

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1979	Press ~~Miss~~
Dated	4-12-1918	7

Not to be folded or roughly handled

Read the following papers:—

No. 40. From E. F. WEBSTER, Esq., Acting First Judge of the Small Cause Court, Madras, to the Chief Secretary to Government, Fort Saint George; dated Madras, 16th November 1867, No. 67.

I have the honor to submit, for the information and orders of Government, a short account of the circumstances under which the enclosed correspondence between Mr. Samuel Richard Dawes and myself took place, while that gentleman was an Acting Judge of the Madras Small Cause Court.

2. Section 14 of Act XXVI of 1864 gives the First Judge of the Presidency Town Small Cause Court, the power to distribute the work of the Court, and to alter such distribution from time to time.

3. One of the rules of the Madras Small Cause Court, to which Mr. Dawes' attention has been specially drawn, is that each Judge, after disposing of all the cases assigned to him at the commencement of the day, shall, till 3 o'clock in the afternoon, assist the other Judges who may be over-worked. The object of this rule is to avoid, as far as possible, the necessity of adjourning cases and putting suitors to unnecessary expense.

4. On Tuesday last, the number of cases allotted to me happened to be unusually small, and, therefore, at half-past one o'clock, I sent to know what assistance I could render the other Judges. I was informed that Mr. Runganadha Shastri had 14 adjourned cases waiting, besides the whole of the list assigned to him for that day, and that Mr. Dawes had left the Court and gone home. I then wrote* to

* See letter marked A.

Mr. Dawes requesting he would be good enough to explain the reason of his leaving Court so early while so much work remained undone.

5. The following day, Mr. Dawes wrote me a reply,† written in such an unbecoming and offensive style that I was under the necessity of calling on him‡ to withdraw his letter and apologize;

† Copy enclosed, and marked No. 1.

‡ See letter marked B.

and, as he has failed to do so, I now lay the matter before Government for such notice as may be considered necessary.

6. In paragraph 2, Mr. Dawes mentions my having sent him a verbal message, inquiring the cause of his leaving Court so early. I did not do so, and even if I had done so, it would have been no excuse for Mr. Dawes' intemperate writing.

7. With regard to Mr. Dawes' concluding remark in paragraph 3, I have only to repeat that the object of the rule to which I have referred is that suitors should not suffer by unnecessary delay; the personal convenience of the Judges being a secondary matter.

8. Again, with reference to the legal doubts which Mr. Dawes mentions in paragraph 4, the Government will at once perceive that it would be an idle thing to invest the First Judge with power to distribute the work of the Court if the other Judges could with impunity act upon their doubts as to whether the First Judge has any such power.

9. In conclusion, I have only to add that I received no intimation from Mr. Dawes that he was too unwell to attend to his business. In the discharge of my duty,

Proceedings of the Madras Government, Judicial Department,
4th December 1867.

I wrote him the letter marked A. I have given him time to reflect, and have in my letter B offered him a *locus penitentie*, of which he has not availed himself, and I am now, therefore, compelled to lay before Government the facts connected with a most unjustifiable attack on myself in the performance of my duty as a public servant.

A.

From E. F. WEBSTER, Esq., Acting First Judge of the Small Cause Court, Madras, to S. R. DAWES, Esq., Acting Judge of the same Court; dated Madras, 12th November 1867, No. 61.

I have the honor to request that you will furnish me with an explanation of the cause of your leaving Court to day before 2 o'clock p. m., leaving Mr. Runganadha Shastri with fourteen adjourned cases and his regular list.

No 1

From S. R. DAWES, Esq., Acting Judge of the Small Cause Court, Madras, to E. F. WEBSTER, Esq., Acting First Judge of the same Court; dated Madras, 13th November 1867.

I have the honor to acknowledge the receipt of your letter, requesting me to "furnish you with an explanation of the cause of my leaving Court yesterday before 2 o'clock p. m., leaving Mr. Runganadha Shastri with fourteen adjourned cases and his regular list."

2. In reply, I cannot help expressing my astonishment at your calling upon me for any such explanation, inasmuch as I intimated the cause of my leaving, in answer to a verbal message you sent me by one of the Court subordinates—a proceeding on your part not only unofficial but objectionable, and ill-calculated to uphold the dignity of the Bench, of which you are an occupant alike with myself.

