

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 1333

Dated 22nd June 1895

INDEXED.

[Despatch Abstract.]

REPAYMENT OF A FINE WHICH AN APPELLATE COURT
HAS ORDERED TO BE REFUNDED.

Referring to the Hon. the Judges of the High Court, for report, letter from the Government of India forwarding copy of a despatch from the Secretary of State intimating that his attention has been called to certain complaints as to the difficulties which confront an applicant for the---and to the expense which such an application entails and conveying suggestions for dealing with such

G.O.	No.	Department.	Date.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER -

FURTHER PAPERS.							
G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
	5044				1185		
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	184		95-fo Rho		1393		
			96 fo		21-12-95		
					151-2		
					23-1-96		

CURRENT No. 2928

Rept. to the Hon. the Judges
of the High Court in favour
of report.

22/6/95.

no. $\frac{11 \text{ July}}{878}$

Dated 11th } June 1895
Rev 18th }

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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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No. 878

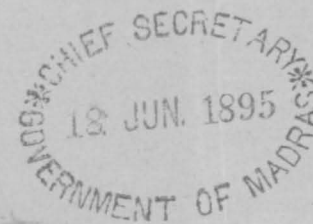
FROM

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

TO

The Chief Secretary to the Government of Madras.

Home Department.
Judicial.



Simla, the 11th 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 *High Court at Madras.*

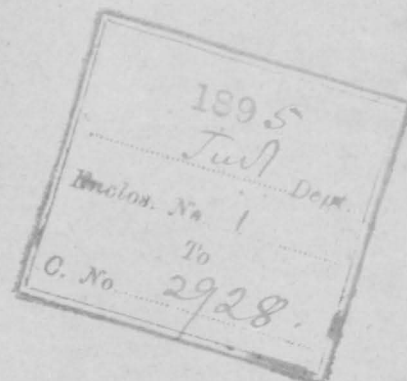
I have the honour to be,

SIR,

Your most obedient Servant,

J. P. Hewett

Offg. Secretary to the Government of India.



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Judicial,
No. 1.

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FROM

No.

J. P. HEWETT, ESQ., C.I.E.,

INDIA OFFICE,

17th January 1895.

Offg. Secretary to the Governor

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By order,
COPY, C. H. A. HILL,
Under-Secy. to the Govt. of India.

Judicial,
No. 1.

INDIA OFFICE,
London, 17th January 1895.

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My Lord,

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

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TO

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Judicial.

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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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Given for copying

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DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

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LETTERS OF GOVERNMENT.

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N.B.—

A = Copy in full.

B = to be copied.

abstract only.

heading only.