Judicial (1895) Department.

ORDINARY PRINTED.

G.O., No. 839-840.

DATED 24· Apr: 1895.

[Despatch Abstract.]

CANTONMENT MAGISTRATES OF POONAMALLEE AND WELLINGTON.

Directing the Accountant-General to continue to pay from Provincial funds the monthly allowances of Rs.100 now drawn by the --, and addressing the Government of India on the subject.

BACK PAPERS.

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

FURTHER PAPERS.

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

[G / 12]
503—18-2-94.

ORDINARY, PRINTED.

Judicial DEPARTMENT.
G.O., DATED 24th Apr: 95
No. 839-40

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[Despatch Abstract.]

Cantonment Magistrates of Poonamallee & Wellington

Directing the Acctt. Genl. to Continue to pay from Provincial funds the monthly allowance of Rs 100 ~~per mensem~~ now drawn by the — and addressing the Govt. of India on the subject.

READ AGAIN ORDER OF GOVERNMENT, DATED
18 , No.

As in draft

BACK PAPER, No. OF 18

FURTHER PAPER, No. OF 18

4858/95 (G.O. D)

4964/95 (G.O. D)
6117/95 (Lt. G.O.)

ENCLOSURES.

CURRENT No.

237 — a

STATEMENT WITH DITTO.

ORDER, &C., OF GOVERNMENT—A.

~~Lt.~~

PAPERS KEPT OUT OF FILE FOR DESPATCH IN ORIGINAL
(not paged).

NUMBER OF COPIES REQUIRED.
- Order complete. 25
- Letter ~~only~~. with App. — 50
- Order complete with Letter. 10

N.B.—

A = Print in full.
B = Not to be printed.
P = Print abstract only.
Q = Print heading only.
R = Print, but not for monthly volume.

No. 55.

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.

CHIEF SECRETARY
16 JAN 1895
GOVERNMENT OF MADRAS

Calcutta, the 15th January 1895.

SIR,

I AM directed to acknowledge the receipt of your letter No. 2245 (Judicial), dated the 14th September last, in which certain points are raised in connection with the grant of allowances to Cantonment Magistrates in the Madras Presidency when not holding their appointments as sole charges.

It is reported that prior to the amendment on the 1st August 1890 of Article 191, Civil Service Regulations, the Cantonment Magistrate of Poonamallee was in receipt of a special allowance of R70 *per mensem*, while the Cantonment Magistrate of Wellington received no remuneration. Neither of these appointments is a sole charge, and, since the amendment was effected, the officers in charge of these Cantonments have been permitted to draw allowances of R100 a month each, under the idea that they were entitled to them under Article 191 of the Civil Service Regulations. Instructions are now solicited whether the letters of the Government of India, noted in the margin, are to be understood as meaning that no new allowances are to be granted to part-time Cantonment Magistrates, and enquiry is made with reference to paragraph 6 of the letter from the Madras Government, No. 217, dated the 2nd February 1891, whether the Government of India intend to pass any general orders on the subject of the remuneration of part-time Cantonment Magistrates.

From the Military Department, to the Quarter Master General in India, No. 821 C., dated the 2nd May 1893.
From the Home Department, to the Government of Bombay, No. 15, dated the 5th January 1894.

It is also stated, with reference to previous communications, that there are now no troops at Vellore and Mangalore, and that it is, therefore, unnecessary to declare these places to be Cantonments under Act XIII of 1889.

2. In reply I am to say that the allowances of R100 a month each, now drawn by the officers performing the work of Cantonment Magistrate at Wellington and Poonamallee in addition to other duties, are not admissible under Article 191 of the Civil Service Regulations. That article refers to part-time officers, but it only refers to officers who are undertaking temporarily, in addition to their other duties, the work of the Cantonment Magistrate in Cantonments for which the office of Cantonment Magistrate has been sanctioned as a sole charge. The Governor General in Council is disposed to think that the allowances now drawn by the Cantonment Magistrates of Wellington and Poonamallee are too high when compared with the work performed, and that they should not be continued. His Excellency in Council will, however, be prepared to consider any proposal which the Government of Madras may see fit to make for the grant of smaller allowances to these officers provided that it is accompanied by full statistics of the work done by them.

3. With reference to the enquiry whether the Government of India intend to pass any general orders on the subject of the remuneration of officers holding Cantonment Magistracies which are not sole charges, I am to say that the Governor General in Council does not propose to modify the orders contained

[…]tained in G.O. 27 July 93 No. 1497 J.D.

in the letter from the Military Department, to the Quarter Master General in India, No. 821 C., dated the 2nd May 1893, which is quoted in paragraph 2 of your letter under reply.

4. I am to add that the question concerning the issue of a declaration under section 4 of Act XIII of 1889 in the case of certain Military stations in the Madras Presidency appears to have been disposed of by the orders contained in the correspondence ending with the letter from the Government of India in the Military Department, to the Government of Madras, No. 1473 C., dated the 9th July 1894.

x in G.O. 27 17 Oct 94 No. 2570 J.D.

Yes but not the question of the notif under sec 33.

I have the honour to be,

SIR,

Your most obedient Servant,

J. P. Hewett.

Offg. Secretary to the Govt. of India.

7 & 8 enclosed

Jud.

CURRENT NO. 237

Jud. Dept

G.O. 3038 : 10-12-94 Mis. & papers.
& G.O. 2244/5 : 14-9-94 Mis. & papers

217 : 27 Feb 91

From.

The Govt. of India
Home Dept.
(Judicial)

No. 55

Dated 15 — 1 — 95
Recd. 21 — 1 — 95
Encls. 7 s.c.

