M.R.O. 1—39,000—16-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 561 631 Press ~~Misc.~~

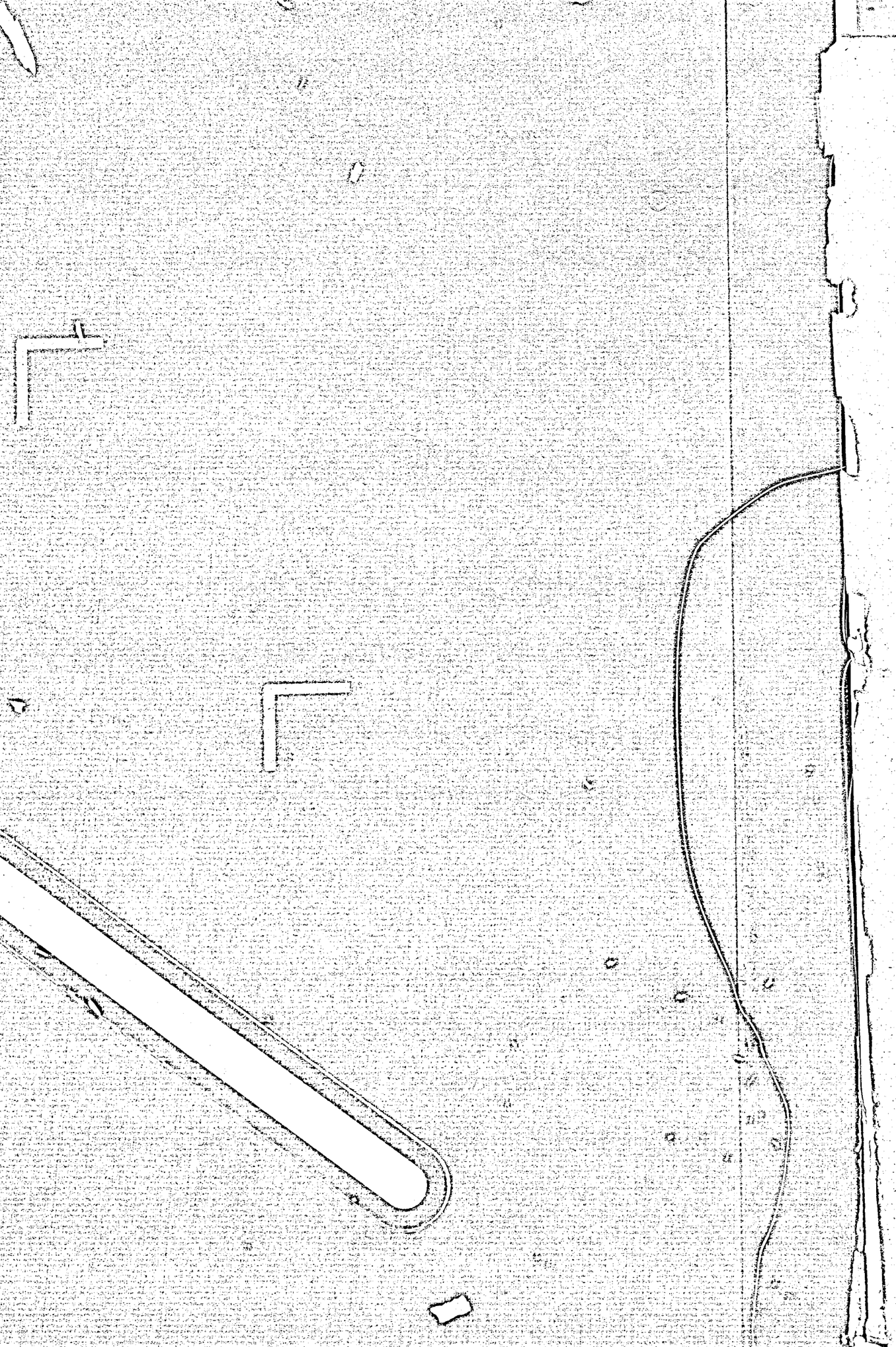
157-165

Dated 23-4- . 1862

12/13

Not to be folded or roughly handled

631



Proceedings of the Madras Government, Judicial Department, 23rd April 1862.

