

Judicial (1895) Department.

ORDINARY MS.

G.O., No. /332

Dated 22nd June 1895

INDEXED.

[Despatch Abstract.]

PETITION.

Transferring to the District Magistrate of Malabar----from
Abubekar Coonjoo of Anjengo represent^{ing} the troubles to which he has
been put for having deposed in the Anjengo murder case against Magist
strate Konthi Menon and requesting that the Menon Magistrate may be
transferred, &c.

BACK PAPERS.

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

FURTHER PAPERS.

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

[$\frac{G}{9}$]
2,000-23-1-05.

Current No. 2922

Judicial DEPARTMENT.

From Abubekar Coonyoo,
Kannima thundu-para-
-yadam, Kooduthala, Angico.

Order d/ 22nd June 1895 No 1332
The petn. will be transferred to the
Dm. Malabar & the petn. informed accordingly.

22/6/95

No. -

Dated 7th June 1895
Received 18th

Enclosures "

To Dm. Malabar. S+ with petn.
.. Petn. S+.

DETAILED
28 JUN 95
IN M.S.

19.6.95

SUBJECT.

Representing the troubles to which
he has been put for having deposed
true facts in the Angico murder
case against Magistrate Konthumman
and requesting that the Magistrate be
transferred & that an investigation
ordered to be made by the collector in
the matter.

18/6/95
19/6/95

Note. As the petn. has already addressed the Dm but
received no final orders yet. para. II seems inapplicable
in this case; strictly speaking it is applicable
because he hasn't sent copies of the
order complained of.

One

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

189 .

READ AGAIN G.O., No.
189 ,

DATED

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BRING MRANT FOR DESPATCH
IN ORIGINAL.

N.B.—

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

No. 11 July 878

FROM

J. P. HEWETT, ESQ., C.I.E.,
Offg. Secretary to the Government of India,

TO

Home Department.
Judicial.

Simla, the 11 June 1895.

SIR,

I AM directed to forward the enclosed copy of a Despatch* from Her Majesty's Secretary of State, intimating that his attention has been called to certain complaints as to the difficulties which confront an applicant for the repayment of a fine which an Appellate Court has ordered to be refunded and to the expense which such an application entails, and conveying suggestions for dealing with such cases.

2. The Government of India, as at present advised, incline to the opinion that the best mode of giving effect to the wishes of the Secretary of State in this matter would be to lay down that it is the duty of the original Court, on receipt of the Appellate Court's order for the refund of a fine, to immediately prepare the payment order, if the fine has been levied, and to deliver it to the payee, whether he applies for it or not. It appears to the Governor General in Council that the rules as to repayment ought not to require any written application from the person entitled to it, and that if an applicant for refund should at any time present such a written application it should be accepted on plain paper, without any Court fee. If proper arrangements are made for the prompt delivery to the payee of the payment order immediately after the order of refund has been passed, it may be anticipated that such applications will disappear altogether.

3. The Governor General in Council will be glad to learn how far the principles indicated, which appear to have the support of the law, are carried out in the rules and orders issued by the

I have the honour to be,

SIR,

Your most obedient Servant,

J. P. HEWETT,
Offg. Secretary to the Government of India.

No.

COPY, with copy of the Secretary of State's Despatch, forwarded to the Government of Bengal and the Chief Commissioner of Assam for information

No.

COPY, with copy of the Secretary of State's Despatch, forwarded to the Foreign Department for information and the issue of the necessary orders to the Local Administrations subordinate to that Department.

By order,

C. H. A. HILL,

Offg. Under-Secy. to the Govt. of India.

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INDIA OFFICE,
London, 17th January 1895.

Judicial,
No. 1.

To His Excellency The Right Honourable the Governor General of
India in Council.

MY LORD,—My attention has been called to certain complaints as to the difficulties which confront an applicant for the repayment of a fine which an Appellate Court has ordered to be refunded, and to the expense which such an application entails.

2. I believe it to be a universal rule throughout India that all orders passed in appeal shall be forthwith certified to the Court of first instance. The latter Court must therefore be in a position to deliver to the applicant the necessary certificate, or order on the treasury, as soon as he has furnished satisfactory proof of his identity. There can be no ground for requiring him to furnish an official copy of the appellate order or judgment, or any other document besides his bare application.

3. And again at the treasury the mere production of the Court's order or certificate should be sufficient. If any application is presented, it seems to be exempted from Court-fee under section 19 of the Court-fees Act, 1870, Article XX. It seems doubtful, however, if this would be held to cover the application made to the Court, although the sole object of such application is to obtain an order in the nature of a cheque for the payment of money due by Government.

4. I request that your Excellency's Government will cause inquiries to be made as to the practice followed in the several Provinces and pass such orders as may be necessary to secure prompt repayment in these cases. If it is found that a Court-fee is levied on the applications presented to the Court which has levied the fine, it should be considered whether they should not be exempted under the power reserved to your Excellency in Council by section 35 of the Act.

I have the honour to be,

My Lord,

Your Lordship's most obedient, humble Servant,
H. H. FOWLER.

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