3. However, with reference to your letter, I may state that, after my own cases for the day had been disposed of, and before rising from the Bench, I directed my Interpreter and Clerk to inform you and Mr. Runganadha Shastri, in the event of your requiring my assistance, that I was unable to remain longer, suffering as I was at the time from a severe catarrh and heaviness of the head. Mr. Runganadha was informed accordingly, and did not, under the circumstances, wish to trouble me with a single case, thus leaving no room for the inference implied in your letter that my absence occasioned him any inconvenience.

4. I further have to express my surprise at the receipt of a public communication from you on such a subject, and your investing it with such importance as to make it a matter of Court record, particularly as you must have been aware that all the cases assigned to me for the day had been disposed of by myself. Legally, I doubt whether I am bound to do more, though, at the same time, as a matter of accommodation, I have, as you must admit, never objected to relieve you of some of the cases pending before you when my own had been gone through.

5. I would only add my opinion that the Government, to whom we are both indebted for our appointments, never contemplated or intended that your fellow Judges should be so subordinated to you as to render it necessary that they should be subjected to the same species of discipline and supervision as may be exercised over the clerks of the office.

B.

From E. F. WEBSTER, Esq., Acting First Judge of the Small Cause Court, Madras, to S. R. DAWES, Esq., dated Madras, 13th November 1867, No. 65.

I have the honor to inform you that, unless you furnish me, before the Court opens tomorrow morning, with a request to be permitted to withdraw your letter of this date, and with a written apology for the very offensive expressions contained in it, I shall be under the necessity of submitting for the orders of Government the correspondence which has passed between us.

Proceedings of the Madras Government, Judicial Department,
4th December 1867.

No. 41. From E. F. WEBSTER, Esq., Acting First Judge of the Small Cause Court, Madras, to the Chief Secretary to Government, Fort Saint George; dated Madras, 18th November 1867, No. 68.

At Mr. Dawes' request I beg to submit the enclosed letter from him, in connection with the subject which I reported to Government in my letter of the 16th instant.

2. With regard to the verbal message which he states I sent him, the facts are as follows:—

After I was informed that Mr. Dawes had left the Court, and after drafting my letter A, asking for an explanation of the reason of his doing so, I sent my clerk to Mr. Shaw, the Chief Clerk of the Court, to ask whether Mr. Shaw knew the reason of Mr. Dawes' departure. It seems that Mr. Dawes had closed his Court, and was sitting in conversation with Mr. Shaw, in the latter's office, when my messenger arrived; and my clerk, not liking to speak to Mr. Shaw while Mr. Dawes was present, asked Mr. Dawes' clerk if he knew why the Judge had closed his Court so early. The reply was to the effect that Mr. Dawes had a cold in his head. This message was repeated as coming from me addressed to Mr. Dawes. It is clear that, in quitting the Court at the hour he did, Mr. Dawes disobeyed a rule framed by the First Judge; that he is equally angry at receiving from me either a verbal message or an official letter on the subject; and that he questions the authority of the First Judge to notice the matter. Mr. Dawes' proposal that I should withdraw my letter A, and his easy excuse for not answering it sooner, show how far he yet is from understanding his position, and from perceiving that he has been guilty of great impertinence and insubordination.

3. I desire only to add that, if the Small Cause Court is really to be a convenience to the Public, it is absolutely necessary that the work of the Court should be distributed in a manner most likely to conduce to such convenience; that the power to distribute is vested by law in the First Judge; and that, if the other Judges may, with impunity, set his arrangements at defiance, the whole business of the Court will soon fall into the wildest confusion.

From S. R. DAWES, Esq., late Acting Judge of the Small Cause Court, Madras, to E. F. WEBSTER, Esq., Acting First Judge of the same Court; dated Madras, 16th November 1867.

I regret that I was unable to answer your letter of the 13th earlier. It reached me late on Wednesday evening, and since then I have been busy in removing my family to another house, and making arrangements for my own journey to Cuddapah.

2. In reply to your communication, I beg to state that I shall be happy to withdraw my letter, provided you cancel yours to which it referred, for I still consider that your communication was perfectly uncalled for, inasmuch as a message from you was delivered to me by one of the Court subordinates in the presence of Mr. Shaw, the Chief Clerk, and a reply returned to the effect that I was leaving Court because I was feeling unwell. Mr. Shaw himself further assures me that he also informed you of this fact.

3. In case you should still determine to lay the matter before Government, I request you will forward this letter with the rest of the correspondence.

*Proceedings of the Madras Government, Judicial Department,
4th December 1867.*

No. 42. ORDER THEREON, 4th December 1867, No. 1979.

