

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 695-696 Press
Mis.

27-29

Dated 2-6-18.60.

5/6

Not to be folded or roughly handled

JMS

*Proceedings of the Madras Government, Judicial Department,
2nd June 1860.*

No. 27. Read the following letter from E. F. HARRISON, Esq., Civil Auditor, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 26th May 1860, No. 520.

I have the honor to forward for the Orders of Government, copy of a letter from Mr. W. H. Rose, Second and Acting 1st Judge of the Madras Court of Small Causes, on the subject of the deputation allowance which he claims while officiating for Mr. Burgass, the 1st Judge, absent on special leave on private affairs.

In reply to an enquiry on the subject made by Mr. Rose, I informed him that he would not be entitled to deputation allowance, while acting for Mr. Burgass under the rule contained in paragraph 94, Chapter II of the Civil Auditor's Manual.

* Paragraph 1. *The question referred in paragraph 4 of the Acting Civil Auditor's letter, dated the 15th December 1840, notices the higher emoluments drawn by the 1st and 2nd and 3rd Judges respectively of the Madras Provincial Courts.*

Paragraph 2. *The Governor General of India in Council observes that the Acting Civil Auditor has justly concluded that one of those Judges acting during the absence of the other enjoying the higher emoluments, the duties of all being the same, is not entitled to deputation allowance.*

The authority for the rule I have referred to is contained in the 1st and 2nd paragraphs (quoted in the margin,*) of a Resolution of the Government of India in the Financial Department, dated the 31st March 1841, No. 235.

The rule was passed with reference to the Covenanted Service Absentee Rules, and perhaps applies in strictness to such appointments only as are held exclusively by members of the Covenanted Service, such as the appointments of Members of the Board of Revenue.

I have some doubt as to the applicability of the rule to the case of the Judges of the Small Cause Court, nor am I aware of the practice in the other Presidencies in similar cases.

From W. H. ROSE, Esq., Acting First Judge of the Madras Court of Small Causes, to E. F. HARRISON, Esq., Civil Auditor, Fort Saint George, dated 19th May 1860.

With reference to your letter of the 9th instant, whereby you inform me that I shall not be entitled to deputation allowance whilst acting for Mr. Burgass, I have the honor to request that you will refer the matter for the decision of Government.

I have not the "Civil Auditor's Manual" at hand and am therefore unable to ascertain the exact terms of the Order of the Government of India, referred to in your letter, but I am informed that it declares that where the acting Appointment involves no additional labour or responsibility, the allowance is not to be drawn.

I take leave to submit that the First Judge of the Court of Small Causes has both more labour and more responsibility than the others, and if such were not the case, it is difficult to imagine the object of giving to that Officer a salary exceeding by one half that of the Second and Third Judges.

Since the establishment of the Court the First Judge has usually taken upon himself the responsibility of trying all matters involving the consideration of difficult points of Law, many of which of course arise at every sitting of the Court especially in suits relating to the title to Land which are of constant occurrence in the Court.

Besides the additional labour and responsibility thus thrown upon the First Judge, the ordinary work of each Judge has been most seriously increased since Mr. Burgass' departure by the reduction of the number of Judges from three to two.

In addition to the responsibility above referred to, I believe that Government consider the First Judge answerable that the Clerks and Subordinate Officers of the Court do their duty, at all events Mr. Burgass has always taken the lead in these matters, and as a Junior Judge, I have never considered it as part of my duty to interfere in the matter except when Mr. Burgass

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has deemed it proper that the conduct of one Officer of the Court should form the subject of investigation in open Court and in presence of all its members.

(True Copy.)

(Signed) EDWD. F. HARRISON,
Civil Auditor.

No. 28. ORDER THEREON, 2nd June 1860, No. 695.

The above letter from the Civil Auditor, with its enclosure, will be submitted to the Government of India—and their decision requested as to the claim for deputation allowance raised by Mr. Rose as Acting First Judge of the Small Cause Court.

(Signed) T. PYCROFT,
Chief Secretary.

No. 29. To the Secretary to the Government of India, dated Fort Saint George, 2nd June 1860, No. 696.

I am directed to forward copy of a letter, 26th ultimo, No. 520, from the Civil Auditor, with copy of its enclosure, and to solicit the decision of the Government of India, on the claim for deputation allowance preferred by Mr. W. H. Rose, as
Gazette, Vol. 1 of 1860, page 819. Acting First Judge of the Small Cause Court for Mr. Burgass, who has proceeded to Europe on six months' leave under Section VIII of the Uncovenanted Service Absentee Rules.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

*List
Council 1/6/60
JP.*

No. 695 - 2nd June 1860.

*The above letter from the
Civil Auditor, with its en-
closure, will be submit-
ted to the Govt. of India
— & their decision request-
ed as to the claim for de-
putation allowance rais-
ed by Mr. Rose as Acting
First Judge of the Small
Cause Court.*

JP.

*The Civil Auditor.
" Acting First Judge,
Small Cause Court.*

Disp. O.

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Supd. P.

Judicial.

N^o. 196.

The Secretary to the Govt. of India.

Sir-

I am directed to forward copy of a letter, 26th ult. N^o. 520, from the Civil Auditor, with copy of its enclosure - & to solicit the decision of the Govt. of India on the claim for deputation allowance ^{referred} ~~raised~~ by Mr. W. H. Rose, as Acting First Judge of the Small Cause Court for Mr. Burgess ^{who} has ~~proceeded~~ to Europe on six months leave under Section VIII of the Mucor. Serv. Abs. Rules. J.P.

2. The Civil Auditor has

Gazette. Vol. 1. of 1860
page 819.

For George
2nd June 1860.

Civil Auditor's
Manual Chap.
II. - para 94.

has informed Mr. ^W
Rose that he is not
entitled to deputa-
tion allowance while
acting for the First
Judge, under the rule
in the Supreme Court.
Financial Resolution
of the 31st Mar. 1841 No.
235, viz. that, in a
Court or Board, where
the duties of all the
Members are the same,
but their emoluments
fixed at different rates,
one member is not en-
titled to deputation
allowance during
the absence of the other
enjoying the higher
allowance.

3. The above resolution,
however, was passed
in connection with
the

the Absentee Rules of
the 29th Janry. 1840—
while, ^{the} deputation al-
lowances of Uncon-
vanted Servants are
regulated by the Rules
of that service, pub-
lished on the 7th Mar.
1856. The Civil Audi-
tor is, therefore, doubt-
ful as to the appli-
cability of the rule to
the case of the Judges
of the Small Cause
Court.

18 June 1876

10 June 1876

Judicial 1870 (A. H. H.)

1876

The day to the Court

Judicial

1876

1876

27 @ 29