th idem, I respectfully beg to annex hereto the statement of my liabilities and assets (*sic.* in original) so far as I can now find out from my notes, and I believe they will be almost correct. If you would have allowed me to wait until (*sic.* in original) the re-opening of the Courts, I would have furnished you with a true copy of my schedule. However, I request that you will be good enough to keep the list I now append a secret from your other subordinates, among whom I have reason to believe there are my enemies.

Liabilities.				Rs.
1. Fatima Begam (my wife)	...	...	...	9,500
2. Messrs. Arbuthnot & Co.	...	...	...	2,586
3. Saitfar Chend Mon Mull	...	...	...	3,300
4. Arcot Ragava Mudelly	...	...	...	2,000
5. Amuluk Chend	...	...	...	950
6. Cauder Husain Saied (my relation)	...	...	...	500
7. P. Annamalay Chetty	...	...	...	4,500
8. T. Naraina Row	...	...	...	390
9. Edwards & Co.	...	...	...	396
10. Lalji	...	...	...	300
11. Cundasawmy Chetty	...	...	...	300
12. Bajinath	...	...	...	140
Total				20,812

Assets (<i>sic.</i> in original.)				Rs.
1. Sagra Begum Sahiba	...	...	...	9,500
2. Mahdi Husan Saib (paid towards purchase of a house, &c.)	...	...	...	2,000
3. Do. as per account in Reference Court, <i>vide</i> Justice Shephard's decree against Iswer Doss	...	...	...	4,100
4. Paid up premium on my life policies for Rs. 5,000	...	...	...	600
5. Edward & Co.	...	...	...	200
6. S. Gurusawmy Chetty	...	...	...	225
Total				16,625

Item No. 1 in the list of my liabilities is a formal debt, inasmuch as it relates to my wife, who is expected naturally not to claim it from me, but it was included in the list as I am on oath to state the true state of my affairs, though I might not be compelled to make good anything out of it. Hence, I submit, if item No. 1 is excluded from my liabilities, the same will be reduced to

Rs.
20,812
9,500
11,312

and thus my assets (*sic.* in original) will far exceed to my liabilities by Rs. 16,625 - 11,312 = 5,313. In case I succeed in the appeal preferred against Justice Shephard's decree in my favor, another sum of Rs. 4,000, or about, will be added to my

assets (*sic.* in original), as my claim against Iswer Doss in the High Court suit was for Rs. 8,000 and odd. Then my assets will be about Rs. 10,000 $\left\{ \begin{smallmatrix} 5,313 \\ 4,000 \\ 9,313 \end{smallmatrix} \right\}$ in excess of my liabilities, but exclusive of No. 1 (my wife's debt). I am sorry I had to suffer this heavy pecuniary loss only in the litigation with Iswar Doss by prosecuting him in the Police Court and then fighting in the High Court, which litigation was owing to a complaint made by him to the Collector, anent an entry in a certain document sent by him to the Collector for adjudication of stamp duty. Mr. B. H. Chester was fully aware of the facts connected with these matters. I request therefore that you will kindly forward this in original to the Collector.

I beg to remain,

Sir,

Your most obedient servant,

(Signed) INAYET HUSAIN,
Registrar (on furlough).

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

12. That on receipt of the above, the Collector wrote the following to the Board of Revenue:—

No. 1261.

MADRAS COLLECTOR'S OFFICE,
23rd June 1896.

From

W. P. AUSTIN, Esq.,
Collector of Madras,

To

THE SECRETARY TO THE COMMISSIONERS
OF LAND REVENUE, MADRAS.

SIR,

I have the honor to submit the following case for the orders of the Board under Article 43 of the Government Servants' Manual.

2. On the 23rd April 1896, the Deputy Collector of Madras recommended the grant of six months' furlough to Inayet Husain Sahib, Registrar of his office, with effect from the 4th May 1896, on account of the poor state of his health, and the leave was sanctioned.

3. On the 1st ultimo, Mr. D'Cruz reported that, in page 651 of Part II of the *Fort St. George Gazette*, dated the 28th April 1896, it was published that Inayet Husain Sahib had applied to the High Court for relief under the Insolvent Debtors' Act, and that his application had been posted for hearing on the 13th July 1896.

4. The Deputy Collector at once called on him to submit a copy of the schedule filed by him in Court, showing the names of his creditors and the amount he owed to each of them. In reply, Inayet Husain Sahib wired from Coonoor that he had no copy of the schedule, but that his solicitor had one, and that a copy thereof would be furnished on his return to Madras within a month. He has come back to Madras, and a copy of his reply, dated the 13th instant, is enclosed, from which it appears that his assets and liabilities amount, respectively, to Rs. 16,625 and 20,812; but that if item 1 of his liabilities, which is due to his wife "who is expected naturally not to claim it," but which was included in the list as he was on oath to state the true condition of his affairs be deducted, the liabilities will be only Rs. 11,312 against the assets of Rs. 16,625, and that the liabilities will further be reduced by

Rs. 4,000 in the event of his succeeding in the appeal preferred against Justice Shephard's decree passed in his favor.

5. As the man is now off duty, having been granted six months' furlough, and as it is doubtful whether he is really a bankrupt, I think that no action need be taken till the matter has been before the Courts, and that he may be allowed to continue on leave.

I have, &c.,
(Signed) W. P. AUSTIN,
Collector.

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

Thereupon the Board of Revenue passed the following order:—

Proceedings of the Board of Revenue (Land Revenue).

No. 2952, Mis., dated 29th June 1896.

Read letter from W. P. AUSTIN, Esq., Collector of Madras, No. 1261, dated 23rd June 1196.

RESOLUTION—

The Board agrees with the Collector.

2. The result of the insolvency petition should be reported in due course.

(True Extract.)

(Signed) L. D. SWAMI KANNU,
Asst. Secretary,
for Ag. Secretary.

30th June 1896.

To the Collector of Madras.

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

13. That after the above correspondence, your Petitioner's insolvency petition was heard by Mr. Justice Shephard on the 17th August 1897, and that the following order was passed:—

No. 103 of 1896.

IN THE COURT FOR THE RELIEF OF INSOLVENT DEBTORS
AT MADRAS.

Monday, the Seventeenth day of August, One thousand eight hundred and ninety-six.

PRESENT:

THE HONORABLE MR. JUSTICE SHEPHARD,
One of the Commissioners of this Court.

(Discharge order)
1896.

In the matter of the Petition and Schedule of
Merkari Inayet Husain Sahib, an Insolvent Debtor.

The matter of this Petition and Schedule coming on this day to be heard in the presence of Mr. Ramasawmy Rajoo of counsel for the above-named Insolvent Merkari Inayet Husain Sahib and of Mr. Smith of counsel for Raja Iswer Doss, creditor No. 1 in the said Schedule, and upon hearing counsel on both sides and also the examination of the said Insolvent Merkari Inayet Husain Sahib.

L. S.

This Court doth declare that the said Insolvent Merkari Inayet Husain Sahib is entitled to the benefit of the Act of the 11th Victoria, Chapter 21 (to consolidate and amend the laws relating to Insolvent Debtors in India), and to his personal

discharge under the said Act in respect of all the debts mentioned in the said Schedule, and it is hereby ordered that the Official Assignee of the Estate and Effects of the said Insolvent Merkari Inayet Husain Sahib do forthwith cause notice of the said discharge of the said Insolvent Merkari Inayet Husain Sahib to be inserted in the "Fort St. George Gazette."

MADRAS,
CHIEF CLERK'S OFFICE,
28th October 1896.

By the Court,

(Signed) T. C. CLARKE,
Chief Clerk.

(A true Copy.)

(Signed) T. C. CLARKE,
Chief Clerk.

14. From the above order, Your Excellency will be pleased to find that, with the exception of creditor No. 1, namely, his opponent Iswer Doss, nobody opposed the petition, inasmuch all others had expressed their willingness in the procedure adopted by the Petitioner, as they expected a fair dividend of the estate and had taken a favourable and also a pitiable view of the Petitioner's conduct in fighting out against a well-known troublesome man like Iswer Doss. There ended the question of Insolvency, and the following final report on behalf of the Petitioner was sent by the Collector to the Board of Revenue. Your Excellency will be pleased to find therefrom that how strong it is in the Petitioner's favour, that it is always not common to expect a superior officer to be so favourable to a subordinate in the absence of any motive on the officer's part except that of doing justice to the Petitioner:—

Ref. No. 1971.
C.

Encl. 2.

MADRAS DEPUTY COLLECTOR'S OFFICE,
16th December 1896.

From

B. H. CHESTER, Esq.,
Deputy Collector of Madras,

To

W. P. AUSTIN, Esq., I.C.S.,
Collector of Madras.

SIR,

With reference to the correspondence ending with your Memorandum, Ref. No. 3904, dated 18th November last, I have the honor to forward the copy of appellate judgment referred to therein, together with the answers noted by Inayet Husain in the margin thereof.