Subject

Stating that the G of India thinks that the allowances now drawn by the Cantonment Magistrates of Wellington and Poonamalee are too high when compared with the work performed, and that they should not be continued

May 1
U.S. 25/1

O. 1236 7 Aug 1893
please

AS
23/1

R
G.O. of 2-2-91 &c.
please.

For orders

500—20-6-94.

Jud. DEPARTMENT.

No. 237

From G. of I.

Dated 15 Jan 1895.

FOR ORDERS.

In para. 5 of Jud. letter dy 27 Feb 1891, No. 217, the G. of I. was moved to issue two notifications, viz:—

(i) one under sec. 4 of Act XIII of 1889 sanctioning the formal constitution as Cantonments of
- Cannanore
- Bellary
- Trichinopoly
- Vizianagrum
- Vellore
- Mangalore
- Malapuram.

(ii) the other under sec. 33 of the said Act exempting from so much of sec. 5 as requires a Cantonment Magistrate for each Cantonment the following Cantonments, viz:—
- Cannanore
- Trichinopoly
- Vizianagrum
- Vellore
- Mangalore
- Malapuram.

2. In Jud. letter dy 3 March 1892 No. 414, the G. of I. w
informed that no noti

HP
7-2-95

I agree with the note & the Mil. Secy's remarks.
W
10 Feb

under sec. 4 need issue as regards

Cannanore
Bellary
Trichinopoly

& that a notifn under sec. 33 should issue in respect of Bellary as well as the Cantonments specified in clause (ii) of para (1) of this Note.

(3) In para. 4 of Indl. letter d/ 14 Sept. 1894, No. 2445, the G. of I. was informed that no notification under sec. 4 need issue as regards

Vellore
Mangalore.

4. But, in Col. Maitland's letter d/ 9 July 1894 read in the Military Dept Proceedings under cover of G.O. d/ 17 Oct 1894, No. 2510, Indl., the G. of I. argued that no notifications under sec. 4 are necessary as regards

Vizianagram
Malapuram

&, although India's arguments were not entirely convincing, this Govt. accepted them.

5. Thus, in every case, it has been found that no notification need issue in regard to the Cantonments specified in clause (i) of para. 1 of this Note.

6. But the G. of I. is incorrect in its remark that no orders on Indl. letter d/ 2 Feb 1891, No. 217, are now called for. It is still necessary that

The change of opinion in regard to Malapuram & Vizianagram was the result of the different views held by successive Comdrs. in Chief, Sir C. Arbuthnot and Sir James Dormer, but as regards Cannanore, Bellary and Trichinopoly those officers held the same views and these have since been endorsed by the present C in C. In these circum:stances it seems scarcely necessary to refer the point again to the Military authorities.

As the C in C has recently expressed the opinion that Calicut and Berhampore should be exempted from the operation of Sec 5 of Act XIII of 1889, it is suggested that these two stations be added to the list of those to be mentioned to the Govt. of India as stations in respect of which notifications under Sec 33 are necessary.

DM.

a notification should issue under sec. 33 of Act XIII of 1889 declaring that so much of sec. 5 as requires that each Cantonment shall have a Cant: Mag: is inapplicable to

Cannanore
Bellary
Trichinopoly.

At Vizianagram & Malapuram Cant: Mags: have been recently appointed (G.O. d/ 17 Oct 1894, No. 2510, Indl.) & Vellore & Mangalore are no longer Military Stations. Before, however, pointing out to the G. of I. that notifns under sec. 33 are necessary in respect of Cannanore, Bellary & Trichinopoly, it will perhaps be as well to ask the Military authorities whether they still remain of opinion that Cant: Mags. are not necessary at these stations.

It is possible that the Mily. authorities have changed their minds as they did in regard to Vizianagram & Malapuram & another reason for not addressing India at once is that the Mily. Dept. is now considering whether a notifn under sec. 33 should not issue in respect of Calicut & Berhampore also.

7. The G. of I. having ne

confirmed its orders on the subject of the allowances of Cant: Mags: in Cantonments for which no full-time Cant: Mag: has been sanctioned, it is necessary to consider whether the part-time Cant: Mags: at Wellington & Poonamallee should continue to draw any portion of the monthly allowances of R100 which they now get in consequence of a misapprehension of the meaning of Art. 191 C.A.R.

The history of these allowances has been given at length in the Note for Orders in G.O. dy 14 Sept 1894, No. 2244, Mil.; it will be seen that the Poonamallee man drew R70 p.m. from 1868 to 1890 & R100 p.m. after that date; & that the Wellington man drew no allowance at first (the office of Cant: Mag: of Wellington was only revived in March 1890) but got R100 from the 1st Aug 1890.

The G. of I. thinks an allowance of R100 excessive in either case but is willing to consider proposals for the grant of smaller sums.

It will be seen from the correspondence recorded in G.O. dy 2 Nov 1894, No. 2622, Mil., that the labours of the Cant: Mags: at Poonamallee & Wellington compare as follows:—

Cantonment	Population	Cases tried		
		1891	1892	1893
Wellington	3,096	334	237	233
Poonamallee	7,468	238	147	120

Thus, on the average of three years, the Wellington man tries rather more than 22 cases a month & the Poonamallee man 14; most of the cases must be very trivial.

