

BACK PAPERS.

G.O.	No	Department.	Date.	G.O.	No	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

CURRENT No. 537

Judicial {1895.} Department.

No.

FROM

Ag.
The Registrar of the High Court
of Judicature, Appellate Side,
Madras.

Dated 26th March } 1895.
Received 27



No. 896.
Enc. *one*

Forwarding with remarks
letter from the District Judge,
Kistna bringing to notice
the conduct of the Super-
-intending Engineer of the
First Circle in writing an
uncivil and improper official
letter to an officer exercising
Judicial powers.

25/4/95

C.S.

For notes

The facts of the case are clearly
set forth in Mr. Hanmuth's letter.
May an explanation be called
for from Mr. Sarath this M.C.D.
This appears to be a matter for the
P.W.D. to deal with; & the papers may
as well be transferred at once with the
request that as a judicial officer is
concerned, the orders which are proposed
to pass may be sent here for counter-
initials.

D
2-4-95

W. H. 18/4

N

Encl. No 857

20-4-95
Transferred to the P. W. D.

*fair copy of sent
Signed by us
19/4*

*Att.
1/4/95.*

18-6

Every letter, whether printed or in manuscript, should be docketed and abstracted on the back ; and the abstract should state clearly the purport of the letter and not merely its title subject.

Enclosures and statements also, whether sent with letters, or merely under cover, should be numbered, docketed and abstracted. The headings of statements should be written in full to prevent mistakes. (G. O., 8th April 1893, No. 239, Public.)

[G]
[71.]
500-17-10-94.

of any intentional dis-
courtesy on the Subject
of

R 31/5

For *Full*

C. No. 2654/95

MEMORANDUM.

Requested for reference the under-mentioned paper.

Judicial current N^o 1537 and its
enclosures transferred to the P. W.
under Judicial Endorsement

N^o 857 of 20.4.95

CHIEF SECRETARIAT,

May 1895.

To

The Under Secy to Govt Under Secretary.

P. W. Dept (Genl Branch)

495

1895 N^o 1196
in the papers

15/5

J. Smith C.A.
disps 7/6/95

note p. H.C.

Please show this to Public
Dep't.

17/6/95

submitted to S.A.

H.C.

15/6

To me, Secy. When is going to
be considered, communicate this to Mr.
D. Elwin who is longer a
To be

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following

Letter from the Acting Registrar of the High Court
Appellate Side No. 896 dated 26th March 1895.
Endorsement by the Judicial Dept. No. 857
dated 20th April 1895.

Letter from the Supt. Engineer I Circle No.
96-G.S. dated 1st May 1895.—

I have the honor to return the enclosures
received with your L^{ts} of 25th April 1895.

2. The facts of the case are given in
Mr. Hammett's letter and I should be quite
content to let those facts speak for themselves.

3. Mr. Hammett charges me with having
written an uncivil, improper, and discomfiting
letter. I invite attention to this letter which
I consider I was perfectly justified in writing,
and which I submit cannot possibly bear
the construction placed upon it by Mr.
Hammett.

4. I also invite attention to Mr. Hammett's
endorsement on my letter "This man must
be handed up to Government" which might
I think, be fairly described as uncivil,
improper and discomfiting.

5. I adopted the wrong procedure in

trying to get Mr. Paul's evidence taken on commission, but the District Judge did not "expect from me a knowledge of the most elementary principles of legal procedure" whilst I unfortunately made the mistake of expecting Mr. Hammett to be conversant with ordinary official etiquette.

6. I submit that my letter N^o 1968 G. S. of 22nd January 1895 should have been answered by the District Judge. It was written in the interests of the public service, and the District Judge would have best answered those interests by answering it. The least he could have done was to have indicated the proper course for me to take, but to absolutely ignore a letter from the local head of a department on the ground of its informality, was I think decidedly unusual not to say disinclined.

7. I submit also that the District Judge was wrong in not answering my telegram of 21st February, and again wrong in sending a deferred wire in answer to my urgent telegram of 26th February.

8. Mr. Hammett might have inferred from my urgent wire asking him to address Mr. Paul C/o Steamer Agents Locamada, that Mr. Paul had left his Division and gone to Locamada, with the intention of proceeding at once to Masulipatam by sea. If Mr. Paul had not been starting for a day or two I should not have sent an urgent telegram.

9. Mr. Hammett's deferred telegram

informing Mr. Paul that his evidence would be taken later on on commission was given to Mr. Paul at Masulipatam where he arrived on the 27th February. He was informed that a steamer would leave for Locamada the next day and decided to return by it. Mr. Paul has just left for England and I cannot be certain of all the circumstances that influenced him in this decision. I know that he was most anxious to get back to his work and if he had waited to give his evidence he would have been delayed at Masulipatam for another week till the next steamer arrived. Of course he could have returned to his head quarters by Berwada and Ellore, but he had made no arrangements for this journey, as he had been daily expecting to hear that his evidence could be taken on commission.

