M.R.O. 1—39,000—16-10-99.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	639	Press ~~Mis.~~
37 - 38		
Dated	15 — 5 —	~~19 [illegible]~~

Not to be folded or roughly handled

No. 37. Read the following letter from C. F. CHAMIER, Esq., Acting Register to the Court of Sudder Udalut; to T. PYCROFT, Esq., Chief Secretary to Government, dated 30th April 1858, No. 30.

SIR,

I am directed by the Judges of the Sudder Udalut to bring the matter of the enclosed correspondence to the notice of the Government, with a view to its being ascertained whether such high charges for the expenses of witnesses examined in civil suits, within the jurisdiction of the Courts established in Burmah, are authorized; the Judges having no means of checking them.

From J. J. COTTON, Esq., Civil Judge of Masulipatam; to C. F. CHAMIER, Esq., Acting Register to the Court of Sudder Udalut, dated 22nd April 1858, No. 19.

SIR,

1. I have the honor to bring to the notice of the Judges a monster Bill of Costs from the Assistant Commissioner's Court in Rangoon, and request to know if such charges as there laid down have received the sanction of the higher Courts, or Supreme Government, as they appear to be so greatly in excess of those entered in the table of costs in the Civil Courts in this Presidency.

2. The Original Suit was brought by the Plaintiff for the recovery of Rupees 60 for damages. The Plaintiff was the Town Cauzy of Ellore, and brought the suit against the defendant for having usurped what he considered his prerogatives to the extent of *Rupees* 2.

3. The witnesses were named by the defendant, and are all Native Officers in the 10th Regiment M. N. I., stationed in Rangoon itself, and the distance from the Commissioner's Court to their lines is stated by them, before me, to be only about 1½ mile. No demand for batta was made, but it was paid apparently according to the rank of the witnesses examined. Commissioned Officers were paid a gratuity at 5 Rupees per diem, and Non-Commissioned at Rupees 2 per diem. Cost of Subpœnas and service of do. in proportion.

4. I beg to annex copies of correspondence which has passed already between me, and the Assistant Commissioner of Rangoon.

From GEORGE E. BURN, Esq., Assistant Commissioner of Rangoon; to the Judge of the Civil Court of the Zillah of Masulipatam, dated 26th November 1857, No. 34.

SIR,

I have the honor to inform you, that I have forwarded to your address under another cover the evidence of the witnesses required under the Commission, from your Court to the Deputy Commissioner of this District, in the matter of Mowlavee Mahommud Meer Nazurally, plaintiff,

Versus

Syed Mugdoom, defendant, which was transferred by him to this Court.

I beg to enclose the Bill of Costs, Company's Rupees 128-8 paid by the Bailiff of the Court, and request the favor of an early remittance of the amount.

Assistant Commissioner's Court.
District of Rangoon.
The 24th November 1857.
Civil Miscellaneous, No. 215 of 1857.

Amount of costs paid by me in the above suit.

22nd October	1857,	to	21	Subpœnas,	...	...	...	10	8	0
,,	,,	,,	service	of	do	...	...	...	5	4	0
26th Novr.	,,	,,	21	Subpœnas,	...	...	...	10	8	0
,, ,,	,,	,,	service	of	do	...	...	...	5	4	0
18th ,,	,,	,,	9	Witnesses	@ 5 Rs.	each	...	...	45	0	0
,, ,,	,,	,,	7	,,	@2 ,,		...	...	14	0	0
19th ,,	,,	,,	2	,,	@5 ,,		...	...	10	0	0
20th ,,	,,	,,	2	,,	@2 ,,		...	...	4	0	0

21st Novr.	1857, to	2	Witnesses	@ 5	Rs. each ...	...	10	0	0
23rd ,,	,,	,,	2	,,	@ 5 ,,	... ...	10	0	0
24th ,,	,,	,,	2	,,	@ 2 ,,	... ...	4	0	0
					Total Company's Rupees...		128	8	8

Received payment.