The opinion of this Govt. on the general question of allowances to part-time Cant: Mags: was sought in the G. of I's letter of the 26th Sept 1890 (under cover of G.O. dy 2 Feb 1891, No. 219, Mil.) & it will be seen from paras 6 of Mil. letter dy 2 Feb 1891, No. 217, that this Govt. expressed an opinion that no portion of such allowances should be debitable to the Civil budget & that part-time mags. should get no allowance, or R50 or R100, in accordance with the quantity of work to be done by them.

So far, the Wellington & Poonamallee allowances have been treated as Civil charges under the impression that they fell under Art. 191 C.A.R.; but, now that it has been ruled that this impression was incorrect, the question of debit must be reconsidered.

India never passed a

general Resolution on the subject of these allowances; but, in a letter of the 2nd May, 1893, which will be found under cover of G.O. of 25 July 1893, No 497, Judl, the G. of I. declined to accept the proposals of the C. in C. [illegible] in India relative to the grant of allowances to part-time Cant: Mags: & the G. of I. now refers to that letter as a final disposal of the matter.

The G. of I. must therefore be taken to have ruled that, Except in special cases, no allowances shall be granted to part-time men.

The Question to be settled is

"Are the circs of Wellington & Poonamallee such as to render it advisable to pay the part-time Cant: Mags: there?"

Before answering this question it seems Expedient to consult the Mily authorities; it must be remembered that, if the part-time men at these two stations are paid, it may be difficult to resist claims to the grant of similar allowances put in by part-time men at other places (E.g. Vizianagrum & Malapuram) who now get nothing.

The Military authorities should also be requested to state, if they recommend the [illegible] allowance* the amount which, in their opinion, should be granted & to justify their recommendations by a detailed* comparison of the work coming before the Cant: Mags: of

Wellington
Poonamallee
Vizianagrum
Malapuram.

In the meanwhile the Acct. Genl may be told to ascertain* ~~[illegible]~~ whether allowances to part-time Mags: are debitable to the Military or the Civil budget.

The Mily authorities should be asked to report at an Early date, as the Wellington & Poonamallee allowances are still being paid & treated as a Civil charge.

26 Jany

31/1/95

DM.
5.2.95.

* They can get the figures from the Dt. Mags. In the case of Vizianagrum & Malapuram statistics for a few months only will be available but they will serve as some Guide.

The proposed reference might be restricted to the case of Wellington and Poonamallee for the Military authorities will not be in a position to give any information as regards these two Cant. Magistrates, because though the Comg officers of Vizianagram and ~~[illegible]~~ Mallapuram have been appointed Cant. Magistrates (P.G. Judl No 2510 of 17. Oct: 1894). they will not be able to exercise any magisterial powers until rules are issued under Sec 26 of the Act XIII of 1889 – the matter is being considered in connection with another current.

DM.

G.O. dt. 24-4-95
No. 839-40 Judl.

Part-time Canton-
ment Magistrates

CHIEF SECRETARY
5. FEB. 1895
GOVERNMENT OF MADRAS

Home, H.E. the Govr & H.E. the C in C

(For Orders)

The Mil. Secy. for
favour of consideration.

H.
5/2/95

c 6/2 | e 12/2 | e 12/2
Retd 27/3

Annexure

Note by H.E. the Comdr. in Chief, Madras, dt. 24/3/95

COMMANDER IN CHIEF MADRAS

78

Print as annexure to letter to G. of I.
27/4

I retained these papers until my return from Burma as I wished to make further enquiry.

At Poonamallee the duties of Cantonment Magistrate are carried out by the O.C. Station & at Wellington by the O.C. Depôt, receiving in each case Rs 100 per mensem.

In Poonamallee the population (exclusive of Garrison) is 7.468, at Wellington it is 3,096.

The test applied in the Secretariat Office note to the amount of work done by these Officers is restricted to a comparison of the number of cases tried. i.e.

Wellington 223.
Poonamallee 120.

Thus, whilst the population of Poonamallee is more than twice that of Wellington, the number of cases tried is about half.

This in itself is enough to show that the 'number of cases' test is an insufficient basis on which to decide the question.

The proper test, in my opinion, is the demand made on the Officer's time for general work

(including

(including trial of cases) & the value of the services rendered.

In his minute of 1 Feby 91 Sir C. Arbuthnot expressed his opinion that in every Cantonment in which the civil population is in excess of the requirements of the Garrison, the cost of jurisdiction should be borne by the Civil Dept.

In letter of 15th Augt 90 from C. in C. in India, Sir F. Roberts expressed his strong opinion that Military Officers performing the duties of Cantonment Magistrate should be remunerated for such duties.

The question at present at issue is regarding Poonamallee & Wellington.

At Poonamallee, where there is a large civil population, the Garrison is but small & the C.O. is not overburdened by work & there are but few references on Cantonment work to the Hd. Qrs of the Madras command. There is no strain on the Officer doing the work.

At Wellington the case is different. The staff of the Southern Dist was reduced three years ago from 1 A.A.G. & 1 D.A.A.G. to 1 A.A.G.; there are besides the Offr Comg the Depot & the S.S.O., the latter of whom is also Adjt of the Depot & has his hands full during the greater part of the year. The Offr Comg the Depot performs the work of Cantonment Magistrate in addition to his onerous military work and deserves the allowance of Rs 100 per mensem.

There is a considerable European Garrison with a corresponding number of native followers, the Cantonment covers a large extent of ground & the land cases referred to Madras Command Hd. Qrs are frequent & not unimportant; Wellington is gaining in importance in view of the probable opening of the Nilgiri Railway & cases of grants of land & attempted encroachments require constant attention in addition to watching the sanitation of the place.

