

MADRAS RECORD OFFICE.

Government of Madras.

Journal DEPARTMENT.

G.O. No. 309	Press <u>Mis.</u>
Dated 27-2-1967	

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Not to be folded or roughly handled

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*Proceedings of the Madras Government, Judicial Department,
27th February 1867.*

No. 236. Read the following letter from C. N. POCHIN, Esq., Acting Magistrate of Salem, to the Chief Secretary to Government, Fort Saint George; dated Salem, 25th January 1867, No. 7.

I have the honor to request that Government will be pleased to vest the Magistrate of the District and the Division Magistrates with a discretionary power to pay all witnesses who may be summoned to appear either before themselves, or before any Court subordinate to them, the *bona fide* travelling expenses, and a reasonable daily allowance of batta, during such travelling time.

2. In certain Magisterial cases, witnesses have to be summoned from great distances, such as Madras, Coimbatore, Trichinopoly, &c., to give evidence on matters in which they are not personally interested; and, in the present state of things, these witnesses have to travel at their own expense, receiving in return the present sanctioned amount of two Annas a day. Some of the witnesses so summoned are very often not in a position to defray the expenses at their own cost, being indigent; and if such witnesses are to be dispensed with merely to avoid their being put to inconvenience and annoyance, the ends of justice must be frustrated.

3. In the Order of Government, dated 30th September 1864, No. 1440, Magistrates are only authorized to disburse batta to indigent complainants and witnesses in cases tried by them, but no provision is made whatever for defraying to them their travelling expenses, so much so that Mr. Arbuthnott, late Magistrate, I am given to understand, paid to a witness summoned to appear at Trichinopoly, in a case of theft, the amount of Rupees 10 to meet his travelling expenses.

4. If the witnesses were summoned to give evidence in the High Court at Madras, they will be entitled to a reasonable amount, to meet their expenses, under the Order of Government, dated 7th September 1863, and I do not see why, upon the same principle, witnesses appearing at a Magistrate's Court from distant places should not be allowed the same immunities.

5. I have made this reference, at the instance of my Acting Head Assistant Magistrate, before whom there is a case under investigation, in which he has had to summon witnesses from Arcot, Raneepett, Madras, Cuddapah, Erode, and Cuddalore.

No. 237. ORDER THEREON, 27th February 1867, No. 309.

In the foregoing letter, the Magistrate of Salem recommends that Magistrates of Districts, and Magistrates in charge of Divisions, be vested with a discretionary power to pay all witnesses who may be summoned to appear before themselves, or any Court subordinate to them, their *bona fide* travelling expenses, and a reasonable daily allowance of batta for the time occupied in travelling.

2. Mr. Pochin refers to the Order of Government, dated 30th September 1864, No. 1140, while sanctioning the grant of batta to indigent complainants and witnesses attending before any Court, does not provide for the payment of travelling allowances to such witnesses, and urges that complainants and witnesses summoned to attend before Magisterial Courts in the interior are entitled to travelling allowances and compensation for other expenses, equally with witnesses summoned to give evidence in the High Court, Madras, to whom such allowances are granted, under the Order of Government, dated 7th September 1863, No. 1437.

Proceedings of the Madras Government, Judicial Department.
27th February 1867.

3. Provision is made by Section 438 of the Criminal Procedure Code for the payment of the reasonable expenses of complainants and witnesses attending before the Courts of Session, and the Government are of opinion that it is not unreasonable to make provision for the payment of *bona fide* travelling expenses incurred by persons coming from considerable distances to attend before Magisterial Courts, who are not in a position to defray such expenses without difficulty, or great inconvenience.

4. Previous, however, to passing final orders on the subject, the Government desire that Mr. Pochin will submit a more explicit statement of the nature and rates of the allowances which he would propose, explaining whether he intended that the actual cost of travelling by rail should be paid to those availing themselves thereof, and whether he would recommend the payment of expenses incurred by those availing themselves of other means of locomotion.

Chief Secretary.

To the Magistrate of Salem.

Ed. J. H. Burns

100-30-Sept 1864 No 255-256.
21- March 1866 No 175-176.
7- Sept 1863 No 52-53.
27- May " No 235.
4- March 1860 No 70-71.

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Judicial Department.

