O/9. 5,000—6-8-98.

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 4793

DATED 6th December 98

[Despatch Abstract.]

Stating that the Egypt Steam Navigation Co. have withdrawn their offer to take off the Madras Pilot, Shroff, and Karaikal-Karaikal Surfboat, in the event of his Extraordinary

BACK PAPERS.

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

FURTHER PAPERS.

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

Revenue (1898) Department.

CURRENT No.

N 6 | 12 | 98

From
The Secretary to the Commissioner
of Salt, Abkari and Separate Revenue,
Madras.

Mis. No. 4380

der his N. 4793 N 6, 2 Dec. 1898.

The Government sees
reason to interfere on
petitioner's behalf.
(from orders)
frs. letter
6.12.98

Dated 4th November 1898.

Received 10 " —

Registered 11 " —

Enclosures petn. & cover & file — 5

Spare copies

2 to Board of Rev. (Sep. Rev.), with the
enclosures (all except the petn.)
Copy to the petr.

M. 3/12/98

SUBJECT.

Submitting to Government, with remarks, petition from K.Muthiah Pillai, clerk and shroff, Kulasekarapatnam factory, appealing against the Board's order commuting the order of dismissal passed on him by the Deputy Commissioner, Southern Division, into one of suspension for one year.

14/12/98

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

804
6-6-98

REVENUE BOARD OFFICE MADRAS

Proceedings of the Board of Revenue

(Separate Revenue),

Dated 4th November 1898.

Mis. **No.** 4380.

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Read appeal petition, dated 15th September 1898, presented by K.Muthiah Pillai, late clerk and shroff, Kulasekarapatnam factory, Kayalpatnam Circle, Tinnevelly Sub Division, now under suspension, and

Board's reference thereon No.857, dated 28th September 1898, requesting the Deputy Commissioner, Southern Division, to forward a copy of his Proceedings dismissing K.Muthiah Pillai.

Read also letter from W.A.Fowler Esquire, Deputy Commissioner, Southern Division, No.4220, dated 6th October 1898, submitting copy of his office Proceedings called for.

Resolution.

Submitted to Government.

2. The appellant was the Shroff at the Negapatam Treasury at the time ~~of~~ the theft of Rs.5000, referred to in the correspondence ending with Government Order No.288, Revenue, dated 20th

May 1898, took place. Before remarking on the appeal it is necessary to observe

(i) that, prior to the theft, the cash chest had been removed from the clerk's room, cleaned and repaired, and imbedded in the shroff's room and

(ii) that, of the two locks in the chest, the shroff had the key of that on the right hand side and the Inspector of that on the left.

In the departmental enquiry which was conducted by the Assistant Commissioner, Negapatam Sub-Division, shortly after the theft, appellant deposed, on 12th April 1897, that, after the removal of the cash chest to the shroff's room, "I gave the key which I had then to the Inspector because I found that the key would not fit the same lock as it did before". As already stated in para 6 of Board's Proceedings Mis.No.3556, dated 17th August 1897, this statement of the appellant regarding the change of keys turned out "to be absolutely false, as the positions of the screw holes in the two plates do not correspond and a lock cannot be put in the wrong place in consequence", and, as it seemed to the Board that the statement must have had its origin in some motive, the Deputy Commissioner was instructed to go further into the question.

3. In the deposition given before the Deputy Commissioner on 31st October 1897 appellant denied in toto having ever stated that he "gave the key to the Inspector because it did not fit the lock", but stated that "the key appeared to have been changed after cleaning and repairing was over", and, when asked by the Deputy Commissioner how he accounted for the statement given by him before the Assistant Commissioner on the 12th April 1897 stated, "If the question of the Assistant Commissioner had been clearly and slowly put, as has been done now, and clearly read over to me, the answers would not have been recorded as they have been and I would not have signed the statement". The Deputy Commissioner, feeling sure that either the statement of 12th April 1897, or that of 31st October 1897 must be false, dismissed appellant from service, observing that he (the Deputy Commissioner) was "not prepared to retain in the service an officer who could make such false statements in an important enquiry affecting the reputation, if not liberty, of other officers".

4. Against the Deputy Commissioner's order an appeal was preferred to the Board, and it commuted the punishment into one of suspension for one year in consideration of the facts that the shroff was reported to be an exceptionally stupid man, and that the false statement made by him had had no evil consequences, though there was a very grave obligation on him at the time to speak the truth. It is against this order that the appeal is now preferred.

5. The word objection occurring in line 3 of para 2 of copy of Board's Proceedings Mis.No.2864, dated 31st July 1898 (enclosed in the petition) is an error in copying for obligation.

(True extract.)

Acting Secretary.