It has been rightly ruled that General supervision of the cleanliness &c of a cantonment is part of a Staff Officer's duty. In Wellington this is difficult to manage, as there is only one District Staff Officer, whose time is taken up with correspondence of a district consisting of several stations.

In the case of Wellington therefore, I consider R. 100 per mensem is not too much to pay to the Mil. Officer performing the Cantonment Magistrate's duties.

As regards Poonamallee I recommend ~~an~~ a reduced allowance of R. 50 per mensem after the Expiry of the present Officer's tenure on 22 July 1895.

24.3.95

48—21-12-93.

Ind. DEPARTMENT.

Papers to be read in Proceedings :—

printed

printed

mis.

P. { Again G.O., dated 2 Feb 1891, Nos. 216 A & 217, Ind.
{ Again G.O., dated 3 Mar 1892, No. 414, 4134 Ind.
14 Sept. 1894, Nos. 2244 & 2245 Ind.

A. Current No. 237 of 1895, dated 15 Jan from the G. of I.

50

print also H.E. the C. in C.'s note as an enclosure to the letter.

Current No. of 18 , dated

W
19 Apr

Note

H.E. the C. in C. sent back these papers only the other day & it is therefore impossible to adopt exactly the course proposed in the note for Orders & approved by the Hon. Mr. Bliss & H.E. the Govr. The connection of this Govt. with the Mil. Dept. terminating on the 1st prox., it must be left to the G. of I. to consult the Mil. authorities about these allowances.

I have spoken to Col. Macleod & he agrees that the best course is to send a copy of the C. in C.'s note to India & to ask it to settle the head to which the allowances should be debited.

This draft letter to India is accordingly subm. for approval.

M
25/5.

Order ~~from~~ 24 April 1895, No. 839.

~~[illegible]~~ P.S.

The letter from the G. of I. will be comd. to the Acct. General, who will, pending receipt of further instructions, continue to pay from Provincial funds the monthly allowances of R100 now drawn by the Cantonment Mags. at Poonamallee & Wellington.

2. The foll. letter will be addressed to the G. of I. (From orders)

H.P.

M
25 Mar 95

To the Acct. Gen. ~~with S.C. of G. of I. letter.~~

W

Letter No. 840.

Desp'd 13/5/95

To the Sec. to the G. of I., H.D.

Sir,

I am directed to acknowledge the receipt of Mr. Hewett's letter of 15 Jan 1895, No. 55, Ind., in which the G. of I. deals with certain points raised by this Govt. in connection with the grant of allowances to Cantonment Mags. when not holding their appointments as sole charges.

The G. of I. observes that the allowances of R.100 a month now drawn by t part-time Cant.^t Mag.^s of Poonamallee & Wellington are not admissible under Art. 191 of the C.A.R. & that ~~[illegible]~~ it appears inexpedient to continue them. The G. of I. expresses, however, its readiness to consider any proposals which this Govt. may make for the ~~continuance of the~~ grant of smaller allowances to the officers concerned, provided that full statistics of the work done by them are furnished.

2. ~~In reply~~ I am directed, in reply, to enquire whether any allowances which might in future be granted to the two Cant. Mags. would be debitable to the Civil or the Military Budget. It will be seen from para. 6(3) of my letter dy 2 Feb 1891, No. 217, Judl., that, when the question of paying part-time Cant: Mags: was under discussion before, this Govt. expressed a doubt whether any portion of their allowances ought to be borne by the Civil Dept.; &, ~~the recommendations of this Govt. as to the allowances ~~[illegible]~~ (if any) which shall be granted in future to the two Cant: Mags: will depend upon the decision as to the head to which they are to debited.~~ The late C. in as of opinion (as will een from a note by him

inasmuch as the Govt. maintains a full Civil magisterial staff & has no need whatever for the services of ~~any~~ Cant: Mag.^s at Wellington or Poonamallee, ~~of the part time Cant: Mags:~~, H.E. in C. is disposed to adhere to the ~~opinion~~ view already expressed.

[I don't think this is at all a proper way of putting it. Allces. to be granted to these officers shd. not depend on the head of charge which may be determined on, but on the amt. of work done. The head of charge is the point to be considered primarily, as I think. See note below.]
WS

which forms an Enclosure to this communication) that the amount of the allowances should be fixed with reference to the demand made for general work on the time of the officers performing the duties of Cant: Mags: & to the value of their services. But, if the allowances are to be charged to the Civil Dept., this method of calculation will not be suitable, the Civil Dept. being concerned solely with the judicial work of the officers performing the duties of Cant: Mags: The population (on the census of 1891) of the Cantonments of Wellington & Poonamallee are as shown below:—

Wellington.	Military limits.	303 males.	152 females.	Total 455
	Civil limits.	1342 "	1299 "	" 2641
	Total.	1645 "	1451 "	" 3096.
Poonamallee	. . . .			7,468.

The number of cases tried by the Cant: Mags: during the years 1891, 1892 & 1893 was as follows:—

	1891.	1892.	1893.
Wellington	334	237	233.
Poonamallee	238	147	120.

Most of these cases were, doubtless, of a petty character & the remuneration received by the Poonamallee Cant: Mag: at all events is undoubtedly unnecessarily high. The late C. in C. considered that the allowance of the Wellington Cant: Mag: should remain as at ~~present~~ but that the Poonamallee allowance should be reduced to R50 per mensem. As already stated, however, H.E. the G. in C. is inclined ~~to agree with this opinion~~ but defers making formal proposals pending information as to the head to which the allowances should be charged. I am to ask that the G. of I.'s decision on this point may be comd. to this Govt. at an early date & ~~to say that~~ as the Acct. Gen. has been ~~ordered~~ directed to continue to pay the present allowances pending further orders.