Read the following papers:—

No. 157. From W. WATERFIELD, Esq., Officiating Civil Auditor; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 20th June 1861, No. 225.

With reference to Government Orders, Nos. 157 and 160, dated 29th April and 2nd May respectively, I have the honor to annex a letter from the Secretary to the Government of India from which it will be seen that Ponnumbala Pillay is not entitled to a gratuity.

Mr. Harber, Beadle of Saint Mary's Church, is entitled to a gratuity of 6 months' salary.

From C. H. LUSHINGTON, Esq., Secretary to the Government of India; to the Officiating Civil Paymaster, Madras, dated Fort William, 21st May 1861, No. 6,547.

In reply to your letter, No. 170, dated 1st instant, I am directed to explain that Rule 4 of the Notification, No. 36 of 14th August 1857, applies to all classes of servants, who receive pay directly from the Government and who are not entitled by the Rules to any fixed pensionary grant.

2nd. Persons employed by Public Officers (such as Munsiffs and Deputy Collectors) who draw a fixed monthly allowance for works with the detailed distribution of which the Government does not interfere, do not receive pay directly from the Government and cannot therefore be held to be entitled either to pension or gratuity.

No. 158. OFFICIAL MEMORANDUM.

The undersigned has the honor to request that the Registrar of the Sudder and Foujdari Court will be good enough to inform him with reference to paragraph 2 of the enclosed letter from C. H. Lushington, Esq., Secretary to the Government of India, whether it is the rule in this Presidency that such Officers as District Moonsiffs and Mufti Sudder Ameens draw a fixed monthly sum for the payment of their Office Establishment and that Government does not interfere in its disbursement, or in the rates of pay, &c., for each individual entertained.

2nd July 1861. (Signed) W. S. WHITESIDE.

No. 159. OFFICIAL MEMORANDUM.

With reference to the Official Memorandum from the Acting Deputy Secretary to Government, dated the 2nd instant, the undersigned has the honor to state that District Moonsiffs and Mufti Sudder Ameens draw a fixed monthly sum for their Establishments, to be appropriated with the sanction of Zillah Judges, in such manner as may contribute most to their efficiency, the appointment and removal of servants on their establishments being vested in the Zillah Judges; and that the Government does not interfere in the disbursement of the authorized allowance or in the rates of pay, &c., for each servant entertained.

SUDDER COURT,
REGISTRAR'S OFFICE,
4th July 1861.

(Signed) THOMAS WILKINS,
Acting Deputy Registrar.

To the Acting Deputy Secretary to Government.

No. 160. OFFICIAL MEMORANDUM.

The undersigned in forwarding to the Civil Auditor, with reference to the subject of his letter, No. 225, dated the 20th ultimo, with its enclosure, the enclosed original Memorandum* from the Deputy Registrar of the Sudder Court, has the honor to draw his attention to the instances noted in the margin, from which it will be seen that, until very recently, it has been usual in this Presidency to grant pensions to servants on the Establishments of District Munsiffs in the same manner as to the other Uncovenanted Judicial Officers in the different Zillahs.

* Requested to be returned.

1. Somasoondra Pillai, late Head Gumastah in the Court of the District Moonsiff of Cuddalore, pensioned on the 2nd March 1858, on Rupees 4 per mensem.
2. Mutusami Mudali, late Head Gumastah in the District Moonsiff's Court, pensioned March 2nd 1858, on Rupees 5-4 per mensem.
3. Ulagapragasa Pillai, late Gumastah in the Chingleput District Moonsiff's Court, pensioned May 23rd 1856, on Rupees 4 per mensem.