(Signed) W. H. PORTER,
Bailiff.

From J. J. COTTON, Esq., Civil Judge of Masulipatam; to the Assistant Commissioner of Rangoon, dated 22nd March 1858, No. 154.

SIR,

1. In reply to your communication of the 26th November last, enclosing a monster Bill of Costs amounting in the aggregate to Rupees 128-8 for the examination of witnesses before you, and requesting that the sum in question may be speedily remitted, I have the honor to state that the case in question is under appeal, and until finally disposed of, it is impracticable to realize the costs of the suit.

2. I observe that the whole of the witnesses examined before you are Native Officers belonging to the 10th Regiment M. N. I., (now en route through this station) who inform me that they were cantoned in Rangoon itself, their lines being situated about 1½ mile from the Commissioner's Court; and that they incurred no expenses whatever in attending to give their evidence before your Court.

3. The Regulations in force in the Civil Courts of this Presidency provide as follows, "if a witness who may attend pursuant to a summons shall have incurred any expence in consequence of his being required to appear, the Court is to award to him such sum for his charges as may appear to it reasonable," (Section VII Regulation III of 1802), and by Section XXXIII, Regulation X of 1816, a daily allowance at the rate of 2 Annas is payable to all prosecutors and witnesses (in Criminal cases) who may appear in need of such assistance; but no batta is under any circumstances allowed to witnesses residing within the same station as that in which the Courts are situated.

4. I shall therefore feel obliged by your informing me under what authority batta to so great an extent, indeed any batta at all, was paid to the witnesses alluded to, to enable me to issue the necessary orders ultimately for the liquidation of the Bill of Costs alluded to.

From GEORGE HOUGH, Esq., Assistant Commissioner of Rangoon; to J. J. COTTON, Esq., Civil Judge of Masulipatam, dated 6th April 1858, No. 30.

SIR,

I have the honor to inform you with reference to your letter No. 154, dated 22nd Ultimo, that the scale of Diet money allowed in the province of Pegu to witnesses is very excessive, for instance, European witnesses by our Rules are entitled to an allowance of from 5 Rupees to 10 Rupees per day, and Native witnesses from 8 Annas to 5 Rupees per day. In the case under notice many of the witnesses were Commissioned Native Officers, and were allowed at the rate of 5 Rs. per day, and as their attendance was unavoidably prolonged, the costs has run up to a large sum.

The money is due to the Bailiff of the Courts, having been disbursed by him out of his own pocket, so that an early remittance is requested.

(True Copies.)

(Signed) C. F. CHAMIER,
Acting Register.

No. 38. To the Secretary to the Government of India, dated 15th May 1858, No. 639.

SIR,

1. I am directed by the Right Honorable the Governor in Council to lay before the Government of India, at the request of the Court of Sudder Udalut, the following circumstances, with a view to its being ascertained whether such charges as given below, in payment of the expenses of witnesses examined in Civil Suits within the jurisdiction of Courts established at Burmah, are authorized, the Judges having no means of checking them.

2. A suit was instituted by the Town Cauzee at Ellore, in the Zillah of Masulipatam, for the recovery of 60 Rupees as damages from one Mugdoom, who he alleged had usurped his prerogatives to the extent of 2 Rupees. The witnesses named by the defendant, were Native Officers of the 10th Regiment M. N. I., stationed in Rangoon itself. A Commission was addressed by the Zillah Judge to the Deputy Commissioner there to obtain the evidence of these witnesses. This he accordingly did, and submitted for payment a Bill for diet money disbursed to the witnesses, the cost of the service of Subpœnas, &c., amounting to Rupees 128-8 as specified below:

