M.R.O. 1—52,400—22-11-30

# MADRAS RECORD OFFICE.

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## Government of Madras.

Financial DEPARTMENT.

G.O. No. 570-72 Press ~~Mis.~~

Dated 20th November 1860

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**Not to be folded or roughly handled**

JKJ 31/8/31

*Proceedings of the Madras Government, Financial Department,*
**20*th November* 1860.**

Read the following papers:—

No. 36. From the Honorable Sir A. BITTLESTON, Knight., Puisne Judge of Her Majesty's Supreme Court of Judicature at Madras, to the Honorable the Governor in Council, Fort Saint George, dated 1st November 1860.

I have the honor to acknowledge the receipt of your Excellency's letter, No. 534, in the Financial Department, under date 29th October 1860, transmitting to the Judges of the Supreme Court a copy of an Extract from the Proceedings of the Government of India in the Financial Department, dated the 24th ultimo, No. 9,948, and of the Secretary of State's Despatch referred to in paragraph 16 of those Proceedings, together with the prescribed Form of Return to be made to the Civil Auditor, and requesting the Judges to cause Monthly Returns to be furnished to that Officer of the Leave of Absence that may be granted by them to the Officers and Servants of the Supreme Court under the Uncovenanted Absentee Regulations.

Hitherto the Judges of the Supreme Court of Madras have exercised an unfettered discretion as to granting or refusing Leave of Absence to the Officers and Servants of that Court; and I do not feel myself at liberty to depart from the practice of my predecessors in this respect, without receiving explicit instructions to do so from a competent authority. I shall have no difficulty in directing the Registrar to furnish the Civil Auditor with Monthly Returns of the leave of absence granted by the Judges to any of the Officers or Servants of the Court, but as the leave will be granted solely with reference to the grounds on which it is applied for and the convenient disposal of the business of the Court, it will not be possible to refer to any particular Section of the Absentee Rules as that under which the leave is granted.

No similar Returns have ever up to the present time been furnished by the Supreme Court of Madras. But the Registrar of the Court will be able to furnish such Returns as will afford the Civil Auditor the means of judging whether in any particular case the Absentee Rules have been complied with or not; and possibly this is all that was intended by the Government of India by the Order of the 24th September last.

The Uncovenanted Absentee Rules having been framed with reference to Government Officers and Servants, cannot well be applied in their entirety to the Officers and Servants of the Supreme Court.

If so applied, it would I presume according to Chapter 1, Section 1, of those Rules, be optional with the Local Government to deprive the Judges of the power of granting leave at all—or rather the Judges would cease to have that power, unless the local Government delegated to them, as the heads of an Office or department, "power to act upon the Rules without special reference to higher authority."

Further I would observe that there does not seem to be any necessary connection between the Despatch of the Secretary of State, dated 7th April, No. 8 of 1859; and the Order of the Government of India in the Financial Department, dated 24th September last.

The cases of Syed Gholam Dustagheer and Mr. Frederick Orme, the only Officers of the Supreme Court to whom pensions have been awarded in consequence of the abovementioned Despatch of the Secretary of State, have reference to a time when the Uncovenanted Absentee Rules certainly did not apply to the Officers of the Supreme Court. The extension of the Pension Rules to Officers of the Supreme Court was conceded upon the application of an individual Officer—but if that privilege is to be coupled with the condition of subjection to the Absentee Rules, it may well be that very many of the Officers of the Supreme Court would prefer to abandon the privilege altogether.

I regret that I have not had the opportunity of consulting with the Chief Justice on this subject, as he is at present in a state of health which prevents him from attending to any matter of business.

No. 1,277.

No. 37. OFFICIAL MEMORANDUM.

The Officiating Civil Auditor requests to be informed whether the Order of Government of India dated 24th September 1860, No. 9,951, bringing the Officers and Servants of the Establishment of the Supreme Court of the several Presidencies under the Uncovenanted Service Absentee Rules has been communicated to the Judges. It will be requisite that a Statement of Leave should in future accompany the Pay Abstract of Establishment.

FORT SAINT GEORGE,
CIVIL AUDIT OFFICE,
*5th November* 1860.

(Signed) W. BALMAIN,
*Officiating Civil Auditor.*

*To the Chief Secretary to Government.*

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No. 38. ORDER THEREON, 20th November 1860, No. 570.

Resolved that a copy of the above letter from His Honor the Puisne Judge of Her Majesty's Supreme Court be forwarded to the Government of India, in reference to their Resolution in the Financial Department, 24th September 1860, No. 9,948.

