

Revenue (1898) Department.

MISCELLANEOUS SERIES.

G.O., No. 4208

DATED 28th Oct. 98

[Despatch Abstract.]

Declining to interfere on behalf of
M. Kumbhamed, late Amia of Pambetta
Chowkie, Malabar Dt, praying for the
payment of the arrears of pay for the
period he was under suspension pending
termination of Criminal Proceedings against
him.

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. 6632.

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

Order Mis No: 4208 d/ 28.10.98

Mis. No. 3655.

~~I am informed that the Govt.~~
sees no reason to inter-
fere ~~in his behalf.~~
for the
28.10.98

Dated 13th September 1898.

Received 26

Registered 27

Enclosures

Spare copies

To the Board of Rev., Sep. Rev.

with encls [all except no. 10]
to the Pet.

2-11-98 SUBJECT.

Submitting to Government, with remarks,
the Memorial of M. Munhamed, late Amin
of Parambeth Chowkie, Malabar District,
praying for the payment of the arrears
of pay for the period he was under sus-
pension pending termination of Crimi-
nal proceedings against him.

C-22-411
of 17/11/98

Recd 5/11/98

owing

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

His Excellency the Right
Honorable the Governor.

thru' the Collector - in - Council,
Malabar. South St. George.

The humble memorial of M. Muhammed,
late Amin of Parambath Chhowki (now is
a Clerk in the Quilandy Dy. Sadr's office in leave) ⁱⁿ

Most humbly sheweth,

That, with profound regret & great pain of mind, the memorialist begs me to appeal against the Proceedings of the Board of Revenue (Separate Revenue) No. 998 dated 12th March 98, ordering that the memorialist does not deserve any allowance for the period he was under suspension (copy enclosed) ^{the}

1. That, the memorialist begs ^{on} to submit that while he was the Junior Amin of Parambath Chhowki a charge was brought ^{on} against him under sections 61 & 37 of the Abkari Act by the Assistant Commissioner & Deputy Salt & Abkari Revenue Collector of Division and the then Collector of Malabar (Mr. Hard) ^{out} sanctioned memorialist's prosecution ^{on certain} suspended him from 19th May 97 ^{which are} at the disposal of the case. ^{It is solely}

2. That, the joint magistrates ^{out of place}

for the memorialist to mention here that ^{owing}

of Malabar, who tried the case, however convicted the memorialist under section 177 S.P.C. & S. 61 of the Abkari Act on the weak evidence of prosecution & sentenced him to 3 months simple imprisonment & to pay a fine of Rs 100/- That, thereupon Your Excellency's humble memorialist appealed to the Sessions Court of North Malabar with the result that the conviction & sentence passed by the joint Magistrate was set aside & memorialist acquitted by the Sessions Judge, who carefully & minutely went through the case & finally found that the memorialist's prosecution was the outcome of the Assistant Commissioner's mistaken memory of facts (the Judge instead of recording the prosecution story as false, however expressed it in milder terms) & that the defence evidence fully proved memorialist's innocence, (Copy of Session Court Judgment enclosed.)

3. That on Memorialist's applying to the Collector, he was reinstated & transferred as a Clerk in the Dy. Salsildar's office Anilangudi on 22nd December 97; that memorialist was not paid his arrears of pay, but the Collector addressed the Board of Revenue for sanction to disburse the amount on 19th January following (Copy enclosed) and that on a reference by the Board on 28th Idem, the Collector submitted copies of the Judgment in both the original & appeal cases & pointed out the Session Judge's omission to comment upon certain points and also reported facts which are now in the Judgment shall; and that the Board's Proceedings appealed against is solely based on the Collector's report.

4. That it may not be out of place for the memorialist to mention here that owing

owing to this vexatious & frivolous charge brought against him by the Assistant Commissioner, the memorialist had to spend about Rs 350/- to defend his unfortunate case, he had to remain in jail for about 26 days losing his health & respect, certain civil suits in which he had interests were decided against him in the interval, all these have been a fruitful source of heavy loss & wretchedness to him, not to speak of the disrepute he was subject to among his caste men & country men.