From the correspondence above recorded, it is evident that Mr. Dawes mistook his position, and the provisions of Act XXVI of 1864, in questioning the power of the First Judge to lay down rules for facilitating the working of the Small Cause Court at the Presidency.

2. The Governor in Council considers that Mr. Dawes is deserving of censure for the improper style in which he has addressed the First Judge.

3. Although Mr. Dawes is without excuse for the disrespect and impatience which are exhibited in his letters, the Governor in Council considers that Mr. Webster might, with advantage, have adopted a less peremptory mode of calling on Mr. Dawes for explanation of the early closing of his Court. It was unnecessary to call upon Mr. Dawes so abruptly for an official explanation of his absence, and especially with reference to an absence which was caused by indisposition, as seems to have been verbally explained to the First Judge before he despatched his official letter.

(True Extract).

Chief Secretary.

To E. F. Webster, Esq.
„ S. R. Dawes, Esq.

*I think the tone of Mr.
Dawes' letter is entirely
and it is evident that
he was mistaken in
questioning the right of the
Judge to appoint
the duties of the Court.
but I think that Mr.
Dawes wrote under
some irritation. Mr.
Webster is after all
only a human being
and before writing*

a running official letter
then on such a subject
he ought to have consulted
him personally or written
him a private letter.
That sort of courtesy is
very useful in the
transaction of business
and W. Webster should
I think have known
it. It was the more
desirable because Mr.
Dawes is an East India

and might be particularly
susceptible in his
position. Mr. Webster's
letters are rather
petulant too. Mr.
Webster seems to have
also sent off his
public letter after
receiving an informal
repetition through
subordinates that Mr.
Dawes was indisposed.
If he did not wait

for the explanation
he ought to have done
so having sent a
page to enquire into
the cause of Mr. Dawes
absence.

I am willing to name Mr.
Dawes but only on the
condition that Mr. Webster
be told that he ought to
have asked Mr. Dawes
for information in the first
instance. - a more
conciliatory answer
Jr.

x
Mr. Brewster's memo. is
equivalent to an order
of Court - though the word
"order" does not appear
in it. W.D.

Memo for order.

By section XIV of Act XXVI of
1864: The first Judge of the
Small cause court is given
required
power to make such arrange-
ments as he shall think fit
in distributing the suits and
general business of the court
among the Judges. -

Part of the ~~the~~ arrangement made by
Mr. Webster the Acting First
Judge (suggested by Mr. Bartol
the 1st Judge, absent,) was "that
each Judge will upon finishing
the cases allocated to himself
send to the Courts of the other
Judges alternately commencing

with the senior Judge for cases
of the day remaining undisposed
of by them. This each Judge
will continue to do up to 3 pm
except he be prevented from
doing by some sufficient
reason.

On Tuesday the 12th Nov. Mr.
Webster 1st Judge had finished
his ~~file~~ the cases on his file
& reading at 1/2 past 1. he
found the 3rd Judge with a
very heavy file & that the
2nd Judge Mr. Dawes had
left his court.

He went to ask him why he
had left so early (letter A)
which elicited an answer
(letter B) which is I submit most

improper in style throughout.
Mr. Dawes states that he was suffering
from catarrh, & that he had sent
to Mr. ^{Webster} Brookes & to Rungunadhu
sister the 3rd Judge to tell them
of his absence. - & that the 3rd Judge did
not hand over any of his cases to him.
He then questions whether he is
legally
bound to do more than the
cases assigned to him at the
commencement of each day.
but he is clearly wrong in this
for the 1st Judge had presided
as he is empowered by Law
Rules for the conduct of business
& among them is the Rule
I have quoted above.
Mr. Dawes also says that Mr.
Webster sent him a verbal
message enquiring the cause
of his closing his court late.
This Mr. Brookes Webster denies.
On this point it seems that after

drafting his letter asking Mr. Dawes why he was away he had a clerk to write Mr. Shaw the head of the office whether he knew why Mr. Dawes had gone - & Mr. Dawes considered this message as addressed to him as he was in Mr. Shaw's room at the time the message was given to Mr. Shaw's subordinate.

Mr. Webster gave Mr. Dawes an opportunity of withdrawing his letter which he refused to do unless Mr. Webster with drew his first letter & asking why he had left the Court.