2. The Memorandum of the Deputy Registrar of the Sudder Court shows clearly what the position of these men really is, and the undersigned has the honor to request that, if after consideration the Civil Auditor still finds himself unable to admit their claims to pension, he will be so good as to refer the matter for the decision of the Government of India.

Dated 8th July 1861. (Signed) W. S. WHITESIDE.

No. 161. From W. WATERFIELD, Esq., Officiating Civil Paymaster; to T. PYCROFT, Esq., Chief Secretary to Government, Public Separate Department, Fort Saint George, dated 17th July 1861, No. 272.

With reference to the Official Memorandum from the Deputy Secretary, dated 8th instant, I have the honor to state that I am of course ready to refer the matter again to Calcutta, if desired: but it seems to me that the Establishments of District Munsiffs here are in precisely the same position as those in Bengal, and that therefore the Government of India did not pass their Order without complete apprehension of the subject.

2. The test seems to be whether the salaries are fixed by Government or left to the discretion of the local Officers.

3. I am aware that some pensions have been granted at variance with this rule, but not I believe on my recommendation.

GENERAL DEPARTMENT.

No. 162. No. 103.
MEMORANDUM.

In continuation of Memorandum No. 80 of the 12th instant, the Officiating Civil Paymaster has the honor to forward herewith Extract of a letter† from the Under Secretary to the Government of India on the subject under [illegible].

† No. 1,005, dated 29th January 1862.

CIVIL PAYMASTER'S OFFICE,
FORT SAINT GEORGE,
27th February 1862.

(Signed) W. J. RAYNOR,
Officiating Civil Paymaster.

To the Chief Secretary to Government.

No. 163. MEMORANDUM.

The undersigned has the honor to request that the Civil Auditor will have the goodness to inform him with as little delay as possible whether the question referred to in the Memorandum from this Office, No. dated 8th July 1861, and to which the Under Secretary to the Government of India furnished a reply in his letter to the Civil Auditor, No. 1,005, dated 29th January 1862, was, on that occasion, specially submitted for the orders of the Government of India or not.

22nd March 1862.

(Signed) W. S. WHITESIDE.

GENERAL DEPARTMENT.

No. 164. No. 148.
MEMORANDUM.

The Officiating Civil Paymaster has the honor to state, in reply to Memorandum from the Deputy Secretary to Government of [illegible], that the question, "whether persons "employed by public Officers, such as Munsiffs and Deputy Collectors, who draw a fixed "monthly allowance for writers, with the detailed distribution of which the Government does "not interfere, are entitled to pension under the rules," was sent up from this Office complete with a copy of the Memorandum from the Deputy Registrar, Sudder Court, and appears from the reply‡ of the Under Secretary, which

‡ No. 1,005, dated 29th January 1862.

is dated "Council Chamber, Fort William," to have been duly submitted for the orders of the Government of India.

CIVIL PAYMASTER'S OFFICE,
FORT SAINT GEORGE,
25th March 1862.

(Signed) W. J. RAYNOR,
Officiating Civil Paymaster.

To the Deputy Secretary to Government, Public Department.

EXTRACT of a letter from the Under Secretary to the Government of India, Financial Department, to the Officiating Civil Paymaster, Fort Saint George, dated 29th January 1862, *No.* 1,005.

I am directed to acknowledge the receipt of your letter, No. 280 of the 22nd July 1861, and its enclosures, re-submitting for decision, with reference to the cases noted in the margin, the question whether persons employed by public Officers, such as Munsiffs and Deputy Collectors, who draw a fixed monthly allowance for writers with the detailed distribution of which the Government does not interfere, are entitled to pensions under the rules.

Somasoondra Pillai, late Head Gumastah in the Court of the District Munsiff of Cuddalore, pensioned on the 2nd March 1858, on Rupees 4 per mensem.
Matuswami Mudali, late Head Gumastah in the Salem District Munsiff's Court, pensioned on the 2nd March 1858, on Rupees 5-4 per mensem.
Ulagapragasa Pillai, late Head Gumastah in the Chellumbrum District Munsiff's Court, pensioned 23rd May 1859, on Rupees 4 per mensem.