5. That, the memorialist further begs to submit that all that now remains for him is a tarnished name saddled with a heavy debt consequent upon this unfounded charge, and it is therefore a matter of great grievance to the memorialist that the arrears of pay due to him during his suspension is denied to him.

The memorialist therefore most humbly & respectfully prays Your Excellency in Council will be generously pleased to take a benign view of all these circumstances & to kindly order the payment of the arrears of pay to him at an early date. For which act of kindness & gracious justice the memorialist shall as in duty bound ever pray.

15th August 98.

Mr. Khanna.

W. Khanna

9048

GENERAL RECORDS

Europe Re. no: 71
S.C. 1888.

3. " Forwarded.

There is no sufficient reason
for re-opening this case.

Malabar Collection }
Free, Calicut, }
2nd Sep^r 1898 }
W. G. S. }
of }
Collector. }

Through the Board.

Draft.

5.958

1.
REVENUE DEPT.

L.

The Collection of Malabar

Calicut

Respected Sir,

I respectfully forward
herewith a Memorial to the Government
of Madras (with enclosures) about the
arrears of pay due to me during my
suspension & period, and humbly beg
to request Your Honor will be pleased
to submit the same to the Government
without delay. For which act of
Kindness & justice I shall ever pray.

Lucy brownie,

Resp. d. sic.

Your most obedt servt

Ind. Rec. Recd. W. H. H. H.

15th August '98.

black, Ky. Industrial office
Burlington, now on leave.

Submitted with the connected papers. The pet. may be forwarded to Government with any remarks which the collector may have to make.

25/8/88

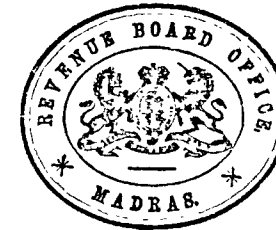
Forw'd. There is no sufficient reason for reopening this case.

Yes
47.8

Revenue Department.

II. Paper for Signature.

Initials of clerk and date. KR 25/8/88



Proceedings of the Board of Revenue

(Separate Revenue.)

Dated 13th. September 1898.

Mis. No. 3655.

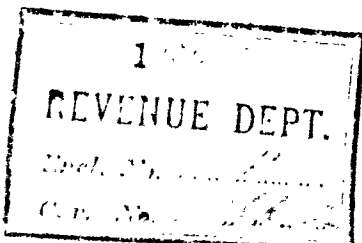


Read endorsement on Petition No. 71/S.C.D.98, dated 2nd September 1898 of P.C. Parsons Esquire., I.C.S., Acting Collector of Malabar, on Memorial from H. Kunhamed, late Amin of Parambeth Chowkie (now a clerk in the Quilandi Deputy Tahsildar's office, on leave).

RESOLUTION:-

Submitted to Government.

2. The Memorialist was the Junior Amin at the Parambeth Chowkie. On the morning of May the 2nd 1897 the Assistant Commissioner, happening to be in the neighbourhood, was called in to the Chowkie and noticed while there a bottle of brandy that had been produced by one of the parties having business to do there. In the evening he inspected the Chowkie and found that the only liquor that had paid duty that day according to the books was a bottle of claret. He questioned the petitioner as to whether this was the bottle he had seen and was answered in the affirmative. He then took a statement from him to the same effect. The petitioner's explanation of his having collected duty on brandy at the rate fixed for claret



claret was that he was a Mappila and did not know the difference.

Thereon he was prosecuted and convicted and sentenced to three months' simple imprisonment and of a fine of Rs.100. In the course of his trial he aggravated his offence departmentally by foisting on the record an explanation which he said was given by him to the Assistant Commissioner before he was intimidated into giving the one above referred to, but which, as a matter of fact, had never been given at all.