Mr. Dawes closing his court if he was unwell it is no matter for censure even if he omitted to give notice which would have been more regular; but I submit he should be censured for the tone of his letter to Mr. Webster the 1st Judge & for questioning the legality of his distribution of the work of the Court.

Mr. Dawes' letter of the 13th inst. exhibits much petulant violence in style and shows that he is ignorant of his duty as a Judge of a Supreme Court. - I submit the public of the State are much indebted to Mr. Bartlett & to Mr. Webster for laying down a rule by which the daily work of the Court has a chance of being done out of hand when set down for hearing, instead of undergoing frequent adjournments for the benefit of attorneys but to the great inconvenience of suitors - Mr. Dawes should be severely censured. W.D.M.

Memorandum

As the plan for distributing the business of the Court, which I have lately directed to be followed, has had the effect of placing Mr. Shaw, the Chief Clerk of the Court, in a position which he regards as unpleasant and invidious, I have decided on abandoning it.

In future the business of the day will be divided numerically among the Judges as formerly - all attorneys Cases and all Cases under the extended jurisdiction of the Court being as heretofore set down for trial by the First Judge. Each Judge will, upon finishing the Cases allocated to himself, send to the Courts of the other Judges alternately, commencing with the Senior Judge, for Cases of the day, remaining undischarged by them. This each Judge will continue to do up to 3 1/2 P.M. except he be prevented from so doing by some sufficient reason.

Madras Court of
Small Causes } Signed Thomas M. Bartlett
August 16th 1866 } First Judge.

(True copy)
Shaw

Chief Clerk

X 3

Memo

The Acting First Judge desired
me to observe the following practice, in
the distribution of Suits, among the
Judges. Vizt.

The Sheets for each day, to be
equally divided, and all the dependant
cases, in such division of Sheets, to be
sent to each of the Judges, commencing
with the First Judge; thus - if there are
Fifteen Sheets for the day, they are to be
divided and distributed as follows: the
first five sheets for the First Judge, the
Second five sheets for the Second Judge,
and the third five sheets for the Third Judge.

The Sheets containing Ex parte
Moses &c, to be equally divided between
the Second and Third Judges as heretofore.

Signed L. Shaw,
Clerk
6th April 1867.

True Copy!
Memo
Chief Clerk

Memorandum

For the better dispatch of business
in the Madras Court of Small Causes.

The Acting First Judge, regarding
the Second and Acting Third Judges to adapt,
from this date, the suggestion offered by
Mr Bristed the First Judge in his Memo-
-randum of the 16th August last, Vizt,
that "each Judge will, upon finishing the
" Cases allocated to himself, send to the
" Courts of the other Judges alternately,
" Commencing with the Senior Judge, for
" Cases of the day remaining undispensed
" of by them. - This each Judge will continue
" to do upto 3 P. M., except he be pre-
" vented from so doing by some sufficient
" reason"

*not 3 1/2 as
suggested by
Mr Bristed

Madras Court of Small Causes } Signed Foster Webster
19th June 1867 } Acting First Judge

/ True Copy /
Main
Chief Clerk

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the
Acting 1st Judge, Small Cause
Court Madras.

Here enter 16th & 18th Nov/67 No 67460

Order 4 December 1867/8: 19779-

From the correspondence
above recorded it is evident
that Mr Dawes mistook
his position, and the princi-
ples of Act XXVI of 1864 in
questioning the power of the
1st Judge to lay down Rules
for facilitating the working
of the Small Cause Court
at the Presidency.

2 The Governor in Council
considers that Mr Dawes
is deserving of ~~some~~ censure
for the improper and
intemperate style in which
he has addressed the
1st Judge.

Although

Wm
a/n

3 Although Mr. Dames
is without ~~any~~ excuse for the
disrespect and ^{impudence} ~~insolence~~
which are exhibited in his
letters, the Governor in
Council considers that Mr.
Webster might, with ad-
vantage, have adopted a
less peremptory mode of
calling on Mr. Dames for
explanation of the early
closing of his Court. It
was unnecessary to call
upon Mr. Dames ^{so abruptly} for
an official explanation
of his absence ^{and especially with reference to an absence} which was
caused by ^{indisposition} ~~illness~~ and
as might have been
~~which was~~ verbally ex-
-plained to the 1st Judge
before he despatched
his Official letter.

Edw
To E. F. Webster Esq. } despatched 9/12
- S. A. Dames Esq. }

W. D.
1867. Department.

No. 1979

PROCEEDINGS OF GOVERNMENT.

Dated 4th December 1867