10. The fact of Mr. Hammett at last condescending to answer my informal request shows that there was no insuperable objection to his answering it at first.

11. As he did not take the course which I feel sure would have been adopted by most officers in his position, Mr. Paul was put to much personal inconvenience, the work in a very important Salt Division was hindered, and considerable unnecessary

expense had to be incurred by Government.
12. I felt that all this could have been easily avoided, and that there could be no proper reason for allowing it to occur. It was clearly my duty to protest against the inconsiderate treatment Mr. Paul had received, and though I should be extremely sorry if I had been led to write what could be correctly described as unkind, improper and discourteous, I submit that my letter was a perfectly proper letter for one local head of a department to write to another.

Note by the Chief Engineer S. V. Sept.
dated 11th May 1895:—

I have perused the whole of this correspondence with the greatest care and must confess myself entirely unable to find anything in Mr. Garrett's communications which can by any stretch of language be described as unkind, discourteous or improper.

2. That his action in applying to the Judge by official letter instead of by motion in court through an authorised pleader was irregular, may be admitted, although I believe that irregularities of this kind are committed pretty often without any objection being taken, but there is a wide difference between a technical irregularity of this sort and "incivility" or

"impropriety."

3. Now far Mr. Hammett and Mr. Elwin were justified in sacrificing the public convenience to their sense of judicial etiquette is a point upon which I am not qualified to offer an opinion but that by their refusal to answer the references made to them they did as a matter of fact cause very great inconvenience is beyond a doubt.

4. Looking at the matter from the point of view, not of judicial etiquette but of common sense and ordinary courtesy, Mr. Elwin's obvious course would seem to be to have informed Mr. Garrett in reply to his first letter that no notice could be taken (if such was the case) of his request unless it was made by a pleader in court, but to take no notice whatever of a request evidently made in good faith by an officer in Mr. Garrett's position appears a course of very questionable propriety from any point of view.

5. Mr. Hammett has in point of fact abandoned his whole position by ultimately, after a delay of two months, giving by telegram the very reply which his locum tenens might have given in the first instance.

6. It is somewhat remarkable that

Mr. Hammett's sense of judicial etiquette will not allow him to answer an official reference from an officer of high standing in another department, upon a matter seriously affecting the interests of the public service, but does allow him to discuss "unofficially" with a party to a suit the nature of the evidence to be given by a witness in that particular suit, and to make official use of the information thus "unofficially" obtained, including the exceedingly improper reference of the party in question to the action of his departmental senior.

7. Mr. Garrett of course knew nothing of the nature or importance of the evidence to be given by Mr. Paul, as the suit referred to a district outside his own Circle; that he did know was that it was most inconvenient for one of his Executive Engineers to be removed away from his Division at the busiest time of the year. He suggested for consideration a means of avoiding this inconvenience, and suggested it in a manner which though perhaps technically irregular was the one which nearly nine officers out of a hundred would have adopted under similar circumstances.

If there has been any incivility, impropriety or discourtesy in the matter, it has certainly not been on Mr. Garrett's part.

(S) John Pennington, Col. R.E.,
Chief Engineer S.W. Dept.

Order: — No. 1278 W. dated 29th May 1895

Mr. Garrett's action in communicating with the District Judge by letter instead of by motion in court was irregular, but it is to be regretted that neither Mr. Elwin on receipt of Mr. Garrett's letter No. 1968 L.S. of 22nd January 1895, nor Mr. Hammett, when the letter and Mr. Garrett's first telegram were shown to him, took steps to correct the error in which the latter had fallen.

2. Government has a right to expect its officers to render to each other assistance and advice whenever circumstances arise which show that they are necessary for the proper carrying out of duties connected with the public service, and had this course been adopted by Mr. Elwin in the first instance much inconvenience and trouble would have

been saved.

3. The Government acquits Mr. Garrett of any intentional dishonesty in his letter of the 28th February 1895 N. 822 G.S., but considers that its despatch was injudicious.

(True Extract)

John B. and J. Colwell,
Secretaries to Government, P. O. Dept.

NOTE FOR THE CHIEF SECRETARY.

Please see S. A's query.
Does G.S. consider it necessary
that the S.O. should be commd
to Mr. Edwin who is now
Mr. Colwell (2nd Agent),
Tricky?

15/6/95.
I submit that the
matter is not of
sufficient importance to communicate
copies of the papers to Mr. Edwin.
The High Ct. will send to the
Dist. Judge Mr. Hammett who
has concerned.

The Supts Engineer & Co.
Judicial Dept.

When given for copying _____
When copied _____
When examined _____
When signed _____

189.

READ AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Copy in full.
B = Not to be copied.
F = Copy abstract only.
Q = Copy heading only.