

[$\frac{J}{53}$]
1,000—26-7-86

Judicial (1895) Department.

ORDINARY MS.

G.O., No. 592-593.

DATED 19th Mar. 1895.

INDEXED.

[Despatch Abstract.]

HATTA TO WITNESSES.

Informing the Government of Bombay that no claims for travelling allowance to certain officers of the Salt, Opium and Abkari Departments not in receipt of permanent travelling allowance when they are in their official capacity summoned by Police officers to give evidence appear to have been preferred in this Presidency.

Ind.

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. 652

From

The Govt of Bombay

Financial Dept.

No 479

Dated 9. 2. 96

Recd 11. 2. 96

Regd 11. 2. 96

Subject

Reqn? information as to
whether the Govt of I order
Enclosed within, is held in the
Madras Pres? to be the grant of
traveling allowance to officers
of the Customs, Salt Dept
when they are summoned by
Station Officers to give evidence
in any case

Pls En

of Enq

Rich (arcs) have

Come up before

25/1/96

9.0.16/3/75 No 626 S.C. pub
25/1/75 No 163
6/3/75 No 326
27/6/73 No 999
8/12/73 No 1921

CS

Order Encl 479 27/1/95 No 405

Referred to the

& Board of Revenue

and the accountant

General for favor

of remarks -

To the Board of Revenue (S. A.)

Here: the Rev. Secy

The acct. part, with encl. 3

21.2.95

note the B. Bay Encl.
wants to know, whether the
Officers of the Salt Admin
are (not in receipt of per
traveling allowance) when sent
by train, at least 7 days -
I have not seen any other
any similar case. I
do not want to be
in the way of the

No 1163.

From

J. J. Chichele Snowden, Esq.,
Officiating Under Secretary to the Government of India,

To

The Secretary to the Government of Bombay.

Fort William, the 14th September 1874.

Home Dept.
(Judicial) Sir,

I am directed to acknowledge the receipt of your letter No 4825, dated 25th ultimo, recommending that Chief Constables of Police in the Bombay Presidency may be permitted to grant batia in special cases to witnesses who are summoned before them under section 118 of the Criminal Procedure Code.

2. In reply I am to say that the intention of the Code of Criminal Procedure was clearly that reasonable expenses should be paid only to those persons are summoned to attend a Criminal Court for the purposes of a trial, and the Governor General in Council sees no reason for travelling in this respect beyond the limits allowed by the law. Indeed it seems to His Excellency in Council that there are material objections against extending these limits. To do so in the manner proposed would probably tend to encourage the Police in the practice of sending for witnesses and trying cases at the Police Station instead of proceeding to the spot where the crime was committed. It would also open a door to gross frauds which would be almost certain to abound, and which it would be nearly impossible to check. It would be likely also to cause a heavy increase to the charge for Police, for although the proposal has not been urged by any other Government, its nature is such that if sanctioned for one Province, would require to be extended to all India.

3. Under these circumstances His Excellency in Council is not inclined to comply with the recommendation of the Bombay Government.

Shave the honour to be, &c,

J. J. C. Snowden.

Officiating Under Secretary to the Government of India.

P.K.

No. 3019 of 1894.

FINANCIAL DEPARTMENT.

Bombay Castle, 14th September 1894.

FROM

THE HONOURABLE

MR. G. W. VIDAL, I.C.S.,

ACTING CHIEF SECRETARY TO THE
GOVERNMENT OF BOMBAY;

TO

THE SECRETARY TO THE

GOVERNMENT OF INDIA,

DEPARTMENT OF FINANCE AND COMMERCE,

SIMLA.

SIR,

The Government of India in their letter in the Home Department, No. 1163, dated 14th September 1874, refused to permit Chief Constables of Police in the Bombay Presidency to grant batta in special cases to witnesses who were summoned before them under Section 118 of the Criminal Procedure Code, on the ground that to do so would probably tend to encourage the Police in the practice of sending for witnesses and trying cases at the Police station instead of proceeding to the spot where the crime was committed, and would also open a door to grave frauds which would be almost certain to abound, and which it would be nearly impossible to check. The Commissioner of Customs, Salt, Opium and A'bkári now reports that on the authority of this order the Accountant General has ruled that travelling allowance to officers of the Salt Department, under the ordinary rules, is inadmissible for journeys made to give evidence before, or information to, Police officers. The Commissioner observes that officers of the Customs, Salt, Opium and A'bkári Departments are constantly concerned in the detection of offences under the Arms, Opium and A'bkári Acts, which are cognizable by the Police, that it frequently happens that an officer has to travel a considerable distance in order to give evidence or information regarding such offences at a Police station, and that subordinate officers are not animated by such burning zeal for the public service that they will interest themselves in the detection of offences when success will leave them out of pocket, and that thus the detection of offences will be discouraged and the efficiency of the Department diminished. On its being pointed out to the Accountant General that the Government of India's decision referred to above did not affect the question of the admissibility of travelling allowance under the Civil Service Regulations to the officers in question, that officer has reported that, with regard to officers who under Departmental rules are