Memorandum for orders.

Read letter from the Acting
Magistrate of Salem (Here enter 25th Janr, 187- No 7.)

" In the foregoing letter the
Magistrate of Salem recommends
that Magistrates of Districts
and ^{Magistrates} officers in charge of divisions
be vested with a discretionary au-
thority to pay all witnesses who
may be summoned to appear
before themselves or any court
subordinate to them their
own full travelling expenses
and a reasonable daily
allowance of board during
the time occupied in travelling.
Mr. Pochin explains that
sometimes witnesses have
to be summoned from
great distances, and that
under present rules, they have

Respectfully,
J. H. Pochin

receiving only the sanctioned
batta of 2 annas per diem;
that G.O. 30th September 1854,
no 1440, authorizes the payment
singly of batta to prosecutors
and witnesses but makes no
provision for the payment
of their travelling charges;
and that as the expenses of
parties sent from the interior
to give evidence in criminal
cases at the High Court of
original jurisdiction in
criminal prosecutions, are pay-
able to them under G.O. 7th
September 1853, no 1437, witnesses
attending Magistrates Courts
in the District from distant
stations should also be placed
under similar advantages.

The Orders of the 30th Sept
1854 authorize Magistrates
to disburse batta to indigent
complainants and witnesses
in all cases, whether commit-
table to the Session Court
or disposable by any other
Criminal Court. Section 10

of the Code of Criminal Procedure
sanctions indeed the payment
of the reasonable expenses of
any complainant or witness,
but is of restricted application,
the authority being confined
to Courts of Session in trials
held before themselves.

Orders are requested.

[Signature]

I think that this might be
allowed in the case of persons
who do come from some
considerable distance,
and who are not in a
position to bear such
expenses themselves
without much
inconvenience.

I think so too. But seeing that the "four pice
travelling expenses" of persons of that class would be
nothing beyond the cost of their daily food,
Mr. Fitcher would have explained that they
have a down the line - and of course
that he does mean - Does he have to
have a bull cart or tattoos or

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter
from the S^r. Magistrate of Salem.
(Here enter 25th January 1867 No. 7)

Order thereon 27 Feb 3. 1867 No. 309.

In the foregoing letter
the Magistrate of Salem re-
commends that Magistrates
of Districts and Magistrates
in charge of Divisions be vested
with a discretionary power
to pay all witnesses who
may be summoned to
appear before themselves or
any Court subordinate to
them their bona fide travel-
ling expenses and a reasonable
daily allowance of batta
during the time occupied
in travelling.

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Mr. Pochin represents that the order of Government dated 30th September 1864 No. 1140 while sanctioning the grant of batta to indigent complainants and witnesses attending before any Court, does not provide for the payment of travelling allowances to such witnesses, and urges that complainants and witnesses summoned to attend before Magistral Courts in the interior are entitled to travelling allowances and compensation for other expenses equally with witnesses summoned to give evidence in the High Court. Madras to whom such allowances are granted under the order

(5)
of Government dated 7th September 1864. No. 1137.

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Provision is made by section 438 of the Criminal Procedure Code for the payment of the reasonable expenses of complainants and witnesses attending before the Courts of Session, and the Government are of opinion that it is not unreasonable to make provision for the payment of bona fide travelling expenses incurred by persons coming from considerable distances to attend before Magistral Courts who are not in a position to defray such expenses without difficulty or great inconvenience.

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Provision however to passing final orders

on the subject the Govern-
ment desire that Mr. Pechin
will submit a more explicit
statement of the nature
and rates of the allowances
which he would propose,
explaining whether he intended
that the actual cost of
travelling by rail should be
paid to those availing
themselves thereof and
whether he would recommend
the payment of expenses
incurred by those availing
themselves of other means
of locomotion.

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Mr. Pechin has submitted a
statement of the nature and
rates of the allowances which
he would propose to pay to
those availing themselves of
the rail, and also of the
expenses incurred by those
availing themselves of other
means of locomotion. The
statement is in the form of
a table, and is as follows:

116

Mayor of Salem Dec 2/3.

17th June

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India 1852. Department.

No. 309.

PROCEEDINGS OF GOVERNMENT.

26.5.50.

Dated 24th February 1852.

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