

20th July 1897, No. 556-

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	2141/97	(849) -	555 20-2-97				

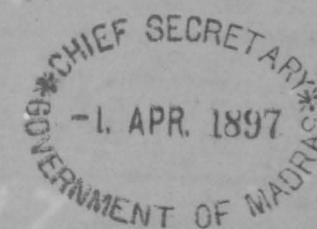
Judicial (1897) Department..

Endorsement

CURRENT No.

1140

Transferred to the Financial Department



From

Ag. Secy

The Registrar,
High Court of Judicature,
Madras.

To the Financial Dept.

Order

5/4/97
Recd 6-4-97
Regd 8-4-97
Sd/-

P
7/4

Ref on No. 634/97.

Dated 29th March 1897.

Received

Registered

1 } 4-97
2 }

Enclosures One

Spare copies -

SUBJECT.

Requesting sanction for payment of daily allowance to the Sessions Judge of Kurnool and his establishment during their halt at Bellary for more than ten days.

BACK PAPERS.

G.O.	No.	Department.	Date
	1557	J2	29.9.96
	1440-1	Finl	10.6.95
	1600	Finl: 20.8.95	
	1342	19.5.96	
	134	14.1.96	
	51	19.1.95	
	119.20	14.8.94	
	1347/8	4.6.89	
	188/84	2.2.86	
	1331	21.12.87	

FURTHER PAPERS.

G.O.	No.	Department.	Date.

District and Sessions Court, of Kurnool,

Dated 26th February 1897.

Camp - Bellary.

No. T/47

From

W. M. Thorburn Esquire,

District and Sessions Judge,

Kurnool.

To

The Registrar of the High Court of Judicature,

Madras.

Sir,

I have the honor to request that the High Court will re-commend to Government that the Sessions Judge of Kurnool and his establishment be permitted to draw daily allowance while Consisting of on duty at Bellary beyond the period of ten days Head Clerk, with retrospective effect. I was here for more than two clerks, tendays in November and January. I am now here for 1 Daffadar, four weeks, the Sessions of February and March being and three Dha- held continuously. I have had to take a house for a layats. month at a rent of Rs. 80. I pay Rs. 8 a day for carriage hire. I have to employ additional servants and incur other expenses consequent on absence from home. Every day spent out of Kurnool costs me Rs. 9 or 10, exclusive of actual cost of locomotion. Even on former occasions, when I paid no rent I was out of pocket by every visit to Bellary.

2. It will be obvious that my subordinates also must be put to expenses much exceeding what they can draw under the rules while absent from their houses and necessarily separated from their families.

I have &c....

(Signed) W. M. Thorburn,

District and Sessions Judge.

(True Copy.)

Typed by JRM
30-3.

M. S. K.
30-3

W. M. Thorburn

Registrar.

C 28/4/97
R 21/5/97

[Faint, mostly illegible text, likely bleed-through from the reverse side of the page.]

1897
Faint handwritten notes and stamps in a box at the bottom left.

Chief-again the file paper
Ref. au. Cur. No. 634 of 1897
640 N^o 372-384-5-97

No. 1410
High Court of Judicature,
Madras, 29th March 1897.

Headsup

27/3/97
8555
N

From
D. W. G. Cowie Esquire,
Registrar, High Court of Judicature,
Madras.

To
The Honorable Mr. J. F. Price, C. S. I.,
Chief Secretary to the Government of Madras.

Honorable Sir,
Mr. Thorburn, District and Sessions Judge of Kurnool, reports that his duty as Joint Sessions Judge of Bellary under G. O. No. 1557 Judicial, dated 29th September 1896, and the notification published thereunder, detained him and his office establishment (detailed in the margin) at Bellary in each of

consisting of	the months of November 1896, January February 1897,
Head Clerk,	and the current month, for a period in excess of the
2 clerks,	limit of 10 days for which they were entitled to
1 Daffadar,	daily allowance under article 1159 Civil Service Re-
& 3 Dalayats.	gulations. Mr. Thorburn, copy of whose letter is en-
	closed, states that their deputation to Bellary has

put him and his establishment to considerable extra expense and requests that they may be permitted to draw daily allowance for the full period of their halt at Bellary with retrospective effect from November last.

2. In the circumstances stated, the High Court supports the application, and I am directed to request that His Excellency the Governor in Council, will be pleased to exempt Mr. Thorburn and his clerical staff with retrospective effect from the operation of article 1159 of the Civil Service Regulations while on duty at Bellary. The Duffadar and peons will draw allowance under article 1162(J).

3. I am to add that a similar exemption was granted by Government in G. O. No. 440, Financial, dated 10th June 1895,

M

[G.]
18-14-12-05

C. No. 1140

SUBJECT.

~~H. E. THE GOVERNOR.~~

THE HON'BLE MR. BLISS, C.I.E.

~~THE HON'BLE MR. GROSE, C.I.E.~~

Exemptions under
art 1159 C. S. Regs

FOR ORDERS.

* Officer. N
See blue pencil correction
See also
and Mr. Jackson on 10

In G.O. No. 1557 of
29th September
29th March 1897 for the sessions
Judge of Munsif for the time
being was appointed to be
also joint sessions judge of
Bellary. Mr. Thorburn now
reports that his duty as
joint sessions judge has detained
him & his office establishment
at Bellary in each of the
months of Nov-96, & January,
February & March 1897 for
over 10 days. He complains
that he has had to take a
house at Bellary for a month at a rent
of Rs 80 and has paid Rs 3
a day for carriage hire; that
he has had to employ additional
servants and incur other expenses
consequent on absence from home
that

29th 97
H. C. C. C.

c 22/4/97
R 22/4/97
R 25/4/97

in the case of Mr. Clarke, Subordinate Judge of Ootacamund and
his establishment during their halt at Coimbatore.

