

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 364

Dated 18th Feb. 1895.

INDEXED.

[Despatch Abstract.]

BACK PAPERS.

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80	2967		6-12-94				

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
80 R	573.		1895				

[9]

LOCAL AND MUNICIPAL DEPARTMENT.

359
Judicial Dept.

fo. 2967 6.12.94 mis
674 14.4.90 mis
fo. 129 16 June 87

From

The Crown & Public
Prosecutor

No.

Dated 28 — 1 — 95
Received 28 — 1 — 95
Enclosures 29 — 1 — 95

SUBJECT.

Reqs that Compensation
may be made to him for the
services he rendered in the
prosecution of Mr John Stafford
Chief Storekeeper, Madras Electric
Tramways Company.

High Court House Madras

28th January 1895

From,

Willie Grant Esq^r

Barrister-at-Law

To,

Crown & Public Prosecutor, Madras.

The Chief Secretary to Government

Fort St. George

Madras.

Sir,

1. I have the honor to report with reference to Proceedings of Government Judicial Department N^o. 2967 dated 6th December 1894 directing me to appear and Prosecute Mr. John Stafford, Chief Storekeeper Madras Electric Tramways Company and one Andy a Carting Contractor of the said Company in certain cases of Theft of that Company's property then pending in the Town Police Court Madras, that the cases were taken up and gone into by Mr. Maskell the Magistrate on the 4th, 5th, 7th, 10th, 11th, 12th and 13th days of December last and on 10th and 17th days of January instant the Prisoner Mr. Stafford being defended by Mr. Gaulty Barrister-at-Law.

2. One case had been disposed of by the Magistrate against the Accused Andy on the 27th November last before receipt of the Government Order referred to above the Prisoner being sentenced to seven months Rigorous Imprisonment therein.

3. The

3. The second case (being the first of those conducted by me) was disposed of by the same Magistrate on the 10th Instant the first Accused Stafford being sentenced to one years Rigorous Imprisonment and the second Accused Andy to nine months Rigorous Imprisonment.

4. The third case (being the second of those conducted by me) was disposed of by the same Magistrate on the 17th Instant the only Accused therein being Andy who was sentenced to eight months Rigorous Imprisonment making an aggregate of sixteen months Rigorous Imprisonment.

5. The fourth case (being the third of those conducted by me) was disposed of by the same Magistrate also on the 17th Instant & the only accused therein Mr. Stafford, was acquitted.

6. The Properties the subject matter of the offences in the 2^d, 3^d and 4th Cases respectively were of the values of Rs. 343.12.0 and Rs. 686.0.0 (the same items of property being the subject of enquiry in the 3^d & 4th Cases). All the property has been restored to the Tramway Company.

7. These Prosecutions were in the interest of the Tramway Company for the punishment of their servants but as I understand the Commissioner of Police applied for my services because he considered my presence essential.

8. The Proceedings of Government dated 16th June 1887 N^o. 1291 Judicial define the duties of my office to be inter alia the duty of Prosecuting in Government Cases before the Presidency Magistrates and as the several days enumerated above have been under the orders of Government devoted to these Prosecutions I trust I may be permitted to bring the facts to the notice of Government in order that it might be considered whether any Compensation should be made to me for the services I have been called upon to render for my loss of time and other engagements.

9. I would add that the Government Solicitor was not directed to give me any assistance and I have consequently been obliged to do the whole work of obtaining instructions, selecting the necessary witnesses, and applying for Processes to issue to them, in addition to attendances in Court on the several days above referred to.

10. I desire to mention that this application is not without precedent as on the 14 April 1890 Government by Order N^o. 674 Judicial sanctioned payment to me of a Special Fee of Rs. 2000/- for Prosecuting in the Town Police Court certain Cases known as the "Godowns^{skut} Riot Cases" in which my services were applied for by the Commissioner of

Police

Indl

Police and my time was taken up for several days.

I have the honor to be
Sir,

Your most Obedient Servant,

N. Dean

Barister at Law &
Crown and Public Prosecutor.

Judicial
DEPARTMENT.

No. 359 of 95

From

Dated

189

FOR ORDERS.

Please see letter from the
Comr of Police Maoras under
Cover of G.O. 2967 of 6. 12. 94.
Mr. Stafford has been Committed
and sentenced to One Year's rigorous
imprisonment.

The Crown Prosecutor now
asks that it might be considered
whether any compensation should
be made to him for the services
rendered, loss of time & loss of
other engagements. He further
states that as the Govt. Advocate
was not instructed to assist
him he was obliged to do the
whole work of obtaining witnesses
&c. himself. He attended the
Magistrates Court for 9^{1/2} days in all.

In the Godown riot case which
lasted 40 days he was given Rs.
2000/- The Godown riot case was treated
as a special case, and it is expressly
suggested that it cannot be quoted as
a precedent.

The duties of the Crown Prosecutor
as defined in para. 41 of G.O. 11070 of
2nd May 89 requires the Crown
to conduct cases before the
Magistrates.

The duties of the Crown Prosecutor
are as follows:-

90 834
2-4-74

"to conduct prosecutions before the Presidency
"magistrates in all cases in which the prosecution
"is instituted or carried on by or under
"the orders, or with the sanction of the Govt.
"the Govt. Solicitor furnishing them with
"the necessary briefs in every such case?"

- In this particular case, the procs. was
instituted by the police (on the complaint
of the Tramway Co. (Imagined), & Govt. on
the recommendation of the Commr. of Police
directed that it should be carried on by the
Crown Prosecutor.