3. On appeal to the District and Sessions Judge he was released, and, having been given another appointment, he claimed pay for the period he had been under suspension. Without disputing the correctness of the District Judge's decision as to the main point, the Board considered that the petitioner's conduct in connection with the explanations as above recited showed him to be deserving at any rate of some punishment, and therefore ordered that the pay should be withheld.

4. This order is now under appeal.

(True extract)

G. S. S. S.
Acting Secretary.

17-9-88

To the Secretary to Government, Revenue Department, with the

Memorial in original and its enclosures,

through the Accountant-General.

N^o 4409

Fort St. George,
Accountant General's Office,
23rd September 1898.



Forwarded.

This office has no account objection to an allowance not exceeding the arrears of pay being granted by Government, if it sees fit to do so, under Article 215 of the Civil Service Regulations.

W. K. K.
Accountant General.

do
23/9

To
The Secretary to Government,
Revenue Department.

40
17/9/88

$\frac{D}{4} 1,000-8-4-97.$

Petition from M. Xunhamed, lately an Amin of the Parambetta Chowkie, Malabar district, appealing against the Board's order declining to grant him arrears of pay.

REVENUE DEPARTMENT.

C. No. 6632 of 1898.

From the Board of Revenue (Sep. Revenue).

Reading
by
need today
the
21-9-98

Mis. No. 3655 Dated 13th September 1898

FOR ORDERS.

Vide the Asst. Commr's letter d.
5-5-97- pp. 30-34 of the file.

The petitioner, M. Xunhamed, was the junior Amin of the Parambetta Chowkie, Malabar Frontier. On the morning of the 2nd May 1897 the Assistant Commissioner of the Salt and Abkari Revenue, Calicut Sub-division, was present at the Chowkie in connection with a disturbance between the Chowkie guard and some sepoy who objected to be examined. While at the Chowkie, the Assistant Commissioner saw on the Amin's (petitioner's) table an unopened bottle of brandy. On the evening of the same day, the Assistant Commissioner was

2
was again at the Chowkie,
and from an examination of
the account books found
that the only article that
had been assessed to duty
that day was a bottle of
claret. On the Assistant
Commissioner's questioning
the petitioner whether the
bottle mentioned in the account
books was the ~~one~~ ^{one} ~~that~~
that he had seen in the
petitioner's table that
morning, the petitioner,
it would appear, gave an
affirmative answer. The
Assistant Commissioner then
took a statement from the
petitioner to the above ef-
fect. The petitioner's ex-
planation of his having
collected duty on brandy
at the lower rate fixed for
claret was that the bottle
in question was taken by a
Head Constable who told
him that it was claret,
and that he being a mof-
lah, took the Constable
at

FOR ORDERS.

Vide copy of the statement -
p. 28 of the file.

3
Colli's Procs. d. 7-5-97 - page 25
of the file.

Colli's Procs. d. 17-5-97 -
page 36 of the file.

M. Magistrate's judgment -
pp. 5-22 of the file.

Page 22 of the file

Copy 2

at his word, as he was not
aware of the difference
between claret and brandy.
On the recommendation
of the Assistant Commissioner
the Collector of Malabar
ordered the petitioner's proce-
dure. As the petitioner was
charged with a serious offence
the Collector also directed
his suspension pending the
disposal of his case.
2. The case against the pe-
titioner was heard by the
Joint Magistrate of Malabar
who found the petitioner
guilty under section 177 of
the Indian Penal Code and
Section 61 of the Muzra Abkari
Act I of 1886 of furnishing
false information to a pub-
lic servant and of acting
inconsistently with official
duty to enable a person to do
a thing whereby ^{the} Abkari re-
venue was defrauded. The
Magistrate sentenced the
petitioner to imprisonment

imprisonment for three months
and to pay a fine of Rs. 100.
The Magistrate also found
that in the course of the
trial the petitioner aggra-
vated his offence by foisting
on the record with the help
of the Senior Amin of the
Parambet Chowkie, an ex-
planation which he alleged
was given by him to the
Assistant Commissioner be-
cause he was intimidated into
giving the ~~same~~ statement
already referred to, but
which the Assistant Commis-
sioner swore had never been
tendered to him.