Ind. Dep.
3

652

2

required to give information of offences which come to their knowledge in the course of their official duties and who proceed to Police stations to lay such information, he has no doubt at all that they are entitled to draw travelling allowance under the ordinary rule contained in Article 1132 of the Civil Service Regulations, but that with regard to such officers summoned to appear before a Chief Constable or other Police officer in enquiries under Section 160 of the Criminal Procedure Code, the case is doubtful, as in that case they are not acting *suo motu* or in obedience to the orders of their superior officer in the pursuance of their ordinary duties, but are summoned at the will of the Chief Constable or other Police officer. He appears to hold that the fact of the Government of India having laid down certain special rules for the case of officers summoned to give evidence takes the case out of the operation of the ordinary rules, and desires that as the special rules do not exactly cover it, the orders of the Government of India may be taken. I am accordingly to request the favour of a ruling on the point, and in doing so am to observe that as this Government understand the question, Article 1132 lays down the general rule that officers travelling on duty are entitled to travelling allowance, and the effect of Articles 1244 and 1245 is merely to qualify the general rule by explaining that journeys made in compliance with summonses issued by courts are not to be treated as journeys on duty, unless the evidence the officer is summoned to give relates to facts with which he has to deal in his official capacity. In such cases he is entitled to travelling allowance on the understanding that any *batta* he may get from the court is to be credited to Government; otherwise he ranks as an ordinary witness and must look to the court for payment of his expenses. It is true that these special rules do not specifically mention the case of officials summoned by a Police officer. But the question is not one of taking advantage of that omission to give travelling allowance in a case in which on the principles laid down in the special rules it would not otherwise be admissible, but only of giving it in cases in which it would be admissible either under the general or special rules. There is obviously no reason why in the case of a Government servant called upon to supply information in cases in which he is not concerned otherwise than as an official in the discharge of his duty any distinction should be made between journeys made *suo motu* and journeys made in compliance with the orders of the Police.

I have the honour to be,

Sir,

Your most obedient Servant,

G. W. VIDAL,

Acting Chief Secretary to Government.

No 6170 P

Government of India

Finance and Commerce Department.

Calcutta, the 19th December
1894.

To
The Secretary to the Government of
Bombay

Sir,
I am directed to acknowledge the receipt of your letter No 3019, dated 14th September 1894, referring for orders the question as to the title to travelling allowance of officers of the Customs, Salt, Opium and Akbari Departments, Bombay, for journeys made by them to give evidence before, or information to, Police Officers.

2 In reply I am to say that the Government of India consider that the view taken by the Accountant General is correct, namely that travelling allowance is admissible under the Civil Service Regulations to an officer proceeding to a Police Station to lodge a complaint or give information of an offence but that under the orders of the Government of India in the Home Department, No 1163, dated 14th September 1894, no allow

is admissible to an officer summoned
by a Police Officer to give evidence before
him. It appears to the Government of
India that there is a real distinction
between the case of an officer proceed-
ing to the Police Station Ex officio to
make a complaint, and that of an of-
ficer summoned by a Chief Constable.

The former is a necessary step towards
setting the law in motion, but the latter
is not. In the latter case the Govern-
ment of India consider that for the
reasons explained in the orders of the
14th September 1874 it is very desirable
to adhere to those orders and to refuse
travelling allowances for such journeys.

3. I am to explain that so far as
the Government of India are aware
the interests of the Abkari Department
in other Provinces do not suffer from
the enforcement of the rule laid down
in 1874. Cases in which an Abkari
officer is summoned before a Police
Officer under Section 160 of the Crimi-
nal Procedure Code must, the Government
of

of India think, be very rare. I should,
however, there be any special circumstances
connected with the Abkari Department
in Bombay, which render such cases
frequent, I am to request that the
facts may be reported with full ex-
planation as to how the special cir-
cumstances arise.

I have the honour to be,

Sir,

Your most obedient Servant,

(signed) Stephen Jacob

Offg. Secy to the Govt of India

Ordered that copy be forwarded to the
Home Department for information.

True copies

Krishnarao R. Jayakar
Acting Superintendent, Financial
Department.

P.R.K.

652
CURRENT NO. 479 of 1895.

Financial Department.

Bombay Castle, 9 February 1895.