- It appears to me that the procs. was
part of his legitimate duty. - The Gordon
case is apparently a parallel case to
this. From the notes in order it appears
that the special fee was sanctioned because of
the length of the case; Mr. Grant represented that
it had taken up nearly all his time for three
months. In this case however, Mr. Grant was
present at only 9 sittings, & we do not know
how many hours these lasted. This alone does
not appear to justify a special fee; Mr.
Grant however raises a second contention viz.
that he was not assisted by the Govt. Solicitor
as he should have been. - There

was not time to instruct the Govt. Solicitor
(in the present instance)
Mr. Grant's order were received only on the
evening of the day to which the case was
adjourned. A copy of the order was however
communicated to the Govt. Solicitor on the
15th, the same day that the formal order went
to Mr. Grant. This address must have been
endorsed on the foot of Mr. Grant's copy & if the
Govt. Solicitor did not instruct him, he
should have asked him why. The Govt. Solr.
too must have known that the communication
of the order to him meant that he was to
assist the Crown Prosecutor.

8
7-2

I asked the question regarding the Govt. Solicitor

Fees

Crown Prosecutor

+ Tramway kept case

H.M.
(2000000000)

Put up

90. 576 834 1035
31. 3. 74 2. 4. 77 16. 4. 77 14. 5. 77

8
5-2

Put up
of

Remittance

[G
25]

500-26-0-04

DEPARTMENT

C. No.

FOR ORDERS.

BW
13/4/95

instructing ^{before} the order went on C. The
Govt. Solicitor knew the procedure well enough.
The Crown Prosecutor ought to have known
do too & it was his fault if he got
his assistance; he had no work for it.
I submit that no special payment
should be allowed. The C.D. must
take the rough with the smooth. He
draws his pay for a considerable
part of the year for doing absolutely
nothing and his salary is fixed in
consideration of his having to do odd
jobs occasionally - it is very occasionally
in the way of prosecutions before
Residency Magistrates.

88

12/2/95

C. 18 Feb 1895. No 364.

Order The Govt. does not consider that Mr.
Grant has made out a sufficient case for the
grant of a special fee. It was clearly part
of his duty to conduct the prosecution in accordance
with the orders of Govt. & that he received
no assistance from the Govt. Solicitor appears
to have been mainly due to his own failure
to ask for it. A copy of 90. No 2967 of 6
December 1894 was communicated to the
Govt. Solicitor, ~~who must have~~ in order
that he might understand that he was to
assist in the case. The fact of such com-

90 834
2-4-77

"to conduct prosecutions before the Presidency"
"may be in all cases in which the prosecution"
"is instituted or carried on by or under"
"the orders, or with the sanction of the Govt"
"the Govt Solicitor furnishing him with"
"the necessary briefs in every such case?"

- In this particular case, the procs. was
instituted by the police (on the complaint
of the Tramway Co. (Imagined), & Govt on
the recommendation of the Commr. of Police
directed that it should be carried on by the
Crown Prosecutor. - To appear & prosecute was
part of his legitimate duty. - The Gordon
case is apparently a parallel case to
this extent; from the notes in orders it appears
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the length of the case; Mr Grant represented that
it had taken up nearly all his time for three
months. In this case however, Mr Grant was
present at only 9 sittings, & we do not know
how many hours these lasted. This alone does
not appear to justify a special fee; Mr
Grant however raises a second contention viz.
that he was not assisted by the Govt Solicitor
as he should have been. - ^{There is no} ~~There is no~~ ^{proof} ~~proof~~ ^{of this} ~~of this~~ ^{circumstance} ~~circumstance~~
was not time to instruct the Govt Solicitor
Mr H's orders were received only on the
morning of the day to which the case was
adjourned. A copy of the order was however
communicated to the Govt Solicitor on the
14th, the morning that the formal order went
to Mr Grant. This address must have been
addressed on the foot of Mr Grant's copy & if the
Govt Solicitor did not instruct him he
should have asked him why. The Govt Sol.
too must have known that the communication
of the order to him meant that he was to
instruct the Crown Prosecutor.

8
7.2

I asked the question regarding the Govt. Solicitor

Fees

Crown Prosecutor
+ Tramway Case

H.M.
(200 notes)

Put up.
90. 576
31. 3. 74
834
2. 4. 77
1035
26 4. 77
1271
146. 87
X
5-2

Respectfully
yours

[G.
25]
5(9)-26-0-04.

DEPARTMENT.

C. No.

FOR ORDERS.

BS
13/2/95

instructing ^{before} the order went on. The
Govt. Solicitor knew the procedure well enough.
The Crown Prosecutor ought to have known
do too & it was his fault if he got
no assistance; he had no work for it.
I submit that no special payment
should be allowed. The C.D. must
take the rough with the smooth. He
draws his pay for a considerable
part of the year for doing absolutely
nothing and his salary is fixed in
consideration of his having to do odd
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in the way of prosecutions before
Residency Magistrate.

12

C.S.
12/2/95
18 Feb 1895. No 364.

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grant of a special fee. It was clearly part
his duty to conduct the prosecution ^{in accordance} ~~in accordance~~
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to ask for it. A copy of 90 No 2967 of 6
December 1894 was communicated to the
Govt Solicitor ~~who must have~~ ^{in order} ~~in order~~ ^{that he} ~~that he~~ ^{might understand} ~~might understand~~ ^{that he was to} ~~that he was to~~ ^{assist in the case.} ~~assist in the case.~~ ^{The fact of such com-}

... should have and ...
... had a ... for his
... services

(from orders)

15-2 55 16.2.95

The Crown Prosecutors
19/2/95

Fees

Crown Prosecutors
Tramway Theft case

R.M.

(From orders)
(from orders)

then given for copying
then copied
then examined
then signed

189

HAD AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

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.
P = Copy abstract only.
Q = Copy heading only.

A A A A A A A

C 13/2
R 14/2