2. I beg also to forward a letter from him in which he states that he discontinued speculation in the beginning of June 1893. The Public Servants' Manuals, I beg to state, were distributed to the subordinates of my office at the end of May 1893—about 30th and 31st of May.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) BEN. H. CHESTER,
Deputy Collector.

Ref. No. 4296.

Enclosure as per list annexed.

Submitted with the records (to be returned) as per list, for orders with reference to para. 2 of the Board's Proceedings, Mis. No. 2952 (Land Revenue), dated the 29th June last.

2. Inayet Husain Sahib has been declared insolvent and entitled to the benefit of the Insolvent Act.

3. It is apparent from the papers that his insolvency was due to speculation in Government promissory notes, but, as it appears that he discontinued to have anything to do with it after the Public Servants' Manual was received by him at the end of May 1893, and, as he has been discharging his duties as Registrar of the Madras Deputy Collector's Office with efficiency and to the satisfaction of his superiors, I strongly recommend that he may be allowed to continue in the service. He is now on furlough, which expires on the 3rd March 1897, and I request that early orders be passed on this.

MADRAS COLLECTOR'S OFFICE,
8th January 1897.

(Signed) W. P. AUSTIN,
Collector.

15. That on receipt of this report the Board of Revenue passed the following Resolution:—

Proceedings of the Board of Revenue (Land Revenue).

No. 650, Mis., dated 20th February 1897.

Read again Board's Proceedings, dated 20th June 1896, No. 2952, Mis.

Read also endorsement of the Collector of Madras, dated 8th January 1897, Ref. No. 4296.

RESOLUTION—

The Board regrets that it is unable to accept the Collector's recommendation in this case.

2. In June last, the Collector of Madras reported that the Registrar of the Deputy Collector's Office, Madras, Inayet Husain Sahib, had applied for relief under the Insolvent Debtors' Act, and that the petition was pending before the High Court. Inayet Husain was on leave, so the Board accepted the Collector's suggestion to the effect that no further action was necessary until the said petition had been disposed of. Inayet Husain, writing from Coonoor, said that he believed his liabilities and assets to be about Rs. 20,000 and Rs. 16,000, respectively, and made out that, in the event of his winning a certain appeal, which was then pending in the High Court, and deducting a large debt due to his wife, his assets really would cover his liabilities with some Rs. 10,000 to spare.

3. The insolvency petition and the appeal case have since been disposed of. Inayet Husain has been declared insolvent, and he has been defeated in the civil appeal. As a result, the position is approximately as below:—

	Rs.
Liabilities	27,000
Assets	17,000

He has been discharged, and, therefore, can start afresh. The Collector now reports his case for orders and strongly recommends that he may continue in service. Inayet Husain is still on leave.

4. From an examination of the papers sent up by the Collector, the Board is of opinion that Inayet Husain should not be allowed to re-join his appointment on the expiry of his leave, and that he should at once be directed to show cause why

he should not be dismissed. This order is not based upon the result of the insolvency petition, but upon the schedule of debts now filed by the petitioner, and upon the copy of the appellate judgment which forms an enclosure to the Deputy Collector's letter, Ref. No. 1971, dated 16th December 1896.

5. Taking first the appeal case, it appears that the main question at issue was whether a promissory note given by plaintiff (Inayet Husain) to defendant for Rs. 2,000 in December 1892 was included in a later pro-note for Rs. 2,653 given by plaintiff to defendant in February 1893. The Original Court found for plaintiff, but the High Court on appeal have reversed this decision, and have added, in very clear terms, their opinion of plaintiff. The documents (or, at any rate, one of them) went to the Collector's office for adjudication of stamp duty, and it is a fair inference that the pencil additions made thereon, as the High Court have found, fraudulently, were made by, or on behalf of, plaintiff, who was behind the screens at that office. The High Court find that the plaintiff's "evidence is wholly false" and the pencil note appears to them "to be a forgery by the plaintiff."

6. Again, taking the schedule of debts petitioner borrowed largely from persons in Madras in the years 1894 to 1896, he admits having received a copy of the Public Servants' Rules in May or June 1893, and he is therefore liable to dismissal under rules 23 and 26 of that pamphlet.

7. Inayet Husain's explanation should be submitted to the Board before the 3rd proximo, on which date his leave expires.

(True Extract.)

(Signed) L. D. SWAMI KANNU,

Assistant Secretary.

20th February 1897.

To the Collector of Madras, with six files of records and one list returned.

(True Copy.)

(Signed) J. N. ATKINSON,

Collector of Madras.

16. That on receipt of the above, the Collector sent the following to the Petitioner for a formal explanation, though he was already in its possession:—

MADRAS DEPUTY COLLECTOR'S OFFICE,
22nd February 1897.

OFFICIAL MEMORANDUM.

Ref. No. 1971.
C.

Mr. Inayet Husain, Registrar, is directed, under orders of the Board of Revenue, to show cause why he should not be dismissed from Government service.

From the schedule of debts filed by Inayet Husain, it is seen that he borrowed largely from persons in Madras in the years 1894—96. He admits having received a copy of the Public Servants' Rules in May or June 1893, and he is therefore liable to dismissal under rules 23 and 26 of that pamphlet.

From the judgment of the Appellate Court (High Court, Madras) in the suit between Inayet Husain and Raja Iswer Doss, it appears that the main question was, whether a promissory note by Inayet Husain to Raja Iswer Doss for Rs. 2,000 in December 1892 was included in a later pro-note for Rs. 2,650 from the former to the latter? The High Court on appeal have found that certain pencil additions on the pro-note appear to them "to be a forgery by the plaintiff," i.e., by Inayet Husain, and they declare that the plaintiff's (Inayet Husain's) "evidence is totally false."

Any explanation should be tendered in writing before 4 P.M. to-morrow.

(Signed) BEN. H. CHESTER,

Deputy Collector of Madras.

To Mr. Inayet Husain, Registrar, Madras Deputy Collector's Office.

17. That at the time of the receipt of the above order, your Petitioner was confined to bed, and, as only a short period was allowed to him to submit his explanation, your Petitioner explained to the Collector as follows, and in the alternative being afraid of dismissal requested permission to resign appointment, but did not in fact resign:—

MADRAS,
23rd February 1897.

To
W. P. AUSTIN, Esq.,
Collector of Madras,
(Through B. H. CHESTER, Esq.,
Dy. Collector of Madras).

SIR,
I beg to submit the following explanation as called for by the Board of Revenue:—

I. (1) Rules 23 and 26 of the pamphlet referred to in the Memorandum, No. 1971 C., dated 22nd instant, I respectfully beg to submit do not apply to me. They refer only to "Gazetted officers" and "servants of responsibility and trust" for a limited area or jurisdiction. As I come under neither category, being only a ministerial servant, doing duties under the direct orders of the Deputy Collector, who only does the duties of Registrar, viz., hears objections in the matter of issue of certificates subject to an appeal to Collector, I submit I was not precluded from borrowing under any of those rules.

(2) I beg further most respectfully to submit that even though I may have done wrong in borrowing, yet there are some extenuating circumstances in the fact that I was obliged to borrow owing to the protracted litigation between myself and Iswer Doss into which I was forced by circumstances to enter, and then, too, under the direct control and advice of an European Attorney, like Mr. C. W. Wilson, of the Firm of Messrs. Wilson & King, and with the knowledge and permission of my immediate superiors in office. If any of these gentlemen had expressed his opinion at the first instance, that my case was bad and my official connection prevented me from going to Courts of Justice, I would not have gone to the length of risking vast sums of money, both from borrowing and from and out of my family estate, and finally standing to lose the appointment too; while on the other hand there were reputed offers of a compromise from Iswer Doss with a good deal of profit to me, and for which offers I had to refuse, under best legal advice, and also for fear of incurring displeasure of my superior in office, I being a public servant.

(3) The perusal of memorandum hereto annexed wherein I have enumerated my debts in detail will show that I have borrowed chiefly from such places which might reasonably fall under rule 24, as to none of them there was any likelihood or need of my showing favour or official influence:—

(1) Messrs. Arbuthnot & Co., a British Firm ...	Rs. 2,800
(2) My wife (nominal) ...	10,000
(3) Cander Husain, my own cousin at home ...	500
(4) T. Naraina Row as Secretary to a Registered Fund in Triplicane and late Head Accountant of Board of Revenue ...	390
(5) Joseph Stephenson, Esq., as Registrar of the Original Side, High Court, for costs ...	3,000
(6) Ragava Mudelly, a District Court Pleader of North Arcot, through the introduction of my father-in-law ...	2,000

(7) Sa Man Mull and Amuluckchand ...	Rs. 4,200
(8) Candasawmy Chetty for losses sustained in Government paper on account of Iswer Doss. No money actually passing ...	300
(9) Dhamar Bhai for balance of cloth purchased in my name for a marriage in the family but since made good ...	140
(10) Walji through the friendship of my father who has since undertaken to pay ...	300
(11) Edwards & Co. These are auctioneers at Mount Road. It was due owing to repurchase of furniture left for sale, but the amount of sale-proceeds having been shown under column of assets ...	391
(12) Annamalay Chetty. This individual was a resident of Pondicherry, and the loan was obtained through a High Court Vakil, Salla Gurusawmy Chetty ...	451

Of all these creditors, creditor No. (7) only can be applied to rule under which the act of borrowing is an offence. But these individuals, though natives, they are residents of Rajaputana, and that long before they lent me, they had compounded their income in the Collector's office for five years. This was the only connection they have had with this Collectorate. Further, they advanced loan to me on the responsibility of my father-in-law.