I have the honor to be,

Honorable Sir,

Your most obedient servant,

D. G. Conie

Registrar.

Typed by JRU
20/3
m. s. K.
30-3

1897
Encls. No. 2
1140

out of

that every day spent ^{out of} Kurnool costs him Rs 9 or 10, exclusive of actual cost of locomotion, and that even on former occasions when he paid no rent he was out of pocket by every visit to Bellary. He adds that it is obvious that his subordinates must also be put to expenses much exceeding what they can draw under the rules while absent from their houses and necessarily separated from their families. For these reasons the High Court submits ^{an} his application for the exemption of himself and his clerical staff from the operation of Art 1159 of the I.S. Regs. ^{by the High Ct} Attention is drawn to the fact that a similar exemption was granted in G.O. W. 440 Fint., 10 June 1895, in the case of Mr. Clarke, sub-judge of Ootacamund, and his establishment during their halt at Coimbatore.

2. It is true that Mr. Clarke's

L G.O. W. 500 Fint., 20 Aug 1895.

M

K Page 34 G.O. W. 34 Fint., 14 January 1896.

Clarke's case is similar and that the Govt of India, though it refused to increase the rate of daily allowance as recommended by this Govt., took no exception to the exemption ^{from article 1159 (para 1) of} granted by G.O. W. 440 Fint. 10 June 1895; but its decision contained in Fm. Home. S. letter W. 5677 dt., 6 Decr 1895, would apparently have precluded this Govt from granting the exemption if Mr. Clarke's case ^{had come under} ~~was under~~ consideration ^{later} ~~now~~. That decision lays it down that the proviso in clause (b) under Art. 1159 was intended to enable Local Govts to prevent the ten days' limit operating as a hardship to an officer who is actually obliged, for reasons of public duty, to continue expenditure of the kind which travelling allowance is intended to meet, and that the question whether or not there exists a hardship requiring a remedy was one for the judgment of the Local Govt.

C 28/4/97 R 8/5/97

EXEMPTIONS under ART: 1159, C.S.R.

H.E. the GOVERNOR

CS
From orders

Collection for

+ Head Clerk
Two clerks

C 28/4/97
R 2/5/97

Financial dept:

C.No.1140.

ORDER No 372, 84 May 1897

The Govt. of India will be addressed.
(from orders)

LETTER No 373.

To
The Secy. to the Govt. of India,

Fin: & Com: dept:

SIR,

On the recommendation of the High Court and in view of affording relief to the District Court of Bellary which was in urgent need of assistance, the Sessions Judge of Kurnool was last Sept. appointed to be also Joint Session Judge of Bellary, under section 9 of the Code of Criminal Procedure, and directed to do duty for 12 or 15 days in every month at the latter station in order to dispose of the Sessions and Criminal work. The Sessions Judge of Kurnool has represented that this order has necessitated the detention of himself and his clerical staff at Bellary in each of the months of Nov 1896, January, February and March 1897

for

for over 10 days; that he has had to take a house at Bellary for a month at a rent of Rs.80 and has paid Rs.3 per diem for carriage hire there; that he has had to employ additional servants and incur other expenses consequent on ^{his permanent station} absence from ~~home~~; that every day ~~exp~~ spent out of Kurnool has cost him Rs.9 or 10 exclusive of actual cost of locomotion; ~~that even on former occasions,~~ when he paid no rent he was out of pocket by every visit to Bellary; and that his subordinates have also been put to expenses much exceeding ~~what~~ ^{that the amount which} they can draw under the rules while absent from their houses and necessarily separated from their families. In the above circumstances, the High Court has recommended that the Sessions Judge and his clerical staff should be exempted ~~from~~ with retrospective effect from the operation of article 1159 of the C.S.R. while on duty at Bellary.

2. In para 2 of the Govt. of India, Finance and Commerce dept. letter No.5677 Ex., d/ 6th Decr. 1895, it is laid down that the proviso in clause (b) of article 1159 was intended to enable local Govts. to prevent the ten days limit prescribed in that article operating as a hardship to an officer who is actually obliged, for reasons of public duty, to continue expenditure of the kind which travelling allowance is intended to meet, and that the question whether or not there exists a hardship

K 80 34 Final
14-1-96

48
requiring a remedy ~~was~~ ^{is} one for the judgment of the local Govt. in passing order on each case.

3. H.E. the Governor in Council considers that in the present case there is a hardship requiring a remedy but the remedy he is unable to apply in consequence of the interpretation assigned to the words "extra expense" in article 1159 for it will be seen that the extra expense to which the Sessions Judge and his establishment have been put was not of the kind which travelling allowance is intended to meet, as defined by arts. 1086 and 15 of the C.S.R. In these circumstances I am ^{accordingly} to submit the case for the

4 orders of the Govt. of India with the remark that this Govt. is of opinion that neither the Sessions Judge nor his establishment should be actually out of pocket ^{in consequence of} an arrangement which must be highly inconvenient to them.

(From Order)

CmB.
27.4.97.

28/4/97

(From Order)

CmB.
3.5.97

28/5/97

Turned at the end of the letter exactly
on recommendation, - then: - "and to

"suggest therefore that the case should be
if it were
treated as an emergency under Art. 1159(b)"

2.2.97 1.5.97

When given for copying

When copied

When examined

When signed

189

READ AGAIN G.O., No.
189

DATE

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL

N.B.—

A = Copy in full.

B = Not to be copied.

P = Copy abstract only.

Q = Copy heading only.