

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 33/	<u>Press</u> <u>Mis.</u>
<i>11-13</i> Dated 1-3-1918	

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Not to be folded or roughly handled

FROM

A. J. ARBUTHNOT, Esq.,

Chief Secretary to the Government of Fort Saint George,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,

HOME DEPARTMENT.

SIR,

I am directed to submit, for the consideration of His Excellency the Governor General in Council, the annexed copies of a correspondence which has taken place with reference to an objection raised by the Audit Department of this Presidency to passing deputation allowances to a District Moonsiff of one of the lower grades appointed to act as a 1st Class Moonsiff.

2. The Governor in Council thinks it very inexpedient that the rule on which the Accountant General has acted should be applied to District Moonsiffs.

I have the honor to be,

Sir,

Your most obedient Servant,

FORT SAINT GEORGE,
1st March 1867.

Chief Secretary.

From the Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, Fort Saint George; dated Madras, 20th November 1866, No. 65.

The Government are aware that the District Moonsiffs of this Presidency are divided into three grades, promotion to the 1st grade being regulated by merit only, provided that a limited number be not exceeded, while a vacancy in the second grade is filled up as of course by the Senior Moonsiff of the 3rd grade, if of unexceptionable character and fair ability. When a Moonsiff of the 1st grade has been appointed by Government to act as Principal Sudder Ameen, it has been the practice of the High Court, if they consider any Moonsiff or Moonsiffs of the lower grades deserving of the promotion, to appoint the best to act in the 1st grade. The Judge's intention in such a case has been that the promoted Moonsiff, who is fit for permanent employment in the 1st grade if there were a vacancy, should draw so much of the additional pay attached to that appointment as remains available.

2. Several cases of the kind described have before occurred, and the additional pay claimed has been passed by the Account Department without objection. It will, however, be seen from the annexed letter that the Acting Deputy Accountant General, acting on what he conceives to be the *spirit* of an Order of the Financial Department,* has declined to grant to a Moonsiff in this position any addition to the pay of his substantive rank.

* Dated 23rd April 1866, No. 104.

3. It appears to the Acting Chief Justice and Judges that to justify a departure from that which has been the regular practice of the Service, there should be a specific order directing a different mode of dealing with the particular case, unless, indeed, the reason given for the rule is such as manifestly to bring the new case within the rule because it is within the reason.

4. It is clear that the present decision is not justified by the words of the rule. Its reason, as given by its framers, is that the Deputy Collector might, without any remuneration at all, be directed to perform, at the pleasure of his superior, the duties of the absent Deputy Collector.

5. The reason seems, therefore, wholly inapplicable to a case in which the receipt of the allowances does not depend upon the duty performed. The 1st Class Moonsiff after his promotion performs exactly the same duties as he performed before. There could be no delegation to him, at the pleasure of any superior, of the duties of the absent Moonsiff. They are other duties and performed in another sphere; and the result of the Paymaster's construction is to make, in each case of the delegation of a 1st Class Moonsiff to perform the duties of a Principal Sudder Ameen, one less first Class Moonsiff, and to deprive the Judicial Service of a stimulus to exertion which it was the intention of the Government, when they divided the Moonsiffs into classes, to afford.

6. I am accordingly directed to request you to lay the matter before the Right Honorable the Governor in Council for such directions as he may consider proper.

From the Deputy Accountant General, Madras, to the Registrar of the High Court, Appellate Side, Madras; dated Fort Saint George, 3rd November 1866, No. 3820.

Post Audit Department.

With reference to the Extract of Proceedings of the High Court, dated 27th ultimo, sanctioning a moiety of the pay of a 1st Class Moonsiff to Jayaram Row, District Moonsiff of Combaconum, while acting in that grade, I have the honor to state that, under the spirit of the Orders of the Government of India, No. 104, dated 23rd April 1866 (copy herewith furnished), a District Moonsiff of one class acting for a District Moonsiff of a higher class cannot receive any extra allowance, but must be restricted to the pay of his substantive rank.

Referred to the Accountant General for his remarks.

FORT SAINT GEORGE,
12th December 1866.

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

From the Accountant General, Madras, to the Chief Secretary to Government, Fort Saint George; dated Fort Saint George, 29th January 1867, No. 373.

Post Audit Department.

With reference to endorsement, dated 12th ultimo, on the letter from the Registrar of the High Court, Appellate Side, No. 65, dated 26th November last, I have the honor to observe that, as stated in my letter to Government in the Revenue Department, No. 372, of this day's date, the rule which appears to be alluded to in the Order of the Government of India, No. 104, dated 23rd April 1866, is not confined to Deputy Collectors, but is generally applicable to all Officers whose appointments are in classes, and that, in accordance therewith, a District Moonsiff of one class acting for another of a higher class is not entitled to any deputation allowance, without the special sanction of the Government of India, exempting such Officers from the operation of the rule in question.

Ed. J. H. Burns.

To

Judicial Department.
No. 331.
The Secretary to the Government
of India,

Home Department.

Sir,

I am directed to submit for the consideration of His Excellency the Governor General in Council, the annexed copies of a correspondence which has taken place with reference to an objection raised by the Audit Department of this Presidency to passing Deputation allowances to a District Moonsiff of one of the lower grades appointed to act as a 1st Class Moonsiff.

2- The Governor in Council thinks it very inexpedient that the rule on which the Accountant General has acted should be

24-8-10

Judicial 1867 Department
N^o 331

25-4-13

To
The Secy. to the Govt.
of India

File 1204
1734/68
159/69
Dated 1st March 1867.

1/2

be applied to District Commisr.

[Signature]
65/13/10
1/2

Fort St. George }
1st March 1867 }

HC13.