3. In conclusion I am to point out that the G. of I. has not yet complied with the requests made in my letters ~~of 2 Feb 1891, No 217, &~~ Nos. 217 & 414, Judl., dated the 2nd Feb 1891 & the 3rd March 1892, respectively, regarding the issue of a notification under sec. 33 of Act XIII of 1889. In the former letter the G. of I. was asked to exempt, by virtue of the powers conferred by sec. 33 of that Act, from so much of sec. 5 as requires that there shall be a Cant. Mag. for each Cantt. the following stations, viz:—

Cannanore
Trichinopoly
Vizianagram
Vellore
Mangalore &
Malapuram.

[I think we ought to poin
that this Govt. maintains a fu
Magl. staff & has no need whatev
of the services at Wellington or Poonamallee of Cantt. Magtes, part or whole time]

4/4/95

In the letter of the 3rd March 1892, No. 414, the G. of I. was moved to make a similar exemption in regard to Bellary.

Since these letters were written, the troops have been withdrawn from Vellore & Mangalore & the Officers Commanding at Malapuram & Vizianagram have been invested with Magl. powers. But it is still necessary that the Cantonments of Cannanore, Trichinopoly & Bellary should be exempted under sec. 33 from so much of sec. 5 as requires the appt. of a Cant. Mag. for each Cantt. It has also been represented that a similar exemption should be granted in respect of the Cantonments of Calicut & Berhampore. I am to request that the necessary notifn. may be issued at an early date.

I have &c.

2/4/95

28 Mar.

Annexure

Issue

D/2/4

Resubm.d to the Hon Mr. Bliss & H.E. the Govr. with reference to the orders of the former, the draft has been altered in red ink

4 Op.

8/4/95

Approved as amended

9/4/95

C 17/4
R 20/4

R 4/4 | C 8/4 R 10/4

25

24th April 1895, No. 839, Judicial.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

Read—again the following papers :—

G.O., dated 2nd February 1891, Nos. 216-A, 217, Judicial.

Abstract.—Ordering that the Government of India be addressed in reply to its letter inviting the opinion of this Government ~~in reference to~~ on certain questions regarding the appointments of Cantonment Magistrates.

G.O., dated 3rd March 1892, Nos. 413, 414, Judicial.

Abstract.—Passing orders regarding the legal position of certain military stations in this Presidency; declining to invest the Officers Commanding at Vizianagram and Malapuram with power to try breaches of Cantonment rules; and directing that the Government of India be addressed ~~in view to Bellary being exempted~~ requesting exemption of Bellary from the operation of so much of Act XIII. of 1889 as necessitates the appointment of a separate Cantonment Magistrate.

G.O., dated 14th September 1894, Nos. 2244–45, Judicial.

Abstract.—Directing that the Government of India be addressed regarding the remuneration of part-time Cantonment Magistrates, and requesting consideration in the Military Department of the question whether Calicut and Berhampur are legally speaking cantonments.

Read—also the following paper :—

From J. P. HEWETT, Esq., C.I.E., Officiating Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Calcutta, 15th January 1895, No. 55.

I am directed to acknowledge the receipt of your letter No. 2245 (Judicial), dated the 14th September last, in which certain points are raised in connection with the grant of allowances to Cantonment Magistrates in the Madras Presidency when not holding their appointments as sole charges.

It is reported that, prior to the amendment on the 1st August 1890 of article 191, Civil Service Regulations, the Cantonment Magistrate of Poonamallee was in receipt of a special allowance of Rs. 70 *per mensem*, while the Cantonment Magistrate of Wellington received no remuneration. Neither of these appointments is a sole charge, and, since the amendment was effected, the officers in charge of these cantonments have been permitted to draw allowances of Rs. 100 a month each under the idea that they were entitled to them under article 191 of the Civil Service Regulations. Instructions are now solicited whether the letters of the Government of India noted in the margin are to be understood as meaning that no new allowances are to be granted to part-time Cantonment Magistrates, and enquiry is made with reference to paragraph 6 of the letter from the Madras Government, No. 217, dated the 2nd February 1891, whether the Government of India intend to pass any general orders on the subject of the remuneration of part-time Cantonment Magistrates.

From the Military Department, to the Quarter Master General in India, No. 821 C., dated the 2nd May 1893.

From the Home Department, to the Government of Bombay, No. 15, dated the 5th January 1894.

It is also stated, with reference to previous communications, that there are now no troops at Vellore and Mangalore, and that it is therefore unnecessary to declare these places to be cantonments under Act XIII. of 1889.

2. In reply I am to say that the allowances of Rs. 100 a month each now drawn by the officers performing the work of Cantonment Magistrates at Wellington and Poonamallee in addition to other duties are not admissible under article 191 of the Civil Service Regulations. That article refers to part-time officers, but it only refers to officers who are undertaking temporarily, in addition to their other duties, the work of the Cantonment Magistrate in cantonments for which the office of Cantonment Magistrate has been sanctioned as a sole charge. The Governor-General in Council is disposed to think that the allowances now drawn by the Cantonment Magistrates of Wellington and Poonamallee are too high when compared with the work performed, and that they should not be continued. His Excellency in Council will, however, be prepared to consider any proposal which the Government of Madras may see fit to make for the grant of smaller allowances to these officers provided that it is accompanied by full statistics of the work done by them.