(4) That none of these creditors opposed my discharge, as they were aware that their sums, together with my own money, were utilized in the prosecution of litigation, and that they hoped the same to end in my favour.

II. Regarding remarks in the Appellate judgment—

(1) With reference to the remarks of the Judges of the Appellate Court concerning the inclusion of one pro-note into another; "pencil-note on one of the documents, and my evidence thereon, I beg to submit the following points for the consideration of the Board:—

(1) Both Mr. C. G. Kuppusawmy Iyer and Mr. Justice Shephard were of strong opinion that the pencil-note was genuine and that one pro-note was merged in the other, and that the whole of my evidence on those points was true, so much so that the former convicted Iswer Doss of cheating and sent him to jail, and that the latter decreed in my favour after fourteen days' continual hearing in the High Court. These gentlemen had, I submit, a better opportunity of judging as to the truth or falsity of the evidence than the Judges of the Appellate Court as the witnesses were brought before them face to face, and they were able to note their demeanour. Then there is legal divided opinion on the subject, which, I submit, cannot help a departmental enquiry, in order to deal with his subordinate who ought not to be guided by out-door opinion, unless they hold the enquiry themselves and find out how far the official involved is blameable. (The above circumstances entitle me to claim the benefit of doubt.)

(2) The learned Judges of the Appellate Court have chiefly relied upon the evidence of Mr. Nizamuddin, Vakeel. But Mr. Nizamuddin in his cross-examination said that he would not swear that the pencil-note was not there when he translated it in June. This disposes of the whole of Mr. Nizamuddin's evidence. This most important point, the learned Judges have omitted to note.

(3) Raja Iswer Doss received the document from the Collector's office about the 20th June. He did not complain about the pencil-note to the Collector till about the 20th July. The learned Judges very erroneously say that he complained at once. Iswer Doss's explanation is that he put the cover as received from the Collector's office unopened all along in his pocket. Is it credible that a man of business like Iswer Doss left a cover from a Government office unopened for a month?

And it seems very strange that he should open it in Branson's office. The learned Judges say that the pencil-note should have been made after the document had left the Collector's office. This view, I submit, goes diametrically against the evidence of Iswer Doss recorded in the Magistrate's Court under which an access to the document after it left the Collectorate was next to impossible. Nothing about the pencil-note being a forgery by me was said by Iswer Doss in his complaint against me to the Magistrate, nor in the written statement filed by him in the High Court. Mr. Justice Shephard attributed in the midst of argument these omissions to Iswer Doss's guilty conscience.

(4) Mr. Wilson, my solicitor, was all along most sanguine of success, and my legal advisers, both Native and Europeans, are unanimously of opinion that an appeal to the Privy Council would certainly restore Mr. Justice Shephard's decision. They have even gone so far as to advise me to collect public subscriptions of which they promising to take prominent part. As to adopt this course I was doubtful, being a public servant. The idea of appealing to the Privy Council is not yet abandoned.

(5) The other day sanction to prosecute me was applied for and the Judges of the Appellate Court have flatly refused it.

III. Generally.—I beg to submit that I had to incur debt only for the sake of this litigation in which I was foolishly entangled and which litigation was conducted with your knowledge and permission. In the discharge of my office duties, I have not been found fault with at all. The Deputy Collector, Mr. Chester, has formed a good opinion of me, and so I believe the Collector. None of these officers ever thought of punishing me in any way on these matters, though for more than three years they have been aware of it. That there is not a single soul on earth who is on bad terms with me, except Mr. Ranga Charriar of the Petition Department of the Board of Revenue, and Iswer Doss, the litigant.

That I rendered material help to the Collector in the case of his late Sarish-tadar, Virabudriah, I was given an assurance of a good return in the matter of my helping the Collector in that well-known case. While such is the case, I have to be doomed for no fault at all to a very miserable position, viz., dismissal from Government service of which I have put in nearly sixteen years, is an unbearable punishment. I therefore most respectfully submit that I may be pardoned this time. Should I be so unfortunate as not to be able to be allowed to spend a few years more in service, the Board still considering my retention in service hereafter undesirable, I would most humbly solicit that they will be pleased to make me retire on medical certificate to enable me to enjoy the invalid pension, as under present stage of my health any Doctor would certify me to that effect. And that the little pension which I would get by Board's favour at this state of my affairs, viz., after I have spent even my ancestral estate in litigation would help me at least in educating my three (3) little unfortunate boys. Failing to get this concession even I beg that my resignation may be accepted.

I beg to remain,

Sir,

Your most obedient servant,

(Signed) INAYET HUSAIN.

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

18. This, the Collector forwarded to the Revenue Board in original for favourable consideration, and also Mr. Austin went to the

Board in person to speak on behalf of the Petitioner, and notwithstanding it, the Board passed the following resolution:—

Proceedings of the Board of Revenue (Land Revenue).

No. 911, Mis., dated 11th March 1897.

Read again Board's Proceedings, dated 29th June 1896, No. 2952, and 20th February 1897, No. 650.

Read also endorsement of the Collector of Madras, dated 24th February 1897, Ref. on No. ¹⁹⁴_{G & B} of 1897, on letter from B. H. CHESTER, Esq., Deputy Collector of Madras, dated 24th February 1897, Ref. No. ³⁴⁰_C.

RESOLUTION—

In the circumstances now reported, the Board resolves to permit Inayet Husain Sahib, Registrar, Deputy Collector's Office, Madras, to resign his appointment. The Collector should, however, take from Inayet Husain a statement to the effect that he fully understands the consequences of his resignation (*vide* G.O., No. 246, dated 9th March 1886, Pension, under Board's Proceedings, No. 862, Press, dated 7th April 1886).

(True Extract.)

(Signed) R. C. C. CARR,
Secretary.

To the Collector of Madras, with one enclosure
and two bundles of records, in original, returned.

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

19. That on the receipt of the above, the Collector sent the following order to the Petitioner:—

MADRAS DEPUTY COLLECTOR'S OFFICE,
15th March 1897.

OFFICIAL MEMORANDUM.

Ref. No. ⁵²⁴_C.

Under instructions from the Board of Revenue, Inayet Husain, Registrar, Deputy Collector's Office, now on furlough, is informed that he is permitted to resign his appointment. He is requested to submit a statement to the effect that he fully understands the consequences of his resignation, viz., that under the rules he is not entitled either to pension or a gratuity.

(Signed) BEN. H. CHESTER,
Deputy Collector.

To Inayet Husain, Registrar, Deputy Collector's Office, Madras (on furlough).

20. That on receipt of the above, your Petitioner wrote the following to the Collector:—

18th March 1897.

To

W. P. AUSTIN, Esq., C.S.,

Collector of Madras,

(Through the Deputy Collector, Madras.)

HONORED SIR,

I respectfully beg to acknowledge the receipt of the order of the Board of Revenue, communicated to me in the Deputy Collector's Official Memo., No. ⁵²⁴_C, dated 15th instant, wherein permission is granted to me to resign my appointment

under Government, but with the clear understanding that before so doing I should be fully made aware of its consequences, viz., that under the rules I should have to forfeit any claim to pension or gratuity. As I was not aware of the consequences which would result so hardly against the person who resigns his post, I beg to submit the following for your kind consideration and recommendation to the Board of Revenue to reconsider my case on the following facts and pass such orders as they then consider just and reasonable to my pitiable case:—

As I am still on furlough, and yet entitled for its extension under the rules up to the 3rd May next, I may be permitted to remain on leave, I have been till now enjoying, or until (*sic.*) such time as you consider proper.

(1) That to begin with the litigation I had the permission of my superior officers.

(2) That the litigation with Iswer Doss started in the beginning of 1893 unexpectedly and I was forced to stand to it.

(3) That the Public Service Rules permitted a Government servant to stand to private litigation with the knowledge and permission of his employer.

(4) That to meet with the heavy losses I had to suffer, on account of Iswer Doss's failing to share with me, and to pay the expenses of the litigation, I did not at first borrow, but only sought the help of my family estate.

