

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	109	Press Mis.
167-168 Dated	26-1-	19 1864

8/8

Not to be folded or roughly handled*Prud*

JUDICIAL DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following letter from C. F. CHAMIER, Esq., Registrar of the High Court of Judicature at Madras; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated 14th December 1863, No. 142.

I am directed to acknowledge receipt of the Order of Government, dated 20th November 1863, referring to the Judges for their opinion a letter addressed to the Commissioner for the Uncovenanted Civil Service Examinations, by T. Kuppusamy Iyer and six others, complaining that, though they have passed the special test of 1862, they are not allowed the privilege of practising in the lower Courts without previous admission.

2. In reply, I am directed to state that the Judges cannot properly, in a matter of this nature, enter into any explanation. Candidates who have passed the Examination test are qualified to apply for admission as Pleaders; and, if improperly refused admission (which the Judges see no reason to anticipate), they can appeal to the High Court, when the matter will be judicially considered and properly dealt with.

3. I am further to state that the Judges feel it necessary to notice the objectionable form in which the matter has been referred for their opinion. This has been, virtually and in effect, by a simple endorsement on the letter of the petitioners.

To the Honorable Sir C. H. Scotland, Knight, Chief Justice of the High Court of Judicature at Madras, dated Fort Saint George, 26th January 1864, No. 109.

I am directed to acknowledge the receipt of the Registrar's letter of the 14th ultimo, No. 142, replying to the Proceedings of Government under date the 20th November last, No. 1709.

2. In the Proceedings in question, a letter was recorded addressed to Government by T. Kuppuswami Aiyar and six other persons, who had passed the examination according to the special test prescribed for the offices of Pleader and District Moonsiff, requesting that the Government would furnish them with Diplomas which should enable them to practise in any Court in the Provinces. This letter having been referred to the Honorable the Judges of the High Court for their opinion, the Judges state, in their reply, "that they cannot properly, in a matter of this nature, enter into any explanation. Candidates who have passed the examination test are qualified to apply for admission as Pleaders; and, if improperly refused admission (which the Judges see no reason to anticipate), they can appeal to the High Court, when the matter will be judicially considered and properly dealt with."

3. It appears to the Governor in Council that the Judges must have altogether misapprehended the object of the reference which was made to them. The object of that reference was to obtain the opinion of the Court as to the expediency of granting Diplomas to passed candidates for the offices in question; and such suggestions as the Judges might deem it proper to make on the general question of the rights which the passing of the new special test examination should confer on the successful candidates. The letter which was thus referred to the Judges did not contain any appeal against any particular order, but preferred a request and raised a question of general interest to all passed candidates, on which it appeared desirable that the views of the Judges of the High Court should be laid before Government.

4. I am now to request that you will be good enough to inform His Excellency in Council, whether the Judges see any objection to a notification being published, similar to that promulgated by the late Sudder Court in 1855, to the effect that persons who have passed the prescribed special test for the offices of Pleader and Moonsiff shall be entitled to practise as Pleader in the Court of any Zillah, without reference to the number of Pleaders attached to the said Courts, if not open to objection on the ground of general conduct and character; such objection being open to appeal to the High Court. Some such notification seems necessary, with reference to the several changes which have been made in the Examination Rules since the rules of 1855 were promulgated. The Governor in Council also desires the opinion of the High Court as to the

expediency of furnishing passed candidates with Diplomas, and the authority by whom they should be issued. The proper course, he thinks, would be that the High Court, on being furnished by the Commissioner for the Uncovenanted Civil Service Examinations with the lists of the passed candidates, should issue the Diplomas under the signature of their Registrar.

5. With reference to the remark made in the 3rd paragraph of the Registrar's letter now under acknowledgment, regarding the form in which the letter recorded in the Proceedings of Government of the 20th November last was referred to the Judges for their opinion, I am directed to observe that the Honorable the Judges appear to have overlooked the correspondence which took place in August 1862, between the Government and the Judges of the late Supreme and Sudder Courts, regarding the form of communication between the Government and the High Court. In the letter addressed by the Governor in Council to the Judges under date the 5th August 1862, it was stated (paragraph 6) that on the establishment of the High Court all communications from Government to the Court would be made by letters, or *Extracts from the Proceedings of Government, signed by the Secretary to Government in the Judicial Department*; and in their reply, dated the 20th of the same month, the Judges of the late Supreme Court observed, that "as to the mode of correspondence between the Government and the High Court, they had no reason to doubt that the proposed alteration in that respect would be found convenient." The communication to which exception is now taken, is an Extract from the Proceedings of Government, recorded in precisely the same form in which it is usual to record and communicate the orders of Government. The order is no more an endorsement on the letter to which it relates, than any other order of Government recorded in its Proceedings at the foot of the letter or paper entered in such Proceedings. If the reference in question had been made to any Executive Board or Officer under the orders of Government, it would probably have been made in the form of an endorsement on the back of the original letter; but, in consideration of the position of the Honorable the Judges of the High Court, the reference was made in the form of Proceedings of Government, and was strictly in conformity with the arrangement to which the Honorable the Judges of the late Supreme Court intimated their assent previous to the establishment of the High Court, and which, it may be added, is that constantly adopted by the Government of India in their correspondence with the local Governments.