3. With reference to the enquiry whether the Government of India intend to pass any general orders on the subject of the remuneration of officers holding Cantonment Magistracies which are not sole charges, I am to say that the Governor-General in Council does not propose to modify the orders contained in the letter from the Military Department to the Quarter Master General in India, No. 821 C., dated the 2nd May 1893, which is quoted in paragraph 2 of your letter under reply.

4. I am to add that the question concerning the issue of a declaration under section 4 of Act XIII. of 1889 in the case of certain military stations in the Madras Presidency appears to have been disposed of by the orders contained in the correspondence ending with the letter from the Government of India in the Military Department to the Government of Madras, No. 1473 C., dated the 9th July 1894.

ORDER—dated 24th April 1895, No. 839, Judicial.

The letter from the Government of India will be communicated to the Accountant-General, who will, pending receipt of further instructions, continue to pay from Provincial funds the monthly allowances of Rs. 100 now drawn by the Cantonment Magistrates at Poonamallee and Wellington.

2. The following letter will be addressed to the Government of India.

[Here enter No. 840, dated 24th April 1895.]

(True Extract.)

Chief Secretary.

To the Accountant-General.

Exd. S. J. Pereira.

Gobt. of {1895} Madras.

JUDICIAL.

Issued

Recd. Encl.

G.O., 24th April 1895, No. 839.

APRIL.

Cantonment Magistrates of Poonamallee and Wellington.

Directing the Accountant-General to continue to pay from Provincial funds the monthly allowance of Rs. 100 now drawn by the — and addressing the Government of India on the subject.

[illegible]

[illegible] waiting

24th April 1895, No. 840, Judicial.

supplied

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JUDICICAL DEPARTMENT.

Letter—from

The CHIEF SECRETARY to the GOVERNMENT of
FORT ST. GEORGE,

To

The SECRETARY to the GOVERNMENT of INDIA,
Home Department.

Sir,

I am directed to acknowledge the receipt of Mr. Hewett's letter dated 15th January 1895, No. 55, Judicial, in which the Government of India deals with certain points raised by this Government in connection with the grant of allowances to Cantonment Magistrates when not holding their appointments as sole charges.

The Government of India observes that the allowances of Rs. 100 a month now drawn by the part-time Cantonment Magistrates of Poonamallee and Wellington are not admissible under article 191 of the Civil Service Regulations, and that it appears inexpedient to continue them. The Government of India expresses, however, its readiness to consider any proposals which this Government may make for the grant of smaller allowances to the officers concerned, provided that full statistics of the work done by them are furnished.

2. I am directed, in reply, to enquire whether any allowances which might in future be granted to the two Cantonment Magistrates would be debitable to the Civil or the Military budget. It will be seen from paragraph 6 (3) of my letter dated 2nd February 1891, No. 217, Judicial, that, when the question of paying part-time Cantonment Magistrates was under discussion before, this Government expressed a doubt whether any portion of their allowances ought to be borne by the Civil department; and, inasmuch as the Government maintains a full civil magisterial staff and has no need whatever for the services of Cantonment Magistrates at Wellington or Poonamallee, His Excellency in Council is disposed to adhere to the view already expressed. The late Commander-in-Chief was of opinion (as will be seen from a note by him which forms an enclosure to this communication) that the amount of the allowances should be fixed with reference to the demand made for *general* work on the time of the officers performing the duties of Cantonment Magistrate and to the value of their services. But, if the allowances are to be charged to the Civil department, this method of calculation will not be suitable, the Civil department being concerned solely with the *judicial* work of the officers performing the duties of Cantonment Magistrates.

The population (on the census of 1891) of the Cantonments of Wellington and Poonamallee are as shown below:—

	Males.	Females.	Total.
Wellington—			
Military limits	303	152	455
Civil limits	1,342	1,299	2,6 1
Total ..	1,645	1,451	3,096
Poonamallee	..	..	7,468

The number of cases tried by the Cantonment Magistrates during the years 1891, 1892 and 1893 was as follows :—

	1891.	1892.	1893.
Wellington	334	237	233
Poonamallee	238	147	120

Most of these cases were, doubtless, of a petty character and the renumeration received by the Poonamallee Cantonment Magistrate at all events is undoubtedly unnecessarily high. The late Commander-in-Chief considered that the allowance of the Wellington Cantonment Magistrate should remain as at present but that the Poonamallee allowance should be reduced to Rs. 50 *per mensem*. As already stated, however, His Excellency the Governor in Council defers making formal proposals pending information as to the head to which the allowances should be charged. I am to ask that the Government of India's decision on this point may be communicated to this Government at an early date as the Accountant-General has been directed to continue to pay the present allowances pending further orders.

3. In conclusion I am to point out that the Government of India has not yet complied with the requests made in my letters Nos. 217 and 414, Judicial, dated the 2nd February 1891 and the 3rd March 1892, respectively, regarding the issue of a notification under section 33 of Act XIII. of 1889. In the former letter the Government of India was asked to exempt, by virtue of the powers conferred by section 33 of that Act, from so much of section 5 as requires that there shall be a Cantonment Magistrate for each cantonment the following stations, viz. :—

Cannanore.
Trichinopoly.
Vizianagram.
Vellore.
Mangalore.
Malapuram.

In the letter of the 3rd March 1892, No. 414, the Government of India was moved to make a similar exemption in regard to Bellary.

Since these letters were written, the troops have been withdrawn from Vellore and Mangalore and the Officers Commanding at Malapuram and Vizianagram have been invested with magisterial powers. But it is still necessary that the cantonments of Cannanore, Trichinopoly and Bellary should be exempted under section 33 from so much of section 5 as requires the appointment of a Cantonment Magistrate for each cantonment. It has also been represented that a similar exemption should be granted in respect of the cantonments of Calicut and Berhampur. I am to request that the necessary notification may be issued at an early date. a/

I have the honour to be,
Sir,
Your most obedient servant,

OOTACAMUND,
24th April 1895.