(5) That the litigation continuing for four years, funds at my disposal fell short of my expenses and also of assets.

(6) That the bills of Attorney's charges and Counsel's fees were so very excessive and heavy and pressing, that making good thereof under any circumstances could not have been avoided or delayed, and that it was therefore that the out-door help was then sought for, with such care, as not to place me in a position, to show any official favour, to any of the persons who had thus come forward to help me.

(7) That my opponent in the case was rich enough to spare any amount of money to gain his object in order to save himself from criminal prosecution which was hanging over his head by the order of prosecution granted to me by Justice Shephard, after he gave judgment in my favour, and that with this view Iswer Doss set up one of my creditors against me.

(8) That it was on this particular account I had to pass through the Insolvency Court and hand over all my estate to the Official Assignee.

(9) That before I applied to the Court for the discharge, I obtained your honor's sanction and was also granted furlough, which action of your honor was approved off by the Board of Revenue, and that no notice whatever was then taken of my conduct under any rule.

(10) That your honor then was fully aware of my total liabilities and so also the Board of Revenue and no notice whatever was taken of the same.

(11) That your honor, in spite of the knowledge, did not take notice of my connection with the litigation which was being conducted for nearly four years, but on the other hand I was left free to proceed with it.

(12) That all the Original Courts (Criminal and Civil) did decide in my favour, but only the Appellate Court, whose is merely an opinion and that, too, under dispute.

(13) That the unexpected order of the Board of Revenue, calling upon me to show cause why I should not be removed from the Public Service, was communicated to me on the evening of the 22nd February last, and the time allowed to me by the Deputy Collector for the submission of my explanation was less than 24 hours. I being required to submit it the next day by 4 P.M., on which day, I beg to submit, I was under the attack of high fever.

(14) That, notwithstanding the short duration and the bad state of my health, I did submit my explanation as ordered, in time.

(15) That I was then out of mind, being terribly afraid of the Board's sudden change in the treatment of my case, in spite of your honor's support to it, as required under the rules.

(16) That to avoid the fatal shock of being called a dismissed Government servant, I stated in my explanation that I would prefer resignation to a dismissal.

(17) That while I had so stated, I was not aware of the consequences of a resignation, nor did I then anticipate that the Board of Revenue would send me home.

(18) That in the same explanation I had requested to be permitted to join my appointment on expiration of my furlough.

(19) That failing to obtain this concession, I had also most humbly solicited permission to retire or resign, which I believed would be, in either case, a retirement on invalid pension, being declared by a medical officer, unfit for further service, as I am under the rules entitled to pension, having put in sixteen years' service and having of late seriously broken my health.

(20) That a public servant's conduct is always under the control and supervision of his immediate superiors, who, in my case, being your honor and the Deputy Collector, who, I believe, have not recorded anything against me, nor do I still believe that either of them would say, even now, that I am not deserving of any favourable consideration, and that such being the case, the Board of Revenue, to reject their views on my behalf, would be only attributable to my bad star.

(21) That my great-grandfather was the Nabob Wallajah of the Carnatic, and that the British Government have guaranteed support to his family, and that very few of his family are in State service.

(22) That depending upon Government appointment, I had to commute the little pension (Carnatic Stipendiary) I had after I joined the service.

(23) That my old parents who are in receipt of small stipendiary pension from Government have almost turned mad, since they have heard that I have to resign my appointment after having undergone heavy expenses of the very unfortunate protracted litigation.

(24) That while the Government have always been favourable towards Mahomedans in general, I submit I deserve better treatment at the hands of its members, inasmuch as my great-grandfather, the Nabob of Carnatic, handed over to the British nation the Great Province of the Carnatic without any hitch or dispute. Why? because he was given an assurance then that he and the members of his family will receive at the hands of Government better and special favours and considerations and will always be protected at the time of need and danger.

(25) That my present position is due to the unfaithful conduct of one of the servants of our old ruling house, viz., Iswer Doss, who was the record-keeper of the last Nabob.

(26) That at his instances, I a descendant of his master's family to suffer the punishment now proposed for me, would be a fatal blow upon the family of the old British ally.

(27) That considering the family respectability and my position in society, I fail to imagine as to what course I should adopt to earn my bread and to educate my children, when I have to go home empty-handed, after spending a better part of my life in the Government service, viz., sixteen years.

(28) That after having served the Government for sixteen years and then to go home without any remuneration, while others in the same line enjoy the benefit of it, would naturally very seriously tell upon my health.

Under the foregoing circumstances, I respectfully beg to submit that your honor will be kind enough to recommend me to the Board of Revenue to reconsider my case on the foregoing facts and to either restore me to my appointment or to order me to appear before a medical officer, in order that I might retire on the little pension I am entitled to under the rules and thus to lead a somewhat respectable life, as I am afraid that my resignation under the condition now proposed in the above memo., viz., that I have to sign a statement, giving up all claims to my past service, will debar me from any claim to pension, &c., in future.

I beg to remain,
Honored Sir,
Your most obedient servant,
(Signed) INAYET HUSAIN,
Registrar (on furlough).

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

Ref. No. 691 of 1897, dated 19th March 1897.

Endorsement on Inayet Husain Saib's petition, dated 18th March 1897, submitted with the Deputy Collector's Endorsement, Ref. on No. $\frac{524}{C}$, dated the same day.

Forwarded for the consideration and orders of the Board of Revenue.

(Signed.) W. P. AUSTIN,
Collector.

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

21. That the Collector forwarded it again to the Board of Revenue with the following result:—

Proceedings of the Board of Revenue (Land Revenue.)

No. 1140, Mis., dated 25th March 1897.

Read the following:—

1. Again Board's Proceedings, No. 650, Mis., dated 20th February 1897.
2. Again Board's Proceedings, No. 911, Mis., dated 11th March 1897.
3. Also Endorsement of the Collector of Madras, Ref. on No. 691 of 1897, dated 19th March 1897.

RESOLUTION—

In its Proceedings, No. 911, of the 11th instant, the Board resolved, as an act of grace, to allow Inayet Husain, Registrar, Deputy Collector's Office, Madras, to resign his appointment. The said officer had been called upon to show cause why he should not be dismissed the Public Service for breaches of Rules 23 and 26 of the Public Servants' Rules and for grave misconduct found against him by the High Court (*vide* Board's Proceedings, No. 650, dated 20th February 1897). In his explanation he tendered his resignation. Under the rules embodied in Government Order, Pension, No. 246, dated 9th March 1886, it was necessary for the Collector to take a written statement from Inayet Husain before accepting his resignation, and the Collector was directed to do this. Inayet Husain now pleads that he did not know the consequences of resignation and asks that his case may be reconsidered.

2. The Board has already considered this case in all its bearings and declines to reconsider its decision. The Petitioner cannot be allowed to take up his appointment again and do work as a Government servant. He now asks leave to appear before a medical officer, in view to getting a medical certificate of unfitness

for further service. To this the Board has no objection, and the Collector should instruct him to appear at once for medical examination. In the event of the necessary certificate being granted, the question of pension will, in the ordinary course, be submitted for the orders of Government.

(True Extract.)

(Signed) R. C. C. CARR,
Secretary.

To the Collector of Madras, with one enclosure returned.

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

22. As soon as this was received by the Collector, he sent the following order through the Deputy Collector:—

MADRAS DEPUTY COLLECTOR'S OFFICE,
31st March 1897.

OFFICIAL MEMORANDUM.

Ref. No. $\frac{618}{C}$.

Under instructions from the Collector of Madras, Inayet Husain Sahib, Registrar (now on furlough), is requested to appear before the undersigned to take a letter to the District Medical Officer and obtain a certificate of physical fitness, or otherwise, for further service.

(Signed) BEN. H. CHESTER,
Deputy Collector.

To Inayet Husain Sahib Registrar,
Madras Deputy Collector's Office, Madras, (on furlough).

23. The Petitioner had thereupon to see the Deputy Collector who handed over to him the following letter addressed to the Doctor:—

Ref. No. $\frac{649}{C}$.

From
MADRAS DEPUTY COLLECTOR'S OFFICE,
3rd April 1897.

B. H. CHESTER, Esq.,
Deputy Collector of Madras,

To
THE SURGEON,
3rd District, Madras.

SIR,
I have the honor to state that the bearer, Inayet Husain, Registrar of my Office, desires to appear before a medical officer, in order that he may obtain a certificate to retire on an invalid pension, if he is found to be physically unfit for further Government service. He has been on furlough for the last eleven months, and he has not yet rejoined his appointment. I request that he may be examined and a certificate sent in due course as to his physical fitness or otherwise.

2. His descriptive roll is annexed.

I have the honor to be,
Sir,

Your most obedient servant,

(Signed) B. H. CHESTER,
Deputy Collector.

(True Copy.)

(Signed) BEN. H. CHESTER,
Dy. Collector of Madras.