3. On appeal, the Sessions
Judge, North Malabar,
was satisfied that the
evidence proved the correct-
ness of the version of the mat-
ter given by the accused (the
petitioner), viz. that the
boiler mentioned in the
case was examined by
Lab, took the constant

Para 17 of the Magistrate's judg-
ment - pp. 19-20 of the file.

Sessions Judge's judgment -
pp. 54-61 of the file.

Paras 3 and 17 of the judgment -
pp. 56 & 60 of the file.

? Para 18 of the judgment -
p. 61 of the file.

Coll. Proc. d. 19-12-97 - page 42

of updating only.

was a bottle of claret which
was assessed to duty as
such and that the bottle
of brandy seen by the
Assistant Commissioner at
the Chowkie was brought
thither not for payment
of duty but in order that
the Amin might initial
the pass granted by the
shopkeeper from whom the
bottle had been purchased.
The Sessions Judge there-
fore acquitted the acci-
setting aside the convec-
tion and sentence passed
by the joint Magistrate.
Attention is invited to the
fact that the Sessions
Judge did not refer to the
view taken by the joint
Magistrate that the accused
had foisted on the record
an explanation which
he falsely alleged to have
been tendered to the Assis-
tant Commissioner.

4. The Coll. Proc. d. 19-12-97

then reinstated the petitioner
 and transferred him to a
 Clerk's post in the Deputy
 Wazildar's Office, Quilandy.
 On the petitioner's applying
 for the arrears of pay due to
 him from the 19th May 1897 - the
 date of his suspension - to the
 21st December - the date on
 which he was reinstated -
 the Collector of Malabar
 requested the Board of Revenue
 to obtain the sanction of
 Govt. which was necessary
 under article 215 of the
 Civil Service Regulations,
 for the excess expenditure
 which had to be incurred
 as consequence of the peti-
 tioner's reinstatement. On
 perusing the judgments of
 the Lower and Appellate
 Courts the Board was not
 disposed to dispute the
 correctness of the Sessions
 judge's finding as to the peti-
 tioner's innocence, but
 have not been able to
 find the Constable

Page 48 of the file.

* Pay due to the petr. for the period
 of his suspension. Rs. 106-7-3
 Balance available after
 paying acting incumbents. 48-13-3
 Excess expenditure Rs. 57-10-0
 - Page 48 of the file

Board's Refce. d 28-1-98 and Procs.
 No. 995 d 12-3-98 - pp. 49 and 51 of
 the file - vide also para 3 of
 the current.

Vide last sentences of
 paras 2nd & 3rd supra.

conduct in connection with
 the explanation falsely alleg-
 ing him to have been tendered
 to the Assistant Commissioner.
 Shows him to be deserving
 at any rate of some punish-
 ment, and accordingly orders
 that his pay for the period
 during which he has been
 been under suspension should
 be withheld. The petitioner
 now appeals to Government
 and prays that the Govt.
 may be pleased to sanction
 the arrears of pay due to him
 for the period of his suspension.
 The Accountant General,
 through whom the papers have
 come to Govt, states that
 there is no account objection
 to an allowance not exceeding
 the arrears of pay being
 granted by Govt, if it sees
 fit to do so, under article
 215 of the Civil Service
 Regulations.

Pl.
 12/10/98

Levy
 Submitted the

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Hu.

I think the Board's
action is quite right. Whether
the pet. was guilty of a
criminal offence or not, he
has made a false statement
about the case. If his first
statement was true, he was
clearly chargeable with
neglect of duty & incompetence.
He was rightly liable to
suspension on that ground
alone. *SP*
24/10/78

To the Under Secretary.

Please see the draft order
submitted on the docket
of the current.

Pl. 27-96 *June 28/78*

Can, ... the ...

When given for copying _____
When copied _____
When examined _____
When signed _____ } 189 .

READ AGAIN G.O., No.
189 .

CURRENT No. 9

ENCLOSURE TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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IN ORIGINAL.

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