2. In reply, I am desired to inform you that it is contrary to rule to grant pensions to such persons.

(True Extract.)

(Signed) W. DONALD,
Head Assistant to Civil Paymaster.

No. 165. ORDER THEREON, 23rd April 1862, No. 631.

It has recently been ruled by the Government of India that servants on the Establishment of Sudder Ameens and District Munsiffs are not entitled to either pension or gratuity on retirement from the public service.

2. Hitherto they have usually been admitted to pension, but in June last this was objected to by the Civil Auditor who quoted an Extract from a letter from the Government of India of the 21st May* 1861, paragraph 2, which runs thus:

"Persons employed by the public Officers (such as Moonsiffs and Deputy Collectors) who draw a fixed monthly allowance for works with the detailed distribution of which the Government does not interfere, do not receive pay directly from the Government, and cannot therefore be held to be entitled either to pension or gratuity."

* No. 6,347.

3. The actual position of the Sudder Ameen and District Moonsiff Establishments is thus described in a Memorandum from the Acting Deputy Registrar, Sudder Udalut, 4th July 1861:

"District Moonsiffs and Mufty Sudder Ameens draw a fixed monthly sum for their Establishments, to be appropriated with the sanction of Zillah Judges, in such manner as may contribute most to their efficiency; the appointment and removal of servants on their Establishments being vested in the Zillah Judges, and the Government does not interfere in the disbursement of the authorized allowance, or in the rates of pay, &c., for each servant entertained."

4. This was communicated to the Civil Auditor, and he was requested by Memorandum of 8th July last, to make a further reference to the Government of India. He did so and was informed in reply, 29th January 1862, that Servants in District Moonsiffs' Establishments are not entitled to pension.

5. It appears to the Government that the Establishments of the District Moonsiffs of this Presidency should not be placed in the condition above adverted to. They can perceive no reason why a fixed Establishment should not be assigned to every District Moonsiff, as it is to every Talook Tahsildar. The Government have lately recommended that Establishments of the same cost† should be assigned to all District Moonsiffs' Courts of whatever class. There could not be much difficulty in

† Rupees 120 per mensem.

drawing out a scale applicable, with perhaps trifling modifications in a few instances, to all District Moonsiffs' Courts.

6. A system which leaves the arrangement of the servants of these Judicial Establishments to vary according to the discretion of the Zillah Judges, and still more which, on that ground, or any other debars them from pension, seems to the Government to be very objectionable. There appears no reason why they should not be admitted to pension just as much as Munshees or Goomastahs in a Talook Cutcherry. It has lately been an object to improve the condition of the District Munsiffs' Courts. No greater incentive can be afforded to good conduct on the part of a Native servant than the prospect of being able to retire on a pension when incapacitated for further labour. The great advantage of being able to hold out this inducement enables the Government to secure service on lower terms than they would otherwise have to offer, and gives them a strong hold over their servants whilst in their employment. District Moonsiffs' Courts will never be what they should be, even though the salaries of the District Moonsiffs themselves, and the aggregate pay of their Establishment should be raised, so long as this distinction exists.

7. The Government resolve to communicate these views to the Court of Sudder Udawlut, and to request their opinion upon them, as also to desire them to submit an uniform scale of District Moonsiff's Establishment (modified if necessary in any special cases) at the enhanced rate of Rupees 120 per mensem recently recommended to the Government of India.

8. The question in respect to the right to pension on the part of servants on the Establishments of Deputy Collectors will be considered in the Revenue Department.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. T O'Connor.