Chief Secretary.

ANNEXURE.

NOTE BY HIS EXCELLENCY THE COMMANDER-IN-CHIEF, MADRAS, DATED 24TH MARCH 1895.

I retained these papers until my return from Burma/ as I wished to make further enquiry. 4

At Poonamallee the duties of Cantonment Magistrate are carried out by the Officer Commanding station and at Willington by the Officer Commanding depôt, receiving in each case Rs. 100 per mensem. a/

In Poonamallee the population (exclusive of garrison) is 7,468, at Wellington it is 3,096.

The test applied in the Secretariat office-note to the amount of work done by these officers is restricted to a comparison of the number of cases tried, *i.e.*—

Wellington	223
Poonamallee	120

Thus, whilst the population of Poonamallee is more than twice that of Wellington, the number of cases tried is about half.

This in itself is enough to show that the number of cases' test is an insufficient basis on which to decide the question.

The proper test, in my opinion, is the demand made on the officer's time for general work (including trial of cases) and the value of the services rendered.

In his minute of 1st February 1891 Sir C. Arbuthnot expressed his opinion that in every cantonment in which the civil population is in excess of the requirements of the garrison, the cost of jurisdiction should be borne by the Civil department.

In letter of 15th August 1890, Quarter Master General in India, Sir F. Roberts expressed his strong opinion that military officers performing the duties of Cantonment Magistrates should be remunerated for such duties.

The question at present at issue is regarding Poonamallee and Wellington.

At Poonamallee, where there is a large civil population, the garrison is but small and the Commanding Officer is not overburdened by work and there are but few references on cantonment work to the head-quarters of the Madras Command. There is no strain on the officer doing the work.

At Wellington, the case is different. The staff of the Southern district was reduced three years ago from one Assistant Adjutant-General and one Deputy Assistant Adjutant-General to one Assistant Adjutant-General; there are besides the Officer Commanding the depôt and the Station Staff officer, the latter of whom is also Adjutant of the depôt and has his hands full during the greater part of the year. The Officer Commanding the depôt performs the work of Cantonment Magistrate in addition to his onerous military work and deserves the allowance of Rs. 100 per mensem.

There is a considerable European garrison with a corresponding number of native followers, the cantonment covers a large extent of ground and the land cases referred to Madras Command head-quarters are frequent and not unimportant; Wellington is growing in importance in view of the probable opening of the Nilgiri Railway and cases of grants of land and attempted encroachments require constant attention in addition to watching the sanitation of the place.

It has been rightly ruled that general ~~superiorty~~ supervision/ of the cleanliness, &c., of a cantonment is part of a Staff Officer's duty. In Wellington this is difficult to manage as there is only one District Staff Officer, whose time is taken up with correspondence, &c., of a district consisting of several stations.

In the case of Wellington, therefore, I consider Rs. 100 per mensem is not too much to pay to the military officer performing the Cantonment Magistrate's duties.

As regards Poonamallee, I recommend a reduced allowance of Rs. 50 per mensem after the expiry of the present officer's tenure on 22nd July 1895.

(Signed) C. M. CLARKE, C.B., LIEUT.-GENL.

Regr. No.

HOME 1895 DEPT.

[ ]

From the Government of
Fort St. George.

Issued

Recd. *Encl.*

Letter, 24th April 1895, No. 840.

APRIL.

Cantonment Magistrates

Enquiring whether the reduced allowances which might in future be paid the part-time — of Poonamallee & Wellington sd be debitable to the Cantt. or Mily Budget before making formal proposals as to what these allowces shd be; & inviting attention to past corrce regarding dismissal of an

Notifn. dispensing with Cantonment Magistrates in certain "imperfect" cantonments

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24th April 1895, No. 839, Judicial.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

Read—again the following papers :—

G.O., dated 2nd February 1891, Nos. 216-A, 217, Judicial.

Abstract.—Ordering that the Government of India be addressed in reply to its letter inviting the opinion of this Government on certain questions regarding the appointment of Cantonment Magistrates.

G.O., dated 3rd March 1892, Nos. 413, 414, Judicial.

Abstract.—Passing orders regarding the legal position of certain military stations in this Presidency; declining to invest the Officers Commanding at Vizianagram and Malapuram with power to try breaches of Cantonment rules; and directing that the Government of India be addressed requesting exemption of Bellary from the operation of so much of Act XIII. of 1889 as necessitates the appointment of a separate Cantonment Magistrate.

G.O., dated 14th September 1894, Nos. 2244-45, Judicial.

Abstract.—Directing that the Government of India be addressed regarding the remuneration of part-time Cantonment Magistrates, and requesting consideration in the Military Department of the question whether Calicut and Berhampur are legally speaking cantonments.

Read—also the following paper :—

From J. P. HEWETT, Esq., C.I.E., Officiating Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Calcutta, 15th January 1895, No. 55.

I am directed to acknowledge the receipt of your letter No. 2245 (Judicial), dated the 14th September last, in which certain points are raised in connection with the grant of allowances to Cantonment Magistrates in the Madras Presidency when not holding their appointments as sole charges.