2. Resolved also that the Civil Auditor be informed, in reply to his Official Memorandum under date 5th instant, that a copy of the Order in question was communicated to the Judges of Her Majesty's Supreme Court, and that His Honor the Puisne Judge has informed the Government, that the Registrar of the Court will for the future furnish such Returns, as will afford the Civil Auditor the means of judging whether, in any particular case, the Absentee Rules have been complied with or not.

(Signed) T. PYCROFT,
*Chief Secretary.*

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No. 39. To the Secretary to the Government of India, dated Fort Saint George, 20th November 1860, No. 571.

I am directed by the Honorable the Governor in Council to state that on receipt of the Resolution of the Government of India, Financial Department, 24th September 1860, No. 9,948, relative to the application of the Civil Absentee Rules to such of the Officers and Servants of Her Majesty's Supreme Courts of Judicature in India as are admissible to Pensions—a copy of it was forwarded to the Judges of the Madras Supreme Court. At the same time the Government furnished the Judges with a form of Return of Leave of Absence according to those laid down in the Proceedings of the Honorable the President in Council, dated 30th April 1858, No. 2,590, and requested that they would cause Monthly Returns to be furnished to the Civil Auditor of the Leave of Absence that might be granted by them to the Officers and Servants of the Court under the Uncovenanted Absentee Regulations.

2. In reply the Government have received a letter under date the 1st instant, from His Honor the Puisne Judge, and I am instructed to forward a copy of it to the Government of India, in reference to the Resolution of the 24th September last.

3. Sir Adam Bittleston, it will be observed, states that "hitherto the Judges of the Supreme Court of Madras have exercised an unfettered discretion as to granting or refusing Leave of Absence to the Officers and Servants of that Court, and that he does not feel himself at liberty to depart from the practice of his predecessors in this respect, without receiving explicit instructions to do so from a competent authority." He however adds, "that he will have no difficulty in directing the Registrar to furnish the Civil Auditor with Monthly Returns of the Leave of Absence granted by the Judges to any of the Officers or Servants of the Court, but as the leave will be granted solely with reference to the grounds on which it is applied for, and the convenient disposal of the business of the Court, it will not be possible to refer to any particular Section of the Absentee Rules as that under which the leave is granted."

*Proceedings of the Madras Government, Financial Department,*
*20th November* 1860.

4. "No similar Returns," he continues, "have ever up to the present time been furnished by the Supreme Court of Madras. But the Registrar of the Court will be able to furnish such Returns as will afford the Civil Auditor the means of judging whether, in any particular case, the Absentee Rules have been complied with or not; and possibly this is all that was intended by the Government of India by the Order of the 24th September last."

5. The Government have informed the Puisne Judge in reply that a copy of his letter would be furnished to the Supreme Government in reference to their Resolution of 24th September, and that the Civil Auditor would be apprized that Returns of the description alluded to by His Honor would be made to him by the Registrar of the Court.

(Signed) T. PYCROFT,
*Chief Secretary.*

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No. 40. To the Puisne Judge of Her Majesty's Supreme Court of Judicature at Madras, dated Fort Saint George, 20th November 1860, No. 572.

We have had the honor of receiving your letter of the 1st instant, in reply to ours of the 29th ultimo, relative to the application of the Civil Absentee Rules to the Officers and Servants of Her Majesty's Supreme Court, who are admissible to Pension.

2. We have forwarded a copy of that letter to the Government of India in reference to their Resolution in the Financial Department, 24th September 1860, No. 9,948.

3. We have informed the Civil Auditor that the Registrar of Her Majesty's Supreme Court will, for the future, furnish him with such Returns of the leave granted by the Judges to the Officers and Servants of the Court, as will afford him the means of judging whether, in any particular case, the Absentee Rules have been complied with or not.

We have, &c.

(Signed) W. A. MOREHEAD.
( ,, ) PAT. GRANT.
( ,, ) E. MALTBY.

Exd. F. Cartledge.

Memo.

I am enclosing for perusal a letter from the Puisne Judge of the Supreme Court & the preceding papers -

The matter may perhaps best be discussed in Council. I beg to request that the papers may be returned to me soon that I may bring it on there on Friday

JP

6/11/60 Jel

Financial.
Judicial Department.

## Proceedings of the Madras Government.

Read the following

From the Puisne Judges
H. M's Supreme Court. } Here enter 1st November 1860.

Official Memo: from the Civil
Auditor _____ } " 5th " "

Order thereon 20th November 1860 No. 570

Resolved that a copy
of the above letter from
His Honor the Puisne Judge
of H. M's Supreme Court be
forwarded to the Government
of India, in reference to their
Resolution in the Financial
Department 24th September
1860, No. 9948.