22nd October	1857	to	21	Subpœnas...		...	...	10	8	0
,,		,,	service of ,,			...	...	5	4	0
26th November	1857	,,	21	Subpœnas...		...	...	10	8	0
,,		,,	service of ,,			...	...	5	4	0
18th ,,		,,	9	Witnesses	at 5 Rs. each...		...	45	0	0
,, ,,		,,	7	do.	at 2 ,,	...	...	14	0	0
19th ,,		,,	2	do.	at 5 ,,	...	...	10	0	0
20th ,,		,,	2	do.	at 2 ,,	...	...	4	0	0
21st ,,		,,	2	do.	at 5 ,,	...	..	10	0	0
23rd ,,		,,	2	do.	at 5 ,,	...	...	10	0	0
24th ,,		,,	2	do.	at 2 ,,	...	...	4	0	0
							Rupees.....	128	8	0

This sum the Assistant Commissioner of Rangoon states is due to the Bailiff of the Courts, he having disbursed it out of his own pocket.

3. The Zillah Judge of Masulipatam represents that the distance of the Commissioner's Court from the lines of the 10th Regiment is stated to be by the witnesses only about 1½ mile, and that they made no demand for batta, but were apparently paid according to their rank.

4. The charges are excessively high, being nearly double the amount sought to be recovered, and the witnesses appear to have incurred no expense whatever in having attended the Court. In this Presidency when the witnesses reside in the same station as that in which the Court is situated, they receive no remuneration. Under these circumstances, I am directed to solicit such information as will enable the Court of Sudder Udalut to check the Bill submitted by Assistant Commissioner of Rangoon.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Sept-18th

(3)

Judicial Department.

No. 639

To The Secretary to the Court of Judicia

Sir,

1. I am directed by the Right Honble the Governor in Council to lay before the Court of Judicia, at the request of the Court of Sudder Adawlut, the following circumstances with a view to its being ascertained whether such charges as given below, in payment of the expences of witnesses examined in Civil suits within the jurisdiction of Courts established at Bennah, are authorized, the Judges having no means of checking them.

2. A suit was instituted by the Town Canjee at Ellore, in the Zillah of Masulipatnam for the recovery of 60 Rs as damages from one Mugdoom, who he alleged had usurped his prerogatives

to the extent of 2 Rs. The witnesses named by the Defendant, were Native officers of the 10th Regt. N. I. stationed in Rangoon itself. A Commission was addressed by the Zillah Judge to the Deputy Commissioner there to obtain the evidence of these witnesses. This he accordingly did and submitted for payment a Bill for Diet money disbursed to the witnesses, the cost of the service of subpœnas &c amounting to Rs 128-8-0. as specified below:-

22 Oct/57	To 21 subpœnas	—	10-8-0
"	"	service of "	— 5-4-0
26 Nov/57	" 21 subpœnas	—	10-8-0
"	"	service of	— 5-4-0
18th "	" 9 witnesses @ 5 each		45-0-0
" "	7 -do- @ 2/ "		14-0-0
19 "	2 - do - @ 5/ "		10-0-0
20 "	2 - do - @ 2/ "		4-0-0
21 "	2 - do - @ 5/ "		10-0-0
23 "	2 - do - @ 5/ "		10-0-0
24th "	2 - do - @ 2/ "		4-0-0
			Rs 128-8-0

This sum the Asst. Commissioner of Rangoon states is due to the Bailiff of the Courts, he having disbursed it out of his own pocket.

3. The Zillah Judge of Maulmain deputation represents that the distance of the Commissioner's Court from the lines of the 10th Regt. is stated to be by the witnesses only about 1½ mile, and that they made no demand for batta but were apparently paid according to their rank.

4. The charges are excessive high being nearly double the amount sought to be recovered, and the witnesses appear to have incurred no expense whatever in having attended the Court. In this Presidency when witnesses reside in the same station as that in which the court is situated, they receive no remuneration. Under these circumstances I am directed to solicit such information as will enable the Court of Judicature to check the Bill submitted by Asst. Court of Rangoon.

Fort St George,
15th May, 1858.

J P

In Dy to Cons. 18 May.
Judicial 1858. Depart.

(No. 639

To The Secy. to the Govt. of
India

dy/15 May 1858.

37438.

Ref. No. 1685.