Judicial 1862 April
No. 681.
Proceedings of the Madras Government
Dated 23rd April 1862
No. 1035.
Regarding the officiating
the Judge's Cutcherry
Vizagapatam
Establishment of the District
Moonsiffs & the Scale fixed
for Pension Rules.

x I have for some time past been very much unhappy with the Judicial Establishments when I consider the Pensions which they will be entitled to. The Servants of the Judicial Establishments are not entitled to Pensions, and I have always considered that the Pensions should be given to them as a reward for their services, and not as a matter of right. I have always considered that the Pensions should be given to them as a reward for their services, and not as a matter of right. I have always considered that the Pensions should be given to them as a reward for their services, and not as a matter of right.

It happens sometimes that we carry our system of granting Pensions a good deal too far, we pay the people we employ the full pay which they would receive from others, and we add to this Pensions when we grant them Pensions when they become unfit for further service - in England the Servants of the Civil Service - in the Judicial Establishments are not entitled to Pensions, but in the Revenue Establishments they are entitled to Pensions, and I have always considered that the Pensions should be given to them as a reward for their services, and not as a matter of right. I have always considered that the Pensions should be given to them as a reward for their services, and not as a matter of right.

No. 6347

x Note

As respects Deputy Collectors this is a mistake which will have to be brought forward in the Revenue Department. Deputy Collectors do not draw a pension from

I have carefully considered the question of granting Pensions to the Servants of the Judicial Establishments, and I have always considered that the Pensions should be given to them as a reward for their services, and not as a matter of right. I have always considered that the Pensions should be given to them as a reward for their services, and not as a matter of right. I have always considered that the Pensions should be given to them as a reward for their services, and not as a matter of right.

Hitherto they have not been entitled by the Government of India to Pensions, but in June last this was objected to by the Civil Auditor who quoted an Extract from a letter from the Government of India of the 21st May 1861 from which it would appear that Persons employed by the public Officers (such as Moonsiffs and Deputy Collectors) who draw a fixed monthly allowance for

sum as an allowance for establishments. Their Servants are fixed in detail, just as much as those of Collectors are. Indeed a portion of the Collectors Establishment is often transferred to them.—

Should the Pleaders or Law officers be paid strictly in accordance with the rule stated by the President to proceed at Poona. He has had very frequent applications before. The work of Sudder Adalut Vakeels must be very greatly increased. The Pay Allowance should be equal to Pleaders Pensions. Has not risked. Appointment and removal of vakeels & Moonshees

for works with the detailed distribution of which the Govt does not interfere, do not receive pay directly from the Government, and cannot therefore be held to be entitled either to Pension or Gratuity."—

3. The actual position of the Sudr Ameen and District Moonsiffs Establishments is thus described in a Memo: from the Acting Deputy Register, Sudr Udalut — 4th July 1861.

"District Moonsiffs and Moofty Sudr Ameens draw a fixed monthly sum for their establishments, to be appropriated with the sanction of Zillah Judges, in such manner as may contribute most to their efficiency — the appointment and removal of servants on their establishments being vested in the Zillah Judges, and the Government does not interfere in the disbursement of the authorized allowance or in the rates of pay &c. for each servant entertained."

4. This was communicated to the Civil Auditor and he was requested by a Memo: of 8th July last to make a further reference to the Government of India. He did so and was informed in reply 29th January 1862 that Servants on District Moonsiffs establishments are not entitled to Pension.

5. As the Supreme Government with the actual position of District Moonsiffs Servants fully before them in the Memo: from the Sudr Udalut, have felt this view, I suppose that, as respects the past, there is no

Remedy

Remedy, but it may well deserve consideration whether such a state of things ought to continue. There can, I apprehend, be no reason why a fixed Establishment should not be assigned to every District Moonsiff, as it is to every Talook Tahsildar. The Government have lately recommended that an Establishment of the same cost should be assigned to all District Moonsiffs Courts of whatever class. There could not be much difficulty in drawing out a scale applicable, with perhaps trifling modifications in a few instances, to all District Moonsiffs and Sudr Ameen Courts.