2. Resolved also that
the Civil Auditor be informed,
in

in reply to his official
Memo: under date 25th inst.,
that a Copy of the order in
question was communi-
cated to the Judges of
Her Majs Supreme Court;
and that His Honor the
Chief Judge has informed
the Government, that the
Registrar of the Courts
will for the future fur-
nish such returns, as
will afford the Civil Auditor
the means of Judging
whether, in any particular
case, the Absentee rules
have been complied with
or not.

J.P.

Para 2 - to the Civil Auditor - dispd

Financial Department 1860.

No. 570

Proceedings of the Madras Government.

Dated 20 June 1860

2046] Madras—Printed at the Government Press.

dispt 20th

Financial Department.

No 571

To,

The Secretary to the Government of India.—

Sir,

I am directed by the Honorable the Governor in Council to state that on receipt of the Resolution of the Govt: of India, Financial Department, 24th September 1860 No 9948 — relative to the application of the Civil Absentee Rules to such of the officers and Servants of H. Ms. Supreme Courts of Judicature in India as are admissible to Pensions — a copy of it was forwarded to the Judges of the Madras Supreme Court. At the same time the Govt: furnished the Judges with a

a form of Return of leave of absence according to those laid down in the Proceedings of the Hon'ble the President in Council dated 30th April 1858 No. 2590, and requested that they would cause monthly returns to be furnished to the Civil Auditor of the leave of absence that might be granted by them to the officers and Servants of the Court under the Uncovenanted Absentee Regulations.-

2.- In reply the Govt. have received a letter under date the 1st instant from His Honor the Puisne Judge, and I am instructed to forward a copy of it to the Govt. of India, in reference to the Resolution of the 24th September last.-

3.- Sir Adam Bittleston, it will be observed, states that "hitherto the Judges of the Supreme Court of Madras have exercised an unfettered discretion as to granting or refusing leave of absence to the officers and Servants of that Court; and that he does not feel himself at liberty to depart from the practice of his predecessors in this respect without receiving explicit instructions to do so from a competent authority". He however adds, "that he will have no difficulty in directing the Registrar to furnish the Civil Auditor with monthly Returns of the leave of absence granted by the Judges to any of the officers or Servants of the Court- but as the leave will be granted solely with reference to the grounds on which it is applied for, and the convenient disposal of

of the business of the Court, it will not be possible to refer to any particular section of the Absentee Rules, as that under which the leave is granted."

4. "No similar returns, he continues," have ever up to the present time been furnished by the Supreme Court of Madras. But the Registrar of the Court will be able to furnish such returns as will afford the Civil Auditor the means of judging whether, in any particular case, the Absentee Rules have been complied with or not; and possibly this is all that was intended by the Govt. of India by the Order of the 24th September last."

5. The Govt. have informed the Puisne Judge in reply that a copy of his letter would be furnished to the Supreme Govt. in reference to the Resolution of 24th September and that the Civil Auditor would be apprized that the returns of the description alluded to by His Honor would be made to him by the Registrar of the Court.

Fort St. George,
20th November 1860.

Kane Esq.

disp.d 20th.

Financial Depart.t

No. 572

To,
The Puisne Judge of H.M.'s
Supreme Court of Judicature
at Madras.

Honorable Sir,

We have had the honor of receiving your letter of the 1st. instant, in reply to our's of the 29th. ultimo relative to the application of the Civil Absentee Rules to the officers and servants of H.M.'s Supreme Court, who are admissible to pension.

2. We have forwarded a copy of that letter to the Govt. of India in reference to their Resolution in the Financial Depart.t

Financial Depart.t
1871

To
The Puisne Judge of the Supreme Court
of Madras

(2)

Dated 20th Nov.r 1871

Replied to 29th December 1871 No. 24.

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Department 24 September
1860 No 99418.—

3.— We have informed
the Civil Auditor that
the Registrar of U. Ms.
Supreme Court will, for
the future, furnish ——
him with such returns
of the leave granted by
the Judges to the officers
and Servants of the
Court, as will afford
him the means of
judging whether, in any
particular case, the
Absentee Rules have
been complied with or
not.—

J.P.

Fort St George,
20th November 1860.

Mr Ram.

Finance 1860 Depart

No. 572

To

The Puisne Judge of
H. M.'s Supreme
Court of Judicature
of Madras

Dated 20 November 1860.

No. 38 of 1860

Respecting the
Officers and Servants
of the Supreme Court
being brought under
the operation of the
Uncovenanted Absen
-tee Regulations.

35 & 40.

36 & 40