M.R.O. 1—88,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1734-1738 Press Mis.

48-50

Dated 5-11-1863

9/10

Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department, 5th November 1863.

No. 43. Read the following letter from the Honorable C. H. SCOTLAND, Kt., Chief Justice of the High Court, Madras; to the Honorable the Governor in Council, &c., &c., &c., Fort Saint George, dated Ootacamund, 10th October 1863.

1. I have the honor to acknowledge the receipt of the Chief Secretary's letters of the 5th and 10th of September last, (Nos. 1,443 and 1,461) with copies of Despatches from the Right Honorable the Secretary of State, communicating the views of the Home Government on certain matters arising out of the correspondence between your Excellency in Council and myself relative to the Ministerial establishment of the High Court of this Presidency.

2. Adverting to the 4th paragraph of the Secretary of State's letter of the 31st July last, which has reference to the amount of the salaries of the present holders of the offices of Registrar and Assistant Registrar on the Original side of the Court—(the matters of difference which were at my request submitted for consideration)—I have only to state that, as the Home Government concur with your Excellency in Council that the financial arrangement in respect of such salaries is amply sufficient, the amounts so approved will, as stated in my last letter, be treated as the fixed salaries from the date when the other Ministerial arrangements came into operation; from which date it will be the duty of the Registrar to account for all fees.

3. With reference to the office of Sheriff, the observations made in paragraph 6 of the Secretary of State's letter render it necessary that the eixsting arrangement both as regards the annual tenure of the office and the conduct of business should be continued without change. Should an arrangement come into operation at this and the other Presidencies rendering it incumbent upon *one* Officer personally to discharge the official duties of every kind, it will probably become necessary to secure for the appointment to the office of Sheriff the services of a person possessing special legal qualifications, and of some practical experience. I would add that it is highly desirable the final arrangement to be made should not be delayed.

4. In regard to the propriety and advisability of the future reduction of the salary of the Registrar on the Appellate side of the Court to Rupees 1,500 per month, I entertain very grave doubts. It is of great importance that the Registrar should possess a practical knowledge of the jurisdiction and working of the Courts throughout the Mofussil and generally of the administration of justice, and therefore the office should, I think, as a general rule, be filled by a member of the Civil Service of some standing and experience in the Judicial branch. A monthly salary of Rupees 1,500, considered relatively to the salaries enjoyed in the more advanced grades of the Judicial service, will be found, I fear, inadequate to secure the services of a fully qualified and efficient Officer. Your Excellency in Council possesses full information as to the nature and extent of the Registrar's duties, and will probably concur with me in thinking that the reduction recommended is a matter that requires further consideration. In my view—even acting in this instance, as has been done (mistakenly as it appears to me) in respect of other salaries—upon the arrangements at Calcutta, the salary ought not to be reduced to less than Rupees 1,700 per month.

No. 49. ORDER THEREON, 5th November 1863, No. 1,734.

Communicated to the Offices of Account and Audit.

2. Resolved, that the following letter be addressed to the Chief Justice of the High Court.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

No. 50. To the Honorable Sir C. H. SCOTLAND, Knight, Chief Justice of the High Court of Judicature at Madras, dated Fort Saint George, 5th November 1863, No. 1,735.

HONORABLE SIR,

I am directed by His Excellency the Governor in Council to acknowledge the receipt of your letter of the 10th ultimo, and to inform you that the remarks contained in the 2nd and 3rd paragraphs will be communicated to the Right Honorable the Secretary of State.

Proceedings of the Madras Government, Judicial Department,
5th November 1863.

2. I am to add that the Governor in Council concurs with you in considering the proposed reduction of the salary of the Registrar on the Appellate side of the Court to Rupees 1,500 per mensem to be a measure of very questionable expediency.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. T. McMoctry.

Judicial Department.

No. 35 of 1863.

To

The Right Honorable the Secretary of State for India.

Right Honorable Sir,

We acknowledging the receipt of your Despatch of the 31st July last, No 19, conveying your decision on the questions which we had referred to you, regarding the Ministerial Establishment of the High Court of this Presidency, we have the honor to lay before you the annexed copy of a letter which we have received from the Chief Justice, suggesting that the proposed reduction of the salary of the Registrar on the Appellate Side of the Court to Rupees 1,500 per mensem should receive further consideration.

Pro. 5th November 1863
No 48 @ 50

Rec. 2nd Dec.

2

2. The salary at present attached to the office in question is Rupees 2,187 per mensem. We proposed, on the occurrence of a vacancy, to reduce it to Rupees 2,000. In your Despatch under acknowledgment, you observe that, as the Registrar on the Appellate side of the Court at Calcutta receives a monthly salary of Rupees 1700, and as the appellate business of the Court at Calcutta is much greater than of that at Madras, the salary of the Registrar on the Appellate side at Madras should be reduced, on the appointment of a successor to the present incumbent, to Rupees 1500 a month. The Chief Justice entertains very grave doubts as to the advisability of this reduction. "It is," he observes, "of great importance that the Registrar should possess a practical knowledge of the jurisdiction and working of the Courts throughout the Mofussil, and, generally, of the administration of justice"; and, therefore, the office, he thinks, should, as a general rule, be filled by a member of the Civil Service of some standing and experience in the judicial branch. He is of opinion that the salary ought not to be reduced to less than Rupees 1700 a month.