6. A system which leaves the arrangements of the Servants of these Judicial Establishments to vary according to the discretion of the Zillah Judges, and still

more

+ Rs 120 per Mensem

more which, on that ground, or any other debars them from pension, seems to me very objectionable. There can surely be no reason why they should not be admitted to Pension just as much as Moonshees or Goomastahs in a Talook Cutchery. It has lately been an object to improve the condition of the District Moonsiffs Courts. ^ No greater incentive can be afforded to good conduct on the part of a Native Servant than the prospect of being able to retire on a pension when incapacitated for further labor. The great advantage of being able to [illegible] thus enables the Government to secure service on lower terms than they would otherwise have to pay, and gives them a strong hold over their Servants whilst in their employ. District Moonsiff's

Courts

* For providing a Succession of Hindoos & Mahomedans duly qualified to be employed as Law Officers.

* Regulation V of 1817 by Act XXVII of 1836, very great difficulty has been experienced in procuring competent persons to fill the situations of Mufties.

Letter to Govt. of India, 4th Feb. '62 No. 169.

In the recent renewed application for sanction to augment the salaries & allowances for establishments of the District Moonsiffs, a set off against the increase of expenditure was the prospective saving by the abolition of the 18 Mufties Courts.

The scale of a Mufties Courts is —

Salary —— 200
Establishment 45

Rs. 245 X 18 = 4,410,

Additional for Establishment to 5 Mufties @ 25 each —— 125

4,535
12

Per annum —— Rs. 54,420.

Tellahs (without Honore) —— 21
Mufties at Bellary, Masulipatam, & Chicacole abolished —— 3
18.

1. Calicut.
2. Tellicherry.
3. Combaconum.
4. Madura.
5. Honore.

Since the application was made, the Mufti's Court at Coimbatore has been closed — but there has been no immediate saving, as the Sudder Ameen with the same salary & establishment has been appointed additional Moonsiff at Bhowani temporarily.

242
103-
148.

There is at present no detached Sudder Ameen's Courts as the only two that were at Sirey & Sehapore, have been abolished.

Judicial Department.

List

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following Papers —

From the Offg Chief Paymaster Fort entier 20th June 1861				No 225.
Official Memo to the Registrar of the Sudder & Foujdaree Adawlut Madras.	"	2nd July		
Offg Memo. from the Offg Registrar of Sudder Court	"	4th		
Do. to the Chief Paymaster	"	8th		
From the Offg Chief Paymaster	"	17th		272
Do. Do.	"	27th	February 1862	103.
Offg Memo. to the Chief Paymaster	"	22nd	March	
From the Offg Chief Paymaster	"	25th		148.

Order thereon 23rd April 1862 No 631.

It has recently been ruled by the Government of India that Servants on the Establishment of Sudr Ameens and District Moonsiffs are not entitled to either Pension or Gratuity on retirement from the public Service. —

2 Hitherto they have usually been admitted to pension but in June last this

was

No 891 of 1862 Dated 12th May 1862 Despatch

No 631.

Proceedings of the Madras Government

Dated 23rd April 1862.

Communicating extract of a Letter from the Court of Directors establishing the Establishment of the District Moonsiffs declaring them to be uncovenanted Servants and entitled to Pension or Gratuity on retirement & the Rules to be observed in the grant of the same.

was objected to by the Limit Auditor who quoted an Extract from a letter from the Govern.t of India of the 21st May 1861 - para 2 - which runs thus - "Persons employed by the public Officers (such as Moonsiffs and Deputy Collectors) who draw a fixed monthly allowance for waste with the detailed distribution of which the Govt does not interfere, do not receive pay directly from the Government, and cannot therefore be held to be entitled either to Pension or Gratuity". —

3 The actual position of the Sudr Ameen and District Moonsiffs Establishments is thus described in a Memo from the Acting Deputy Registrar, Sudr Adalut 4th July 1862.