Descriptive Roll of Inayet Husain Saib, Registrar, Madras Deputy Collector's Office.

Name of Officer.	Caste or Race.	Residence.	Father's		Date of birth.	Age.			Exact height.		Personal marks of Identification.	Remarks.
			Name.	Residence.		Years.	Months.	Days.	Feet.	Inches.		
Inayet Husain Saib.	Mahomedan, Shea.	Triplicane.	Ruza Husain Saib.	Triplicane.	11th July 1860.	36	8	23	5	8	A scar on the wrist of the right hand and another on the back of the left hand. A large scar on the left side of the chest.	

MADRAS DEPUTY COLLECTOR'S OFFICE,
3rd April 1897.

(Signed) B. H. CHESTER,
Deputy Collector.

(True Copy.)

(Signed) BEN. H. CHESTER,
Dy. Collector of Madras.

24. That thereupon he appeared before Surgeon-Major Thompson, attached to 3rd District, and that Officer after examining Petitioner on several occasions granted him the following certificate with the notes of his examination:—

Medical Certificate.

I, C. M. Thompson, Surgeon-Major, do hereby certify that Inayet Husain, Registrar, Madras Collectorate, is in a bad state of health, and I solemnly and sincerely declare that, according to the best of my judgment, a change of air is essentially necessary to his recovery, and that the circumstances of his case are such as to render leave of absence for a period of twelve months highly desirable.

MADRAS,
21st April 1897.

(Signed) C. M. THOMPSON,
Surgeon-Major, 3rd District.

MADRAS,
21st April 1897.

(Signed) C. SIBTHORPE,
Surgeon-Major-General,
Surgeon-General with the Government of Madras.

Statement of case of Inayet Husain.

Rank and name	...	...	Inayet Husain, Registrar.
Department	...	...	Madras Collectorate.
Age	...	...	Years 36 $\frac{8}{12}$.
Disease	...	...	Incipient Tubercular Phthisis.
Habits	...	...	Temperate.
Total service	...	...	Years 16 $\frac{8}{12}$.
Amount of previous sick leave with dates.	...	...	12 months—April 1896-97.
Date of return from last sick leave and from what station	...	...	Still on leave which expires in a couple of days.

Medical History.

The nature of present illness, its symptoms, causes and duration, &c., should be stated here.

This man has been on furlough for the last twelve months, and does not appear to have benefited much; he has been steadily losing weight, sweats a great deal

at night, and he is considerably emaciated; the percussion note is less resonant under the right clavicle, where there is some flattening, and where the respiratory murmur is fainter than on the other side and cog-wheel in character. Urine contains phosphates in abundance. He has commencing elephantiasis of right leg, and has to be constantly absent from office on account of feverish attacks, which may be due to either the disease of the leg or lung.

In his present condition he is unfit for duty, and accordingly I have granted him the certificate on the other side.

(Signed) C. M. THOMPSON.

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

25. That on receipt of the above report direct from the Doctor, the Deputy Collector, Mr. B. H. Chester, wrote to the Collector as follows:—

MADRAS DEPUTY COLLECTOR'S OFFICE,
23rd April 1897.

Ref. No. $\frac{648}{C}$.

From

B. H. CHESTER, Esq.,
Deputy Collector of Madras,

To

W. P. AUSTIN, Esq.,
Collector of Madras.

Sir,

With reference to your memorandum, Ref. on No. $\frac{303}{G. \& B.}$, of the 30th March 1897, I have the honor to state that I sent Inayet Husain before the District Surgeon on the 3rd instant, requesting that officer to report whether he was physically fit for further service. I have this day received the enclosed medical certificate countersigned by the Surgeon-General with the Government of Madras, recommending Inayet Husain for twelve months' sick leave.

2. I beg to be informed whether the leave may be granted with effect from the 21st instant, the date of the certificate.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) BEN. H. CHESTER,
Deputy Collector.

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

26. And that the Collector submitted the above in the following manner to the Board:—

Ref. on No. $\frac{303}{G. \& B.}$, dated 23rd April 1897.

Enclosures 2.

Letter from the Deputy Collector of Madras on No. $\frac{649}{C}$, dated 23rd April 1897.

Submitted to the Commissioners of Land Revenue for orders with reference to Board's Proceedings, No. 1140, Mis., dated 25th March 1897.

(Signed) W. P. AUSTIN,
Collector.

(True Copy.)

(Signed) J. N. ATKINSON,
Collector of Madras.

27. That the Collector not only forwarded it in the above fashion, but had also an interview on behalf of the Petitioner with some Board Members, and the result of his interview as related to the Petitioner by the Collector was to the effect that the Board was much prejudiced against the Petitioner, and that they would not regard the Collector's word on his behalf, and that he had only to appeal to Your Excellency as the Collector was on the eve of departure at the time from the Presidency. On hearing from the Collector, the Petitioner's health was seriously affected, and he at once under medical advice proceeded to Ootacamund where he stayed with the Police Inspector of that place.

28. That on receipt of the medical report on Petitioner's behalf, the Board of Revenue passed the following resolution:—

Proceedings of the Board of Revenue (Land Revenue).

No. 1627, Mis., dated 6th May 1897.

Read again Board's Proceedings, dated 25th March 1897, No 1140, Mis.

Read also Endorsement of the Collector of Madras, dated 23rd April 1897, Ref. on No. $\frac{303}{G. \& B.}$, and 3rd May 1897, Ref. No. $\frac{303}{G. \& B.}$.

RESOLUTION—

In its Proceedings, No. 630, Mis., dated 20th February 1897, the Board called on Inayet Husain Sahib, Registrar, Deputy Collector's Office, Madras, to show cause why he should not be dismissed the Public Service for breach of the Public Servants' Rules 23 and 26 and for grave misconduct found against him by the High Court. On receipt of his explanation, the Board, in its Proceedings, No. 911, Mis., dated 11th March 1897, resolved, as an act of grace, to permit him to resign at his own request. Inayet Husain then pleaded that when he applied for leave to resign the service, he did not know the consequences of such resignation and asked leave to appear before a medical officer in view to obtaining a medical certificate of unfitness for further service. To this the Board agreed (*vide* Board's Proceedings, No. 1140, Mis., dated 25th March 1897), and Inayet Husain was sent before the Surgeon of the District. This officer has declared that leave of absence for twelve months is "highly desirable," but has not granted a certificate of unfitness for further service.

2. Inayet Husain Sahib has been on furlough for one year, from 4th May 1896, and on the strength of the above certificate, he applies for leave on medical certificate for another year. The Board has already held that he should not be allowed to take up his appointment again and do work as a Government servant. The leave now applied for cannot be granted, as he cannot be allowed to take up his appointment if he returns from leave. As Inayet Husain Sahib has not been able to arrange to retire on medical certificate, he must be removed from the service, unless he now resigns his appointment. The Collector should call upon him to tender his resignation within seven days from receipt of the order to do so, and should take from him a statement to the effect that he fully understand the consequences of his resignation.

3. The Collector is requested to inform the Board on or before the 20th instant of the action taken on these Proceedings.

(True Extract.)

(Signed) R. C. C. CARR,

Secretary.

To the Collector of Madras.

(True Copy.)

(Signed) J. N. ATKINSON,

Collector of Madras.

29. And on receipt of the above, the Collector sent the following endorsement to the Petitioner at Ootacamund:—

MADRAS DEPUTY COLLECTOR'S OFFICE,
12th May 1897.

Copy of Official Memorandum, Ref. No. $\frac{119}{C}$, dated 7th May 1897, sent by registered post to Inayet Husain Sahib, Registrar, Madras Deputy Collector's Office, now on leave.

Inayet Husain Saib, Registrar, now on leave, is informed under instruction from the Board of Revenue that the leave on medical certificate now applied for cannot be granted as he cannot be allowed to take up his appointment if he returns from leave. He is directed to tender his resignation within seven days, from receipt of this order, forwarding, at the same time, a statement that he fully understands the consequences of his resignation.

If he fails to tender his resignation within the period allowed, he will be removed from the service.

(Signed) B. H. CHESTER,
Deputy Collector of Madras.

7th May 1897.

Ref. No. $\frac{911}{C}$.

(True Copy.) Forwarded to Inayet Husain Saib, Registrar, Madras Deputy Collector's Office, now on leave, care of Police Inspector, Ootacamund, with reference to his telegram, dated this day.

2. He is requested to acknowledge receipt of this memo. at once.

MADRAS, }
12th May 1897. } (Signed) BEN. H. CHESTER,
Deputy Collector of Madras.

OOTT, 14th May 1897.

To

THE DEPUTY COLLECTOR,
Madras.

SIR,

I beg to acknowledge the receipt this day at 2 P.M. of the Official Memorandum, on Ref. No. $\frac{911}{C}$, dated 12th instant, in reply to my telegram of the same date under which I believe I have seven days' time allowed from the date of receipt thereof, viz., the 14th instant.

