

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1136	Press
		~~Mis.~~
142-143		
Dated	14.7.1863	HH

5/6

Not to be folded or roughly handled

No. 142. Read the following letter from the Honorable A. EDEN, Secretary to the Government of Bengal; to the Chief Secretary to the Government of Fort Saint George, dated Fort William, the 6th June 1863, No. 4,401.

I am directed to acknowledge the receipt of your letter, No. 1,885 of the 20th November last, inquiring what course is observed in this Presidency in regard to the payment of the reasonable expenses of complainants and witnesses attending in Sessions cases, and in reply to state, for the information of His Excellency the Governor of Madras, that no limit as to rate or amount has been authoritatively fixed since the Procedure Code became Law. Previous to the passing of that Law the Judges were guided by the Sudder Court Circular Order, No. 12, dated 14th November 1859, a copy of which is submitted.

2. The Lieutenant-Governor desires me to express his regret for the delay that has taken place in replying to your letter under acknowledgment.

CIRCULAR No. 12, dated the 14th November 1859.

In consequence of a correspondence with the Government, the Court intimate that the Prescribing rate of travelling expenses for non-indigent witnesses which is to be defrayed by the State. travelling expenses of non-indigent witnesses, and a reasonable amount for their diet allowance, will, in future, be defrayed by the State, if demanded by such witnesses when summoned to give evidence in *heinous* cases.

2. The scale of payment is to be fixed by each Magistrate of a District, according to the circumstances of his District, and the classes of persons usually attending the Criminal Courts therein as witnesses. The distance of each Tannah jurisdiction from the Sudder Station and subordinate stations being determined, and the number of intermediate ferries to be crossed, as well as the existence or absence of roads or waterway, being noted in a tabular form, the number of days may be then fixed, which should be allowed for passage to and fro.

3. For the class of Natives that ordinarily attend the Courts to give evidence, the rate of three Annas per diem will, the Court apprehend, suffice for the whole term of absence from home, without any addition as travelling expenses; but this rate may reasonably be increased when provisions are dear.

4. For Natives of higher rank in life, and others, not Europeans, their actual expenses for carriage, not exceeding, however, six Annas a mile, and a sum not exceeding eight Annas per diem for subsistence.

5. For Europeans, likewise, their actual expenses for carriage, not being in excess of six Annas a mile, and a sum not exceeding 2 Rupees 8 Annas per diem for subsistence.

(True Copy.)

(Signed) J. H. CASHMAN,
Offg. Registrar Bengal Secretariat.

No. 113. ORDER THEREON, 14th July 1863, No. 1,136.

Communicated to the Civil Paymaster, in reference to his letter of the 4th November last, No. 1,514.

2. The Law, (Section 438 of the Code of Criminal Procedure,) gives the Sessions Judges the discretion to order payment of the reasonable expenses of complainants or witnesses. The Government do not see that they are called upon to limit the Judges in their exercise of that discretion.

(Signed) J. D. SIM,
Secretary to Government.

Exd. T. McMootry.

Pro: 20th Nov 1862 at 11.40
to 11.2.

June 1863 dep^y
Pro: 14th July 1863

For Order.

The old law
fixed a rate -
the new law leaves
the matter to the
discretion of the
Session Judge. The
Act cannot limit
this discretion, I
suppose -

J. D.

From
The Secretary to the
Govt. of Bengal
Ind. Dep^t No 4401.

18th 6th June 1863
26th

No 1370

With reference to
letter from this Office en-
quiring what course is
observed in that Presidency
in regard to the payment
of the reasonable expenses
of complainants & witnesses
attending in Sessions Cases,
states that no limit as to
rate or amount has been
authoritatively fixed since
the Procedure Code became
Law.

027 June 11.2.
R 30 "
C 10 July
R 14 "

Judicial Department

N-1370

From the Secy to the Govt of Bengal
Dated 6th June 1863

For Orders-

The Law - Sect^y. 438 of the Criminal
Procedure Code gives the Sessions
Judge the discretion. I do not
see that we can limit them in
their exercise of it

J.P.

Judicial.

Proceedings of the Madras Govt.

Read letter from the
Govt. of Bengal—Enter b^d Sans^d 63 N^o: 4,401

Order— 14 July 1863 N^o: 1136.

Communicated to the
Civil Paymaster, in re-
ference to his letter of the
4 Nov. last N^o: 1544.

2. The law, § 438 of the
Code of Criminal Proce-
dure, gives the Sessions
Judges the discretion to
order payment of the
reasonable expenses of
complainants or wit-
nesses. The Govt. do not
see that they are called
upon to limit the
Judges in their exer-
cise of that discretion.

The Civil Paymaster. *clerk*

Pro. Secy
J. H. Smith 1863. Department

No. 1130.

PROCEEDINGS OF GOVERNMENT,

Dated 4.

Pro. Secy
1863.