"District

"District Moonsiffs and Sudr Ameens draw a fixed monthly sum for their Establishments, to be appropriated with the sanction of Zillah Judges, in such manner as may contribute most to their efficiency - the appointment and removal of Servants on their Establishments being vested in the Zillah Judges, and the Government does not interfere in the disbursement of the authorized allowance, or in the rates of pay 8 Rs - for each Servant entertained". —

4 This was communicated to the Limit Auditor, and he was requested by Mem.m of 8th July last to make a further reference to the Govt of India. He did so and was informed in reply 29th January 1862 that Servants on District Moonsiffs Establishments are

* Note

As respects Deputy Collectors there is a mistake which will have to be brought forward in the Revenue Debit. Deputy Collectors do not draw a round sum as an allowance for Establishments. Their Servants are fixed in detail, just as much as those of Collectors are - Instead a portion of the Collectors Establishment is often transferred to them. —

× No 631/7

are not entitled to Pension-

5 It appears to the Government that the Establishments of the District Mooniffs of this Presidency should not be placed in the condition above adverted to- They can perceive no reason why a fixed establishment should not be assigned to every District Mooniff, as it is to every Talook Tahsildar The Government have lately recommended that x Establishments of the same Cost should be assigned to all District Mooniffs' Courts of whatever class- There could not be much difficulty in drawing out a scale applicable, with perhaps trifling modifications in a few instances, to all District Mooniffs' and Sudder Ameen Courts.-

x Rupees 170 per Annum-

A

6- A system which leaves the arrangement of the Servants of these Judicial Establishments to vary according to the discretion of the Zillah Judges, and still more which, on that ground, or any other debars them from pension, seems to be very objectionable- There cannot be no reason why they should not be admitted to Pension just as much as Moonsiffs or Goomastahs in a Talook Cutcherry- It has lately been an object to improve the condition of the District Mooniffs Courts- No greater incentive can be afforded to good conduct on the part of a Native Servant than the prospect of being able to retire on a pension when incapacitated for further labour

labour. The great advantage of being able to hold this out enables the Government to secure service on lower terms than they would otherwise have to offer, and gives them a strong hold over their servants whilst in their employment. District Moonsiffs Courts will never be what they should be, even though the salaries of the District Moonsiffs themselves, and the aggregate pay of their establishment should be raised, so long as this distinction exists.

this is an excellent

7- The Government resolve to communicate these views to the Court of Sudder Adawlut, and to request their opinion upon them, as also to desire them to submit an uniform scale of Distinct Moonsiffs establishments, ab-

(Modified if necessary in any special cases)

at the entrance scale of Rupees 150 per mensem recently recommended to the Government of India.

8. The question of the right to pension of the principal servants of establishments of Deputy Collectors will be considered with the Revenue Department

The Sudder Court. 3
" Rev. Dept. 3
" Civil Paymaster- 3

Copy of the papers referred to Dept 24th

labour. The great advantage of being able to hold this out enables the Government to secure service on lower terms than they would otherwise have to pay, and gives them a strong hold over their servants while in their employment. In this inducement District Moonsiffs Courts will never be what they should be, even though the salaries of the District Moonsiffs themselves, and the aggregate pay of their establishments should be raised, so long as this distinction exists.

7- The Government resolve to communicate these views to the Court of Sudder Adawlut, and to request their opinion upon them, as also to desire them to submit an uniform scale of District Moonsiffs establishments, (Modified if necessary in any special cases) abstract

at the enhanced rate of Rupees 120 per mensem recently recommended to the Government of India.

8. The question respecting the right to pension or the power of awarding establishments of Deputy Collectors will be considered in the Revenue Department.

The Sudder Court. 3
" Rev. Dept. with a copy of the papers referred to Dep'd 24th
" Civil Paymaster- 3

186 . *Department*

No.

PROCEEDINGS of the MADRAS GOVERNMENT.

Dated

5329] Madras—Printed at the Government Press.