From

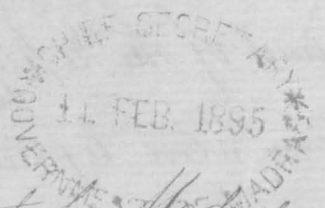
G. S. Carter Esquire, I.C.S.,

Under Secretary to the Government of Bombay

To

The Chief Secretary

to the Government of Madras.



Sir,

I am directed to forward herewith for ready reference copy of a letter from the Government of India, Home Department, No. 1163, dated 14th September 1894, to the address of this Government refusing to permit Chief Constables of Police in the Bombay Presidency to grant batta in special cases to witnesses summoned before them under Section 113 of the Criminal Procedure Code, and to request that you will be so good as to state for the information of this Government, with the permission of His Excellency the Governor of Fort St. George in Council, whether the orders of the Government of India contained in their letter above referred to, have been held in the Madras Presidency to bar the grant of travelling allowance in cases in which officers of the Customs, Salt, Opium

5/2

652

Opium and Abkari Departments, not in receipt of permanent travelling allowance, are summoned by officers in charge of Police Stations to give evidence in cases in which their concern is purely official.

2. I am also to enclose copies of the letter from this Government No. 3019, dated 14th September 1894 to the Government of India and of the reply thereto No. 6140 P, dated 19th December 1894 on the question above referred to.

I have the honour to be,

Sir,

Your most obedient servant

J. S. Curtis

Under Secretary to Government.

PMX

TO BE RETURNED
WITH REPLY.

(189) DEPARTMENT.

From

THE ACCOUNTANT-GENERAL,

MADRAS,

To

THE Chief Secy. to Govt
Judicial Dept

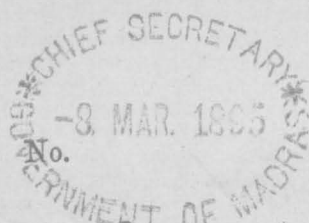
No. 539

Dated

Received

8 } March 95

Recd 9



Encl. M 652 nt.

Subject.

Stating that the Govt of India order bearing the grant of travelling allowance to certain officers of the Salt Opium and Abkari Depts not in receipt of permanent travelling allowance when they are in their official capacity summoned by Police officers to give evidence was not communicated before this and that no claims of the kind appear to have been preferred in this Presidency

For Orders

May the Bombay Govt be informed, in the terms of the accords: upr.

Yes, you may draft a letter forwarding a copy of it; but first ascertain if the India letter of 14.9.74 has communicated by endorsement to the Govt or otherwise; if not, then not.
D
12.3.95

Xost rec. by this Govt.
15/3/95

Treasury Account DEPARTMENT.

1169
FORT ST. GEORGE,
Accountant-General's Office,
7th March 1895.

No. 539

From

T. W. Rawlin's Esquire,

ACCOUNTANT-GENERAL TO THE
GOVERNMENT OF MADRAS,

To

THE Chief Secretary to Government,
Judicial Department.

SIR,

With reference to your memorandum
N^o 405 dated the 27th of February 1895, I
have the honour to state that the orders
of the Government of India contained
in their letter to the Government of
Bombay N^o 1163 dated 14th September 1874
Home Department have not, before this,
been communicated to my office.

2 I am of opinion that the order
bars the grant of travelling allowance
in cases in which officers of the Customs

Satt

Salt, Opium and Akhari Departments,
not in receipt of permanent travelling
allowance, are summoned by Officers
in charge of Police Stations to give
evidence even in cases in which their
concern is purely official. No claims
of the kind however, appear to have
been preferred in this Presidency.

I have the honour to be,
Sir,
Your most obedt. Servt.,
J. Munro
Accountant General.

Mr. 6.3.

[G.]

200-8-2-95.

Financial
DEPARTMENT.

C. No. 6522
1169 34.93

FOR ORDERS.

Order 19 March 1851 No 592
The following letter will be
despatched to the Bombay Govt:-

Letter No 593
The Chief Secretary
to the Bombay Govt.
DESPATCHED
Financial Dept.
21 MAR 95

Sir,
I am directed to acknowledge
Mr. Curtis' letter No 479 of
9. 2. 95; and in reply to
enclose a copy of the reply
from the Acct Genl with this
Govt No 539 of 7. March 95,
from which it will be seen
that no claims of the kind
referred to appear to have
been preferred in this Presdcy.
The Govt of S. letter referred to
was not communicated to this Govt.
I have
16.3.95

*Batta to witnesses &c
Refce from the B. Capt. Gen.*

FOR ORDERS

(u.s.)

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

189 .

READ AGAIN G.O., No.
189 .

DATED

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