I beg to remain,

Sir,

Your most obedient servant,

(Signed) INAYET HUSAIN.

30. That on receipt of the above order, your Petitioner at once came down to Madras and addressed the Collector in the following manner:—

18th May 1897.

To

THE DEPUTY COLLECTOR OF MADRAS.

SIR,

On receipt of your Official Memorandum, Ref. No. $\frac{911}{C}$, dated 12th instant, which reached me at Ootacamund on the 14th, I arrived at Madras yesterday morning, and was soon laid up with a severe attack of dysentery.

2. With the letter you gave me, I appeared before Doctor C. M. Thompson for examination as to my fitness or otherwise for further service and begged of that officer to make me retire, but on several careful examinations for many days that

officer found me temporarily unfit for service with his remarks in detail as to the nature of the disease, and at the same time expressed to me that as the disease, I was ailing under, had its origin in the body owing to its weakness and would gradually develop in a more serious form, by which I might be permanently incapacitated for duty and it was on this account that he wished that I should be out of duty for twelve months and after which, I would have to appear before him or his successor in office, who would more easily find me permanently unfit. Such being the case, I beg to submit that I am not in fault to incur the displeasure of the Board of Revenue, nor do I at present entertain any hopes of taking up the appointment even after the expiration of the medical leave recommended as under all probabilities my health might not permit me to do so. The deference between my being allowed to go on sick leave as recommended by the Doctors and being placed on retired list as approved by the Board, so far as pecuniary interest of Government is concerned, is not much. For, if I am placed on retired list, I would be getting permanently a pension of Rs. 15 per month, and if in the interval I am granted sick leave, I would, only for three months more under the Leave Code, be allowed Rs. 30, half of my salary, and the rest of the period Rs. 15, quarter of the salary only. Thus the difference on the whole will be of Rs. 45.

As the present order of the Board of Revenue now communicated to me only gives me an option of resigning my appointment within seven days of its receipt, or else I will be removed from service by the Board of Revenue, I respectfully obey the order of the Board at present and beg herewith to resign my appointment under you, fully knowing the result of the resignation under such circumstances; but this resignation I submit, does not preclude me from the right of appealing to His Excellency the Governor if I am so advised to do.

I beg to remain,

Sir,

Your most obedient servant,

(Signed) INAYET HUSAIN.

31. That from the above writing the Petitioner begs to submit, for Your Excellency's merciful consideration, how and under what circumstance he had to resign his post with a clear understanding that such a resignation would not prevent your Petitioner from appealing to Your Excellency which he now does through the medium of this humble petition, whereby he begs leave to briefly argue his case for Your Excellency's favourable consideration and mercy.

(a) That from the above correspondence it is clear that both the Deputy Collector (Mr. B. H. Chester) and the Collector (Mr. W. P. Austin) are strongly in support of the Petitioner's cause, so much so that they have not, as provided by Rule 23 of the Public Servants' Manual proposed to suspend the Petitioner until the question of insolvency was adjudicated, but on the other hand Your Excellency's Petitioner was granted furlough leave first for six months and then it was extended to one year, and the Board of Revenue approved of the Collector's action, and thus allowed him to draw half of his salary during the period of 12 months and 21 days, though it was against Rule 44 of the same Manual.

(b) That the Collector was very kind to the Petitioner, because he had found that the insolvency of the Petitioner was the result of a conspiracy and unforeseen misfortunes or of circumstances over

which your Petitioner could exercise no control and did not proceed from dissipated and extravagant habits as laid down in Rule 42 of the same Manual.

(c) That the Board of Revenue have also waived the question of insolvency in favour of the Petitioner, *vide* para. 4 of their Resolution, marked (6).

(d) That the rules relating to the indebtedness of Government servants from 39 to 47 do not apply with their full force to the Petitioner's case, inasmuch as your Petitioner was not in a chronic, hopeless condition of indebtedness for this simple reason that he had a good deal of personal estate and property, which he only under the advice of the Collector handed over to the Official Assignee and thus obtained a personal discharge only, *vide* Discharge Order, marked No. 4, nor was any portion of your Petitioner's salary ever attached under any decree or Court's order.

(e) That the Collector has found the Petitioner practically blameless as laid down in Rule 45, and that therefore there was no reason whatever for the Board to be so hard upon the poor Government servant whose nomination and dismissal was entirely in the hands of the Collector only, as to obtain a resignation from him under compulsion and threat of dismissal.

(f) That the Board of Revenue has erred in viewing separately the question of indebtedness to that of insolvency, as the former is the cause and the latter is the effect of it. Therefore, when the order of dismissal was not to be based upon the question of insolvency as stated in para. 4 of the Resolution No. (6), no notice of indebtedness also need have been taken.

(g) That the question of indebtedness of the Petitioner does not fall under Rules 23 and 26, inasmuch as he is neither a Gazetted Officer, nor does he come under the list provided both in Rule 26 and in the Appendix (c), which relates to Rule 26. That the Collector agreed with the Petitioner in this view, and so forwarded the Petitioner's explanation, marked (8), without any remark thereon. He was not satisfied there, but went personally to the Board and supported it.

(h) That your Petitioner fully explained to the Collector how the Appellate Court were led away in favour of Iswer Doss and against the Petitioner. They were chiefly guided by the fact that Iswer Doss was a rich man and Your Excellency's Petitioner was a poorer man, (but they took no notice of the fact that Iswer Doss was once, servant of Petitioner's house), and that one Nizammuddin, a High Court Vakil, gave evidence on behalf of Iswer Doss.

(i) That the said Nizammuddin had borne a grudge against the Petitioner for reasons well-known to the Deputy Collector's Office and that Nizammuddin's private life and character are in no way

superior to that of the Petitioner, and that the said Nizammuddin while a Vakil deposed in a murder case at the Sessions Court of South Arcot before Mr. Grahame, whose evidence was found by that officer to be a perjury against the accused and that the accused was acquitted, and that the High Court, Appellate Side, found for Mr. Grahame. Apart from public life of both your Petitioner and Nizammuddin, Your Excellency if pleases may refer them to the Commissioner of Police to report as to which of them is a gentleman in character and society.

(j) That if the Appellate Court had found that one pro-note was not merged into another, &c., &c., your Petitioner would respectfully submit the two Original Courts, viz., of Mr. C. G. Kuppusawmi Iyer as Magistrate and of Mr. Justice Shephard on the Original Side of the High Court, have found in favour of the Petitioner and believed his evidence and as well as his witnesses, *vide* Exhibits C, page 76, and B⁽¹⁾ and B⁽²⁾. Then there is a great doubt in legal opinion as to which Court is correct. Such being the case, your Petitioner submits that the Board of Revenue should have at least given the benefit of the doubt to the Petitioner and should have sided with the Collector who was in a better position to judge of the Petitioner's worth and his conduct and the details of the litigation.

(k) That should Your Excellency entertain any doubt as to the truth of the Petitioner's case, a reference may even at this moment be made to Mr. C. G. Kuppusawmi Iyer and Mr. Justice Shephard, who still maintain the same opinion of the Petitioner's case. If further reference is necessary, the matter may as well be referred to Mr. C. W. Wilson, of the Firm of Messrs. Wilson and King, who has all along been handling the case, and who had so far went to advise the Petitioner to appeal to the Privy Council, but the Petitioner failed to do so for want of funds.

(l) That a reference may also be made to Mr. B. H. Chester under whom your Petitioner was serving and who had studied his case, to say as to what he still thinks of the Petitioner's case and his conduct, both as a private man and a public servant.

32. That while such are the circumstances relating to the Petitioner's pitiable case, he would most humbly beg to be dealt with only under the departmental rules; but as those rules have been found to be in his favour by his immediate superior, the Collector who very strongly recommended him, as provided by those rules for his retention in service, there was an end of the matter. But the Board of Revenue ignoring his recommendation, however, allowed the Petitioner to retire on pension, for which he had to seek the help of medical opinion. As a matter of fact your Petitioner appeared before the proper medical officer, but that officer as guided by his conscience and judgment did not permanently invalidate him, but recommended him for a year's sick leave. The Board of Revenue in para. 2 of their

Resolution, marked 18, not only refused to accept the recommendation of the two medical officers, but also clearly said that because the Petitioner "has not been able to arrange to retire on medical certificate," he must be removed from service. Here, your Petitioner would humbly beg leave to state that the Board of Revenue have gone too far in their decision so as to cast a slur both on the conduct of the Petitioner and as well as the Doctor. The word "arrange" would only refer to nothing but to foul play in the matter, either from the Petitioner's side or on the part of the Doctor, or both jointly. As for the Petitioner's part, he would not conceal from Your Excellency the fact that Mr. W. P. Austin had a personal interview with Dr. Thompson and asked him to do your Petitioner justice (which to his mind, under the circumstances, was to make him retire), but Dr. Thompson would only do what his duty suggested him to do. Dr. Thompson, if Your Excellency pleases, may be referred on this point, and surely he would not deny it. Therefore, no fault lies on the part of the Petitioner in failing to obtain a medical certificate for retirement, which was entirely out of his power.