To the Secretary to Government, Revenue Department,

with petition and enclosures (to be returned).

TO

HIS EXCELLENCY
THE GOVERNOR-IN-COUNCIL,
FORT SAINT GEORGE,
MADRAS.

Through the Honorable Members of the Board of Revenue (Separate Revenue) Madras.

The humble petition of appeal presented by K. Muthiah Pillai, Clerk and Shroff under suspension, Kulasegarapatam Factory, Kayilpatam Circle, Tinnevelly Sub Division, against the Proceedings of the Board of Revenue Mis. *No. 2864, dated 21st July 1898, received by petitioner only on the 12th August 1898.

*Submitted herewith in Original.

MOST RESPECTFULLY SHOWETH,

1. That the petitioner was dismissed from service under the Proceedings No. 38, dated 3rd January 1898 of the Deputy Commissioner, Southern Division, as if the petitioner had given false statements in connection with the fraud in the Treasury of Negapatam Salt Factory in April 1897.

2. That the petitioner appealed to the Board through petitions dated 5th March and 1st May last stating that he did not give contradictory statements as observed in the Proceedings of the Deputy Commissioner.

3. That the Board, was thereupon pleased to commute the Deputy Commissioner's order of dismissal into one of suspension for one year in their Proceedings Mis. No. 2864, dated 21st July 1898 quoted above observing therein that there was a very grave objection on petitioner at the time to speak the truth, that his failure fortunately had no evil consequences because it was immediately apparent and that evidently he has not the wit to lie well.

4. That though the petitioner is grateful to the Board as far as they have rendered him justice though partially, yet it is his misfortune that induced the Board to suspend him for one year wholly discrediting his statement and the surrounding facts cited in support of it.

5. That the petitioner most respectfully prays the benign Government will be pleased to give a just and mature consideration to the undermentioned reasons which would clearly show that the petitioner did not tell lie.

The reasons are:—In the deposition taken from the petitioner before the Assistant Commissioner on the 12th April 1897, it has been recorded as if the petitioner stated that he had returned the key to Mr. Hawkins when the Cash Chest was shifted to the Shroff's room as it did not fit the key hole. The petitioner begs to assure that he never stated so. Because the key exactly fitted the key hole on the right side of the Chest. If he had said that he had given the key to Mr. Hawkins, he should have been naturally and very necessarily supplied with another key to meet the daily transactions of the Treasury. The very fact of his not having been supplied with another key will convince that he could have never said so. If he had really stated so the Assistant Commissioner should and would have also questioned the petitioner whether he was supplied with another key. But on this point the petitioner was neither questioned nor had he been given any

opportunity to explain the circumstances plainly to him. If the petitioner had been questioned (which could not have been avoided under the circumstances) he could have brought to notice and thus corrected the discrepancy.

It is thus quite apparent that the petitioner did not at all make such a statement as it is quite unwarrented and improbable under the circumstances and consequently incorrect. In the absence of any question warrenting such a statement on the part of the petitioner, it will be seen that the Assistant Commissioner had not taken down exactly what the petitioner had deposed on this subject. The petitioner did not know the English language in which his statement was recorded by the Assistant Commissioner, who is not conversant with the Tamil, the language in which the petitioner deposed. Besides the statement thus recorded was not afterwards plainly interpreted to him in Tamil. Moreover the Assistant Commissioner did not also certify that the examination was conducted in his presence and that the record contains a full and true account of the statement made by the petitioner as contemplated in Section 354 C. P. C.

The petitioner has therefore reason to believe that the Clerk, who interpreted the petitioner's statement in English to the Assistant Commissioner, might perhaps have (been) by some mistake or want of presence of mind misrepresented the matter to the Assistant Commissioner, for which defect the petitioner cannot in any way be reasonably made responsible.

It will thus be evident that the petitioner had given a statement before the Assistant Commissioner similar to that given by him before the Deputy Commissioner at Kayalpatam.

The Service Book of the petitioner is in itself very sufficient to prove that the petitioner has rendered his service very honestly and without any complaint during his long service of 21 years in the Salt Department.

That when the Assistant Commissioner made a reference about the Travelling allowance Bill for May 1897. (On the petitioner's transfer from Nagapatam to Kayalpatam) Mr. McMaster the then Deputy Commissioner endorsed as follows:—"As the Shroff was not put under suspension or suspected, he must get his Travelling Allowance." This shows that the Deputy Commissioner, who was there during the enquiry of the petitioner's case, entertained no suspicion whatever towards the petitioner.

Under the above circumstances, the petitioner most humbly prays that the Government may be pleased to restore him to his appointment, cancelling the order of suspension under appeal and thus protect the large family of the petitioner.