A. J. ARBUTHNOT,
Chief Secretary.

Ed. J. Tulloch

Dated 26/1

Judicial Department
No. 109.

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

Respected Sir,

I am directed to ac-
knowledge the receipt of
the Registrar's letter of
the 14th ultimo, ^{No. 142,} replying
to the Proceedings of Govt.
under date the 20th Nov. last.
No. 1799.

2. In the Proceedings in
question, a letter was received
addressed to Government
by T. Kuppaswami Aiyar
and six other persons, who
had passed the examination
according to the special
test presented for the
Office of Pleader and

District

District Proconsul, requesting
that the Government would
furnish them with the
diplomas which should
enable them to practice
in any Court in the
Provinces. This letter
having been referred to
the Honorable the Judges
of the High Court for
their opinion, the Judges
state, in their reply, that
"they cannot properly, in
a matter of this nature,
enter into any
explanation. Candidates
who have passed the Exami-
nation test are qualified
to apply for admission as
readers; and, if improperly
refused admission, (which
the Judges see no reason
to anticipate,) they can
appeal

"appeal to the High Court,
"when the matter will be
judicially considered and
properly dealt with."

3. It appears to the Governor
in Council that the Judges
must have altogether
misapprehended the object
of the reference which
was made to them. The
object of that reference
was to obtain the opinion
of the Court as to the expe-
diency of granting diplomas
to passed Candidates for
the offices in question, and
such suggestions as the
Judges might deem it
proper to make on the
general question of the
rights which the passing
of the new special test
examination should confer
on the successful Candidates.

The letter which was thus referred to the Judges, did not contain any appeal against any particular order, but preferred a request and raised a question of general interest to all passed Candidates, in which it appeared desirable that the views of the Judges of the High Court should be laid before Government.

4. I am now to request that you will be good enough to inform His Excellency in Council, whether the Judges see any objection to a Notification being published, similar to that promulgated by the Late Sudder Court in 1855, to the effect that persons who

who have passed the prescribed special test for the Offices of Pleader and Mooneiff, shall be entitled to practice as Pleaders in the Court of any Zillah, without reference to the number of Pleaders attached to the said Courts, if not open to objection on the ground of general conduct and character, such objection being open to appeal to the High Court. Some such Notification seems necessary, with reference to the several changes which have been made in the Examination rules since the rules of 1855 were promulgated. The Governor in Council also desires the opinion of the High Court as to the expediency of furnishing passed Candidates with

with diplomas, and the
authority by whom they
should be issued. The
proper course, he thinks,
would be, that the High
Court, on being furnished
by the Commissioner for the
Unconquered Civil Service
Examinations with the lists
of the passed Candidates,
should issue the diplomas
under the signature of
their Registrar.

5. With reference to the
remark made in the 3d
paragraph of the Registrar's
letter now under acknow-
ledgment, regarding the
form in which the letter
recorded in the Proceedings
of Govt of the 20th November
last was referred to the
Judges for their opinion;
I am directed to observe
that

that the Honble the Judges
appear to have overlooked
the correspondence which
took place in August 1862
between the Government
and the Judges of the Late
Supreme and Sudder Courts,
regarding the form of com-
-munication between the
Government and the High
Court. In the letter addressed
by the Governor in Council
to the Judges under date
the 3th August 1862, it was
stated (para. 6) that on
the re-establishment of the
High Court, all communications
from Government to the
Court would be made by
letters, or extracts from
the Proceedings of Govern-
-ment, signed by the Secretary
to Government in the
Judicial Department;

And

And in their reply dated
the 20th of the same month
the Judges of the Late Supreme
Court observed, that "as
"the mode of correspondence
"between the Government
"and the High Court, they
"had no reason to doubt
"that the proposed alteration
"in that respect would be
"found convenient." The
Communication to which
exception is now taken,
is an Extract from the
Proceedings of Government,
recorded in precisely the
same form in which it
is usual to record and
communicate the orders
of Government. The order
is no more an endorsement
on the Letter to which it
relates, than any other
order of Government recorded
in its Proceedings at the
foot

foot of the Letter or paper
entered in such Proceedings.
If the reference in question
had been made to any Executive
Board or Officer, under the
Orders of Government, it
would probably have been
made in the form of an
endorsement on the back
of the original letter; but,
in consideration of the position
of the Honble the Judges of
the High Court, the reference
was made in the form of
Proceedings of Government,
and was strictly in confor-
mity with the arrangement
to which the Honorable
the Judges of the Late Supreme
Court intimated their assent
previous to the re-establishment
of the High Court. The
Governor in Council is
entitled to say that
the

* and which, it may be
admitted, is not instantly
adopted by the Govt.
of India in their com-
munications with the local governments.

Fort St. George }
26 January 1864 }

21-6-12 ✓

6-4-14 ✓

Judicial 1864 Dept

Nº 100.

Proceedings of the Mad. Court

File 564

Dated 26 January 1864.

Making a further reference
to the High Court respecting the
grant of Diplomas to Candidates
who have passed the Pleaders'
& Provisors' Tests - & offering
certain observations regarding the
form in which the previous
reference in the subject was
made to the Judges.

107-108