33. That when the Petitioner was allowed to retire on pension (even granting the concession as stated by the Board of Revenue to be a matter of grace), there could have been no difference in granting him leave on medical certificate also as a matter of grace, as the same would have enabled the Petitioner to be paid only so much of his salary as he would have been allowed to draw, had he been placed on retired list. Whereas, as a matter of fact, your Petitioner was allowed to draw furlough allowance, viz., half of his pay even at the time of his insolvency petition was under adjudication, and long after it was disposed, viz., from 4th May 1895 to 4th May 1896. But as your Petitioner was only compelled to resign his appointment about the 20th May 1896, the period between 4th and 20th May, being in excess of the twelve months' furlough, was converted into a leave on medical certificate as recommended by Dr. Thompson, and to do this, they had to convert the other twelve months' also into leave on medical certificate, your Petitioner, therefore, prays that Your Excellency will be graciously pleased (taking into consideration the Petitioner's embarrassed circumstances from all sides) to grant him leave on medical certificate as recommended by two Doctors and supported by the Collector, and to order his reinstatement in service after the expiration of the said leave, should the Doctor then find him fit for service. If the Doctor declares him after the expiration of the leave, viz., on the 4th May 1898, unfit for further service, your Petitioner would then be placed under the ordinary rules on the retired list.

34. In conclusion, the Petitioner begs to bring to Your Excellency's notice the fact that he has three young sons to educate and feed and after spending his prime of life in the Government service and at a time when he very unfortunately spent his ancestral

property in litigation, your Petitioner would find it a difficult task to go about for means to support his young family especially when his health is badly off.

35. Under these circumstances, supported by the fact that both the Deputy Collector (Mr. B. H. Chester) and the Collector (Mr. W. P. Austin) are strongly in favour of the Petitioner, your Petitioner prays for a charitable and merciful consideration at the hands of Your Excellency in Council in disposing of this humble memorial.

For which act of justice, your Petitioner, as in duty bound, shall ever pray for Your Excellency's long life and health.

M. N. S. S.
10/12/97

Reference on Petn No 2581 of 1897.

In replying the above should be quoted.



(LAND REVENUE.)

Read endorsement of the Collector of Madras, dated 14th December 1897, Ref. No. 140 of 1897, on Petition from Suage Ansari Saib, dated 10th December 1897.

Reference thereon dated 17-12-97.

Submitted to Government.

2. The Board has no recommendation to make in Petitioner's behalf.
3. With regard to the petitioner's interpretation of the word, "arrange" (V. para 32 of petn) it is hardly necessary to observe that the Board had no intention of suggesting the exercise of ^{any} undue influence. The fact that the petitioner could put, or pretend to put, such an interpretation on the Board's recommendation is in itself an indication that he is unfit to remain in Government service.

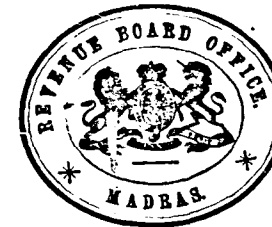
Reel
Secretary.

To The Secretary to Government, R.D. with Petn. & Collector's endorsement thereon & with original enclos. - all except the petn to be returned.

Reference on No. of 1898.

In replying the above should be quoted.

(LAND REVENUE.)



Read the following :-

1. Endorsement of the Collector of Madras, Ref. No. 140/P. of 1897, dated 14th December 1897.

And reference thereon dated 17th December 1897.

2. Government Order, Revenue Department, R. No. 357, dated 10th February 1898.

And the following Reference, No. 166, dated 16th February 1898.

Forwarded to the Collector of Madras for ^{very} early compliance.

3. Also Endorsement of the Collector of Madras, Ref. No. 57/P, dated 31st March 1898.

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Reference No. 160, dated 20th April 1898.

The appellate judgment of the High Court, received with the last paper read above, is submitted to Government with reference to Government Order No. 357 R., dated 10th February 1898.

Done Davidson

As Secretary

To The Secretary to Government, Revenue Department, with the Collector's endorsement and its two enclosures in original to be returned.

Md. B. H.

Read again G.O. 357 R. dated
10th Feby. 1898.

Read also Board's Ref. No.CO
dated 20th April 1898.(C.No.3121 of 1898)

NOTE :-

The papers read above relate to a petition by Inayet Hussain, late Registrar, Deputy Collector's Office, Madras, appealing against the orders of the Board of Revenue directing his compulsory resignation of service. The facts of the case are set forth below at some length for facility of reference.

2. In his letter dated the 23rd June 1896, the Collector of Madras (Mr. W.P.Austin) submitted under article 43 of the Public Servants' Manual for the orders of the Bd. of Revenue a report to the effect that the petitioner had applied for relief ^{under} ~~and for~~ the Insolvent Debtors' Act and that the application was pending disposal by the High Court. The Collector recommended that as the petitioner was then on furlough and as it was doubtful whether he was really a bankrupt, no action need be taken till the matter had been disposed of and that he might be allowed to continue on leave. The Board accepted the Collector's recommendation and directed at the same time that the result of the

flag A.
* Petn. d 10-12-97 under
G.O. 357 R. d 10-2-98.
(in detached file)

x printed at pp. 5 & 6 of the petn.

14/1/98.
17/1/98.

Insolvency application should be reported to it in due course (B.P.2952 dated - 29th June 1896 printed at page 6 of the petition). In August 1896 the petitioner was duly declared insolvent and entitled to the benefit of 'the Insolvent Debtors' Act. In reporting this to the Board the Collector made the following recommendation:- "It is apparent from the papers that his (the petitioner's) insolvency was due to speculation in Government -- Promissory Notes, but, as it appears -- that he discontinued to have anything to do with it after the Public Servants' Manual was received by him at the end of May 1893, and as he has been discharging -- his duties as Registrar of the Madras Dy. Collector's Office with efficiency and to the satisfaction of his superiors, I strongly recommend that he may be allowed to continue in the service." (Vide ^{para 3 of} Collector's Rndt. dated 8-1-97 at page 8 of the petition.). The Board did not accept the Collector's recommendation but observed as follows: -

"4. From an examination of the papers sent up by the Collector, the Board is of opinion that I. Hussain should not be allowed to rejoin his appointment on the expiry of his leave, and that he should at once be directed to show cause why he should not be dismissed. This order is not based upon the result of their insolvency petition, but upon the schedule of debts now filed by the petitioner, and upon the --

*B.P. 650 Mid. 20-2-97
printed at pp. 8-9 of the petu.*

"copy of the appellate judgment which -- forms an enclosure to the Dy. Collector's letter Ref. No. 1971 dated 16th December 1896.

"5. Taking first the appeal case, it appears that the main question ^{at} of issue was whether a promissory note ^{given} by plaintiff (I. Hussain) to defendant for Rs. 2000 in December 1892 was included in a later pro-note for Rs. 2653 given by plaintiff to defendant in Feby. 1893. The original Court found for plaintiff, but the High Court on appeal have reversed this decision and have added, in very clear terms, their opinion of plaintiff. The documents (or, at any rate, one of them) -- went to the Collector's office for adjudication of stamp duty, and it is a fair inference that the pencil additions made thereon, as the High Court have -- found, fraudulently, were made by, or, on behalf of, plaintiff, who was behind the scenes at that office. The High Court find that the plaintiff's evidence is wholly false and the pencil note appears to them to be a forgery by the plaintiff.

"6. Again, taking the schedule of debts petitioner borrowed largely from persons ⁱⁿ Madras in the years 1894 to 1896; he admits having received a copy of the Public Servants ^{Rules} Manual in May or June 1893, and he is therefore liable -- to dismissal under rules 23 and 26 of -- that pamphlet."

An explanation was thereupon obtained from the petitioner with reference to the -- above remarks of the Board, and was submitted to it with the Collector's endt. dated 24-2-97. In his explanation (printed at -- pages 10 to 12 of the petition) Inayet Hussain requested that if it was still thought that his retention in the service was undesirable, he might be retired on medical certificate or if this concession could not be granted him, that his resignation might be accepted. The Board permitted the petitioner as an "act of grace" to resign his appointment, and directed that the Collector should obtain from him the usual statement that he fully understood the consequences of his resignation. (B.P. 911 Mis. dated 11th March 1897 at page 13 of the petition). Being accordingly called upon to submit the necessary statement the petitioner pleaded that when he applied for leave to resign his appointment, he did not understand the consequences of such resignation; and requested that his case should be reconsidered and that he might either be restored to his appointment or be sent before a Medical Officer in order to enable him to retire on invalid pension. Under the orders of the Board (B.P. 1140 Mis. d/25-3-97 at page 16 of the petition), the petitioner was sent before the Surgeon, Third District, Madras, who however did not pronounce him unfit for further service, but only recommended him for the grant of a year's sick leave. The

Vide last para of the explanation (at p. 12 of the petn)

Please see the first & last paras of the pet's letter d. 18-3-97 (pp. 13-16 of the petn)

The petr. was granted a year's furlough with effect from 4th May 96. It would appear that the petr. was granted leave on medical certificate from 4th May 97 to the date of his resignation the 20th May 1897 (Vide para 33 of the petn.)