For which act of charity the petitioner shall, as in duty bound, ever pray.

Dated 15-9-98

K. Muthiah Pillai
15-9-98

Petitioner's address as follows:—
K. Muthiah Pillai,
c/o Somasundram Pillai.
South Street,
Ramnad.
Madura District.

1898
REVENUE DEPT.
Encl. No.

Petition from K. Muthiah Pillai, Shroff, Kulasekaram factory, appealing against his suspension.

D 1,000—8-4-07.

REVENUE DEPARTMENT.

C No. 7696 of 1898

From the Board of Revenue (Sep. Revenue)

No. 4380 this Dated 4th November 1898.

FOR ORDERS.

To the Under Secretary.

Attention is solicited to the Board's Proceedings which gives a precis of the case. The references to the records will be found entered in the margin of the Board's Proceedings.

2. In paragraph 5 of his appeal the petitioner urges that he could not have stated before the Assistant Commissioner on the 12th April '97 that he gave the key in his charge to the Inspector, inasmuch as, if he had said so, the Assistant Commissioner would not have failed to ask him whether he was supplied with another key. The very fact that no such question was put to him

pp 4-5 of the file

him, shows, contends the petitioner, that he could not have made the statement and that there should be something wrong in the record of his evidence. The petitioner's contention would appear to be somewhat plausible; but it is submitted that the Deputy Commissioner was right in holding that the statement made on the 12th April 1897 was correctly recorded in view of the facts (1) that the petitioner admitted that the statement was read over to him in Tamil and that he signed it, and (2) that the deposition made by the petitioner at the subsequent inquiry was full of disingenuous and improbable statements. Attention is in this connection invited to the following remarks of the Deputy Commissioner on the probable motive of the petitioner

Pf. 36-37 of the file.

Why? Re valuation inference as to what he got the inspectorship for.
25/11/98

Please see the Dy. Commr's Progs. No. 38 d 3.1.98. flagged D - pp. 35-39 of the file.

petitioner in making the two irreconcilable statements regarding the key of the cash-chest. — "The truth appeared to be that the keyhole "covers were changed and that "when Mr. Jones Master was present "at the enquiry held on 12th "April, it was then believed "that the locks had also "been changed. The shroff "accordingly framed his state- "ment to agree with the then "believed facts, regardless "of whether it was the truth "or not. The latter appears to have become "aware that further en- "quiries that further en- "quiries had proved that "the locks could not have "changed and has had recourse "to the very dangerous "expedient of denying the "truthful and correct record "of his statement."

3. Orders are requested.

Pf. 38-41 of the file.

Office.

I do not find that the charges were reduced to writing & the man's explanation

On them taken in writing also.

Please check this

Alle
23/11/98

To the Under Secretary

The charge against the petitioner was that he made two irreconcilable statements regarding the key of the cash-chest (vide para 3 of B.P. No. 4350 S.R. d. 4.11.98 - the current) It will be seen that at the enquiry held on the 31st Octr. '97 the Dy. Commissioner asked the petr. why he made two such diametrically opposite statements. The petitioner's explanation is on record (please see question and answer marked with red chalk at p. 32 of the file) It is at the same time submitted that it does not appear from the papers now before Govt. whether, before the petr's dismissal was ordered by the Dy. Commissioner, the charge against the petr. was definitely formulated and whether he was called upon to show cause why he should not be dismissed. The rule requiring that charges against a public servant and his defence should be reduced to writing being laid down only in cases of dismissal (vide Sub-para 1 of the Resolution of the Govt. of India d. 29.7.79 printed at p. 1 of G.O. 1401 Public d. 15.9.79) the Office did not in the first instance note on this point, as the Board had on appeal modified the Deputy Commissioner's order of dismissal into one of suspension for one year (see B.P. No. 2864 Sep. Rev. d. 21.7.98)

Pl
24/11/98

Sec.

The principle is that the Govt servant should have full opportunity to defend himself

Sheriff was given leave,
if possible, to recover
what was alleged against
him & grant an
injunction which was
refused accordingly.

The Spirit of the
order seems therefore
to have been fully
carried out.

On the merits
there seems no ground
to interfere with
his order of the fourteenth
of March last.

Aug
26th

Lapsed
8/12/98

No Plaintiff's Solicitor

Please see draft order
and file docket of the current.

Nov
1898

Price
10/12/98

There is no ground
for interference.

A. 2. 12. 98

Given for copying
Then copied
Then examined
Then signed
189

AGAIN G.O., No.
189 ,
DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT .. .. .. A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPER NOT FILED UP, BEING MEANT FOR REGISTRATION ORIGINAL.

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