

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1475	Press
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Dated	3 11	19/5.9

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
for the month of November 1859.*

No. 7. Read the following letter from W. GREY, Esq., Secretary to the Government of India; to the Secretary to Government of Fort St. George, dated Fort William, the 7th October 1858, No. 2094.

I am directed to transmit the accompanying copy of a Despatch from the Right Honorable the Secretary of State, No. 35, dated the 31st of August, and of its enclosure, suggesting the abolition of the Office of Kazee, and to request that His Excellency the Governor in Council will favor this Government, at an early date, with any remarks on the subject, that a perusal of the Despatch may suggest.

From the Right Honorable SIR CHARLES WOOD, Bart., G. C. B.; Secretary of State for India; to His Excellency the Right Honorable Viscount CANNING, Governor General of India in Council, dated London, the 31st August 1859, No. 35.

The attention of Her Majesty's Government has been called to some circumstances connected with the office of Cazeer.

2. The duties of this office, as prescribed by Regulations passed many years ago by the local Legislatures of India, were originally, partly of a judicial and partly of a social and religious character. It appears, however, from a report of the Sudder Court at Allahabad, dated 9th October 1843 (a copy of which is herewith transmitted), that in the North-Western Provinces the office of Cazeer is no longer a judicial one in any sense of the word, and that all the judicial and executive functions formerly discharged by the Cazeers are now vested in other Officers specially appointed for the purpose, and upon these grounds the Sudder Court made several suggestions. It appears to Her Majesty's Government that the report and suggestions of the Sudder Court should have the consideration of the Government of India.

3. Regulations relating to duties no longer discharged, ought to be repealed, and there seems no reason why any Cazeer should receive a Khillut, or honorary dress, more especially at the Eed, which seems to invest the ceremony with a religious character.

4. It would be right to grant for life a small money allowance to any individual who in virtue of his office may have hitherto enjoyed the privilege, but in future the usage ought to be discontinued.

5. When considering the subject, you will take care that the Government, neither by the mode of appointment nor of prescribing the duties, shall be in any way connected with the religious observances of any of the Native of India. When you have fully considered the subject, you will take measures for repealing or modifying the existing Regulations as you may deem expedient.

6. The Chief Cazeer, if continued as Head Law Officer of the Sudder Court, would receive in that capacity the salary assigned to the Office.

Copy of letter from G. F. EDMONSTONE, Esq., Officiating Register to the Court of Sudder Dewanny Adawlut, North-Western Provinces, Allahabad; to R. N. C. HAMILTON, Esq., Secretary to the Government of the North-Western Provinces, dated the 9th October 1843.

With reference to your letter No. 1491, of 28th March last, on the subject of the allowances granted to certain Cazeers at the Eed festivals, I am directed to submit, for the consideration of Government, the following report and observations.

2. On the receipt of the Orders of Government, a Circular was issued to the several District Judges, calling upon them for the information required by Government; and the original replies of those Officers, with an abstract of their contents prepared in this Office, are enclosed for the information of the Honorable the Lieutenant-Governor; the list also of Cazeers now receiving Khilluts or Eed allowances, required by the 7th paragraph of your letter, is annexed.

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3. His Honor will perceive that the individuals in these Provinces, now in the enjoyment of any allowances from Government, in virtue of their holding the office of Cazeer, are few; that the honorary distinction accorded to these functionaries under the Mahomedan Government, was, in the majority of instances, commuted, shortly after the Session, to a small money payment; and that on the decease of the original grantees of these allowances, the grant has not usually been renewed or continued to their successors.

4. The Court entertain strong doubts of the propriety of reviving these grants where they have elapsed, or of extending the custom of investing Cazeers with honorary dresses on the occasions of the Eed festivals, where, such has not hitherto, since our rule, prevailed; and they are decidedly of opinion that if such a measure be determined on by Government, the superintendence and direction of its details should not devolve on the Judicial Department.

5. The office of Cazeer, I am directed to observe, is no longer, in any sense of the word, a judicial one, such as under the Mahomedan Government it undoubtedly was, and under the earlier regulations and practice of our judicial system, it, to a certain though very limited extent, continued to be; the judicial or rather executive functions of the Cazeers have never extended beyond their ex-officio employment in the distraint for rent, and in hearing claims for rent and replevise; in the execution of the Civil Courts' Decrees, and in their maintaining an office, for attesting and recording deeds of which no supervision was ever observed, and to which no legal recognition was ever accorded.

6. All these functions have now, by law, been vested in other Officers, specially appointed for the several purposes; with them the Cazeers have no concern, and the office is no longer recognized by the Regulations as one possessing any judicial or executive character. There can, therefore, be no possible reason for imposing on the Judicial Department of the Government, the duty of superintending the detail of any measure of honor and consideration to be conferred on the office.

7. The Court further remark that the office of Cazeer is now strictly and exclusively a priestly one, and all its functions are of a religious nature; the exercise of any interference in such matters on the part of Government is, in the opinion of the Court, of very questionable propriety, but they are fully satisfied, that to oblige the Christian Judge to invest the Mahomedan priest with a dress of honor and distinction on occasions set apart by that religion for special superstitious observances, is open to the most serious objections; and that while it would be highly offensive to the feelings of the Officer employed by the Government in the ceremony (on which subject the Court would refer His Honor to the letter of Mr. Benson, Judge of Futtehpore), it would not be regarded with indifference by the Native subjects of the Government of other religious persuasions.

8. If the attention of Government be directed to the present position of the Cazeers at all, the Court (inasmuch as the Court of Directors have by their Orders, dated 14th December 1810, No. 207, abolished the office of Kazee-ool-Kuzat in these Provinces, and as on the recent demise of that Officer in the lower division of the Presidency, the Bengal Government have, it is understood, reduced the salary of his successor from Rupees 500 to Rupees 300 per mensem, assigning the latter sum as a judicial allowance to the incumbent as Law Officer of the Calcutta Nizamut Adawlut) would be disposed to recommend that all Regulations relative to the office of Kazee-ool-Kuzat and Provincial Cazeer should be rescinded, and the Mahomedan Community left to settle the affairs of the priesthood as they may think most expedient.

(True Copy)

(Signed) R. B. CHAPMAN,
Under Secy. to the Govt. of India.

No. 8. ORDER THEREON, 3rd November 1859, No. 1475.

Referred to the Judges of the Sadr 'Adalat for their remarks.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Recd. of 11 hours

No. 1475- 3rd November 1859

*Referred to the Judges of the
Sadr Adalat for their remarks.*

*The Judges of the
Sadr Adalat.*

Judicial 1859 Department

Order of Govt. to the Secy. to the Govt.

of India No. 2094

Recd. 18/11/59

Enclosed

Transmit copy of a

Despatch from the Secy. of State

for India & of the

suggesting the abolition of the

Office of Kazee, & requesting that

the Madras Govt. will favor

at an early date with any

remarks on the subject.

With an Order.

19-11-59

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Your most obedient servant,

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HONORARY DEPT.

Despatch No. 111, dated the 11th October 1859.

Secy. to the Govt. of India,

W. GREY, Esquire,

From

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No. 2054

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