** Para 3 of B.P. in G.O. 357 R. d. 10-2-98 B*

** Please see para 4 of B.P. d. 20-2-97 reproduced at pp. 2-3 above.*

Board having already held that the petitioner should not continue in service, refused the grant of leave, and directed that as the petitioner could not "arrange" to retire on medical certificate, he should be removed from the service unless he resigned his appointment (para 2 of B.P. 1627 d/6-5-97 at page 20 of the petition). The petitioner ~~thereupon~~ had accordingly to resign his appointment. He has appealed to Government requesting that he might be granted a year's sick leave as recommended by the Medical Officer, and that he might be allowed to continue in service, or be retired on an invalid pension according as he is found fit or unfit for further service on the expiry of the leave. (para 33 of the petn)

3. In forwarding the appeal, the Board draws the attention of Government to the interpretation put by the petitioner on the phrase "arrange to retire" (para 32 of the petition) and observes that "the fact that the petitioner could put, or pretend to put, such an interpretation on the Board's remarks is in itself an indication that he is unfit to remain in Government service".

4. The matter of the insolvency petition having been waived by the Board, the questions that require consideration seem, it is submitted, to be the following:-

(1) Whether the provisions of article 23 of the Public Servants' Manual -

(1st Edition)* applied to the petitioner in his capacity as Registrar, Dy. Collector's Office, Madras; and

issued in 1893. The second edn. was issued in 1897.

(2) whether in view of the conflict of judicial opinion in regard to the issues adverted to in para 5 of the Board's Proceedings dated 20th Feby. 1897 extracted at page 3 supra, the petitioner should, ~~have~~ as he claims, be allowed to have the benefit of the doubt.

5. (1). Whether article 23 of the Public Servants' Manual (1st edition) should be held to have applied to the petitioner in his capacity as Registrar, Deputy Collector's Office, Madras (vide para 6 of B.P.No. C50* d.20-2-97.)

** Copied at p. 3 supra.*

In the explanation which the petitioner furnished in obedience to the last-quoted Board's Proceedings, he submitted as follows with reference to this point:—"Rules 23 and 26 [of the Public Servants' Manual], I respectfully beg to submit do not apply to me. They refer only to 'Gazetted officers' and servants of responsibility and trust for a limited area or jurisdiction. As I come under neither category, being only a ministerial servant, doing duties under the direct orders of the Dy. Collector, who only does the duties of Registrar, viz: hears objections in the matter of issue of certificates subject to an appeal to Collector, I submit I was not precluded from borrowing under any of those rules". It is not known, what remarks, if any,

No opinion of the High Court, as the final Court, must be accepted that his evidence was "wholly false" & that the pencil insertion appeared to them as a "forgery by pliff".

His duty as Registrar placed him in a position of "responsibility & trust", surely.

** at page 10 of the petn.*

the Dy. Collector and the Collector of Madras had to make on this part of the petitioner's explanation, as copies of the Dy. Collector's letter and the Collector's endt. with which the petitioner's explanation was forwarded to the Board, are not among the papers now before Government. The Board of Revenue has not, it is submitted, specifically discussed the point in any of its Proceedings on the petitioner's case. The question for consideration is whether the position of the Registrar, Deputy Collector's Office, Madras, is one which corresponds in respect of responsibility and trust with the offices expressly enumerated in art. 26 of the Public Servants Manual (1st Edn.). The fact that art. 23 of the 2nd Edn. of the Manual does not apply to the Registrar, Dy. Collector's office, Madras, would, it is submitted, seem to require that the question raised above should be answered in the negative. (Please see art. 26 of the Public Servants' Manual 2nd Edn. & also para 5 (b) of G.O. No. 6 Revenue, dated 9th Jan'y. 1896).

6. (2) Whether in view of the conflict of judicial opinion in regard to the issues adverted to in para 5 of the Board's Proceedings extracted at page 3 supra - the petitioner should, as he claims, be given the benefit of the doubt.

The main question at issue in the Courts was, as stated by the Board in para 5 of its Proceedings dated 20-2-97, whether a certain pro-note for Rs. 2000 executed

-cuted

Flag C

executed in Decr. 92 by the petitioner in favour of one Raja Eswara Doss, a sowcar doing business in Madras, jointly with whom ^{the} petitioner conducted some transactions in the purchase and sale of Govt. paper in the earlier part of 1893, was or was not merged in a later pro-note executed by the petr. in favor of the ^{same} party for Rs. 2650 and odd in Feby. 1893. An important detail of the evidence on which the solution of the above issue depended was as to whether a pencil entry on one of the documents connected with the case which was sent to the Stamp Office for adjudication of stamp duty, was a genuine entry or only a forgery by, or on behalf of, the petitioner. The issues indicated above were raised and discussed in Calendar cases Nos. 17464 and 17465 of 1893 on the file of the Presy. Magistrate, in which the petr. and Raja Eswara Doss prosecuted each other for the offence of cheating. The Magistrate (Mr. C. G. Kuppaswami Iyer) had no hesitation in finding that the earlier pro-note was merged in the later pro-note and that the pencil entry above referred to was not a forgery by the petr. but a genuine entry made by him with Raja Eswara Doss's knowledge (Please see paras 12 and 15 of the judgment in C.C. No. 17464 and paras 11 and 16 of the judgment in C.C. No. 17465). The issues above adverted to came up for adjudication before the High Court (Original Side) in Civil Suit No. 144 of 1893, Inayet Hussain, versus Raja

Pf. 3, 7, & 10 of the detached file.
Flags D, E & F.

* Pages 98 & 105 of the
detached file
Flags G & H

This is the final decision
& must be accepted.

* Page 28 of the judgment.
Flag J.

Encl. to C. No. 3121 of 98.

There is no doubt
suggested by the High
Ct. on appeal.
27

Eswara Doss. Mr. Justice Shephard, after a prolonged investigation, was of opinion that the evidence supported the version of the matter given by the petr. and came to the same conclusions as the Presidency Magistrate. (Please see paras 3 and 6 of Mr. Shephard's judgment). On appeal, however, by Raja Eswara Doss, the Appellate Side of the High Court reversed the decision of Mr. Justice Shephard, with in regard to the issues under consideration, holding that the petitioner's evidence as to the inclusion of the earlier pro-note in the later one was wholly false and that the pencil note already referred to appeared to be a forgery by the petitioner. The reasons on which the Appellate Court based its findings are set forth in paras. 20 to 23 of its judgment, to which attention is invited. The petr. contends that the Board of Revenue should, taking into account the fact that, though the Appellate Court found against him, the two Original Courts found in his favor, have at least given him the benefit of the doubt and should have sided with the Collr. who was in a better position to judge of his worth & his conduct in the details of the litigation (Para 31 (j) of the petr.).

7. The favour of orders is solicited.

See
It seems doubtful whether
Inayet Hussain as Registrar
of the Dy. Collr. Office Madras,
came within the letter of
Rule 23 having regard to
Rule 26 & Appx C. But then

can be no doubt, I will submit
that he came within the
spirit of the rule & he should,
at all events have reported
his transactions for the
information & order of
the Collector. That he did
not do so does not, however,
seem to be sufficient
ground on which to dismiss
him the Bd practically has dismissed him.

With regard to the other
charge, it seems impossible
to decide whether the
Appellate Court was right
in finding against the
petitioner (the ~~officer~~ plaintiff),
and Mr Justice Shephard
and the Treasury maybe wrong
or vice versa.

On the whole, it seems
clear that the petitioner
was engaged in various
shady transactions with
Borneo which must
have taken up most of
his time & energy to the
detriment of the public
interests. Further there is
his very insolent inter-
pretation of the Bd's
laughing regarding his
retirement ^{on} of medical
certificate.

Submitted that
the case does not call for the interference of the Govt.
as it is a private matter & not a public one.
with reference to the same.

The petn should
be dismissed.
It is not a case
for interference
by Govt.

MA 76.6.18.

Secy Please see draft on
docket ^{all}
18/6/18

Given for copying
Copied
Examined
Signed

189

G.O. No.
189

DATED

Refers to G. No.

of Government

.. .. A A A A A A A

of Government.

MENT WITH DITTO.

HAS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

R.E.-

- A = Copy in full.
- B = Not to be copied.
- P = Copy abstract only.
- = Copy heading only.