3. We concur in the opinion of the Chief Justice that a salary of Rupees 1,500 a month is not sufficient to secure the services of a member of the Civil service of that standing and Experience in the judicial branch which are requisite for the office of Registrar on the Appellate side

Side of the High Court. This salary only Exceeds by Rs 100 the Salary assigned to a Subordinate Judge, or a Judge of a Court of Small Causes of the higher grade; and looking to the increased expenses of living at the Presidency, there would be little or no inducement to a judicial officer of the above grade to accept the Registrarship. The result would be, that if the appointment be filled from the Covenanted Civil Service, it would often be held by an officer who had little or no Experience in the judicial branch of that Service. We are clearly of opinion that the Salary should be fixed on such a scale as will enable the

the Chief Justice to Command the services of the ablest of the Subordinate or Small Cause Court Judges.

4. And, here, we would observe that the relative amount of business devolving on the Appellate side of the Courts at the two Presidencies, is by no means an accurate test of the relative duties of the Registrars of those Courts. At Calcutta, the Corresponding office in the late Sudder Court was formerly paid at a much higher rate than that which has been hitherto given at Madras. The Salary It was reduced some years ago for the purpose, as we understand, of raising the Emoluments of the Legal Remembrancer, and on the ground that much of the

business

business which was formerly performed by the Registrar and which, at Madras, is still performed by him under the directions of the Collective Court — was then discharged by one of the Judges who was entrusted with the direction of the English correspondence, including the general superintendence of the working of the lower Courts. These duties at Madras are performed by the Registrar, and occupy far more of his time than that which is given to the more mechanical functions of preparing cases for hearing; and seeing that the Decrees are duly recorded and promulgated. It is his business to examine the periodical returns of work done, to bring arrears or delays to the notice of the Judges, and, Generally, to act as their Secretary in the important duty of superintending the working of the lower Courts. He drafts the correspondence of the Court with the Judges of the Courts below, and with the Government and other Authorities with whom the Judges of the High Court have occasion to correspond. It is, as Sir C. Scotland observes, very desirable and, in fact, necessary that the Officer performing these duties should himself have practical knowledge and experience of the working of the lower Courts; and it is, we think

think, a preferable arrange-
ment that the duties to
which we allude, should
be performed by a minis-
terial officer acting under
the direction and with
the sanction of the Collective
Court, than that any one
of the Judges should be
taken from his strictly
judicial duties to the
exclusive performance of
work which belongs rather
to a Minister of Justice
than to a Judge. We see
no sufficient grounds for
altering the arrangement
under which both functions
have been hitherto vested
in the late Sudder Court,
in the present High Court,
aided by a well paid
ministerial officer, whose

Chief

the business has appertained
to the administrative than
to the judicial functions of
the Court.

5. Entertaining these views,
we deprecate any reduction of the
salary, viz. Rs. 2,000 per mensem,
which, in our Proceedings of the
30th April last, and under the
authority vested in us by
the Letters Patent, we fixed
upon as a suitable salary
for the office.

6. We beg leave, in conclusion
to draw your attention to the
remarks made by the Chief
Justice in paragraph 3 of
his letter, regarding the
office of Sheriff, and to the
opinion expressed by him
that the final arrangement
should be made as soon as
possible. —

W. Morgan
Chief Secty.

18-11-915
11-7-92
21-2-20

FORT SAINT GEORGE.

Judicial (1863.) DEPARTMENT.

Letter to the Right Honorable
the Secretary of State for India,
Dated 7th November
No. 35 of 1863.

Replied to 16th January
No 1 of 1864.

Submitting letter from the
303
Chief Justice of the High
Court, in ~~reference~~ regard to the
Office of Sheriff, and the amount
of Salary proposed for the Registrar
of the Court on the Appellate Side
and deprecating any reduction
of the ~~Allowance~~ sum already fixed
by Government -

Orig.l & Copy to Engd. by the Overland Mail
via Bombay - 7/11/63
Copy to the Govt. of India - 7/11/63

5 November 1863 No 1934.
Communicated to the Offices
of Accounts and Audit.
Record and the following
letter be addressed to
the Chief Justice of the
High Court.

W.H.

To the Accountant
& Asst Paymaster } dated 7th

Poor 5th Sept. 1863 Oct. 1862
10th Dec. Oct. 1861. Mch. 3.

Jud. Dept. No. 1735 of 1863.

Replied to 16th January
Act of 1864.

Judicial. 1863. Septr.

From the Hon'ble the Chief Justice of the High Court. Madras.

Oct. 9 No. 1735 of 1863.

Rec'd 14 Oct 1863.

No 2288

Referring to recent Correspondence respecting the ministerial Establishment of the High Court and to the Secy of State's despatch of the 25th ultimo, observes that a final arrangement ought not to be delayed with respect to the Office of Sheriff - and deprecates the proposed reduction by one fourth of the Salary of the Registrar Appellate side to Rs 1500 a month.

48 3 56

desp 2 Sept

Judicial Department

No. 1735

The Honorable Sir C. A. Scotland, Knight.
Chief Justice of the High Court
of Judicature at
Madras.

Honble Sir,

I am directed by His Excellency the Governor in Council to acknowledge the receipt of your letter of the 10th ultimo, and to inform you that the remarks contained in the 2d and 3d paragraphs will be communicated to the Right Honorable the Secretary of State.

2. I am to add that the Governor in Council concurs with you in considering the proposed reduction of the salary of

of the Registrar on the
Appellate side of the
Court of Rupees 1,500
per mensem to be a
measure of very questionable
expediency.—

Fort St George
5th November 1863

Judt. Ls. to Supt. of
Nov. No. 35 of 1863

6-1-15

5-1-15

20-1-23 W

Jud. , 1863 respectfully

No. 1735.

To The Honorable the
Chief Justice of the
High Court Calcutta.

Dated 5th Nov. 1863.