It is reported that, prior to the amendment on the 1st August 1890 of article 191, Civil Service Regulations, the Cantonment Magistrate of Poonamallee was in receipt of a special allowance of Rs. 70 *per mensem*, while the Cantonment Magistrate of Wellington received no remuneration. Neither of these appointments is a sole charge, and, since the amendment was effected, the officers in charge of these cantonments have been permitted to draw allowances of Rs. 100 a month each under the idea that they were entitled to them under article 191 of the Civil Service Regulations. Instructions are now solicited whether the letters of the Government of India noted in the margin are to be understood as meaning that no new allowances are to be granted to part-time Cantonment Magistrates, and enquiry is made with reference to paragraph 6 of the letter from the Madras Government, No. 217, dated the 2nd February 1891, whether the Government of India intend to pass any general orders on the subject of the remuneration of part-time Cantonment Magistrates.

From the Military Department, to the Quarter Master General in India, No. 821 C., dated the 2nd May 1893.
From the Home Department, to the Government of Bombay, No. 15, dated the 5th January 1894.

It is also stated, with reference to previous communications, that there are now no troops at Vellore and Mangalore, and that it is therefore unnecessary to declare these places to be cantonments under Act XIII. of 1889.

2. In reply I am to say that the allowances of Rs. 100 a month each now drawn by the officers performing the work of Cantonment Magistrates at Wellington and Poonamallee in addition to other duties are not admissible under article 191 of the Civil Service Regulations. That article refers to part-time officers, but it only refers to officers who are undertaking temporarily, in addition to their other duties, the work of the Cantonment Magistrate in cantonments for which the office of Cantonment Magistrate has been sanctioned as a sole charge. The Governor-General in Council is disposed to think that the allowances now drawn by the Cantonment Magistrates of Wellington and Poonamallee are too high when compared with the work performed, and that they should not be continued. His Excellency in Council will, however, be prepared to consider any proposal which the Government of Madras may see fit to make for the grant of smaller allowances to these officers provided that it is accompanied by full statistics of the work done by them.

3. With reference to the enquiry whether the Government of India intend to pass any general orders on the subject of the remuneration of officers holding Cantonment Magistracies which are not sole charges, I am to say that the Governor-General in Council does not propose to modify the orders contained in the letter from the Military Department to the Quarter Master General in India, No. 821 C., dated the 2nd May 1893, which is quoted in paragraph 2 of your letter under reply.

4. I am to add that the question concerning the issue of a declaration under section 4 of Act XIII. of 1889 in the case of certain military stations in the Madras Presidency appears to have been disposed of by the orders contained in the correspondence ending with the letter from the Government of India in the Military Department to the Government of Madras, No. 1473 C., dated the 9th July 1894.

ORDER—dated 24th April 1895, No. 839, Judicial.

The letter from the Government of India will be communicated to the Accountant-General, who will, pending receipt of further instructions, continue to pay from Provincial funds the monthly allowances of Rs. 100 now drawn by the Cantonment Magistrates at Poonamallee and Wellington.

2. The following letter will be addressed to the Government of India.

[Here enter No. 840, dated 24th April 1895.]

(True Extract.)

Chief Secretary.

To the Accountant-General.

Exd. S. J. Pereira.

Govt. of {1895} Madras.

JUDICIAL.

Issued

Recd. *Encl.*

G.O., 24th April 1895, No. 839.

APRIL.

Cantonment Magistrates.

Directing the Accountant-General to continue to pay from Provincial funds the monthly allowance of Rs. 100 now drawn by the — of Poonamallee and Wellington and addressing the Government of India on the subject.

24th April 1895, No. 840, Judicial.

JUDICIAL DEPARTMENT.

Letter—from

The CHIEF SECRETARY to the GOVERNMENT of
FORT ST. GEORGE,

To

The SECRETARY to the GOVERNMENT of INDIA,
Home Department.

Sir,

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The Government of India observes that the allowances of Rs. 100 a month now drawn by the part-time Cantonment Magistrates of Poonamallee and Wellington are not admissible under article 191 of the Civil Service Regulations, and that it appears inexpedient to continue them. The Government of India expresses, however, its readiness to consider any proposals which this Government may make for the grant of smaller allowances to the officers concerned, provided that full statistics of the work done by them are furnished.

2. I am directed, in reply, to enquire whether any allowances which might in future be granted to the two Cantonment Magistrates would be debitable to the Civil or the Military budget. It will be seen from paragraph 6 (3) of my letter dated 2nd February 1891, No. 217, Judicial, that, when the question of paying part-time Cantonment Magistrates was under discussion before, this Government expressed a doubt whether any portion of their allowances ought to be borne by the Civil department; and, inasmuch as the Government maintains a full civil magisterial staff and has no need whatever for the services of Cantonment Magistrates at Wellington or Poonamallee, His Excellency in Council is disposed to adhere to the view already expressed. The late Commander-in-Chief was of opinion (as will be seen from a note by him which forms an enclosure to this communication) that the amount of the allowances should be fixed with reference to the demand made for *general* work on the time of the officers performing the duties of Cantonment Magistrate and to the value of their services. But, if the allowances are to be charged to the Civil department, this method of calculation will not be suitable, the Civil department being concerned solely with the *judicial* work of the officers performing the duties of Cantonment Magistrates.

The population (on the census of 1891) of the Cantonments of Wellington and Poonamallee are as shown below:—

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Poonamallee	..	..	7,468

The number of cases tried by the Cantonment Magistrates during the years 1891, 1892 and 1893 was as follows :—

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Poonamallee	238	147	120

Most of these cases were, doubtless, of a petty character and the renumeration received by the Poonamallee Cantonment Magistrate at all events is undoubtedly unnecessarily high. The late Commander-in-Chief considered that the allowance of the Wellington Cantonment Magistrate should remain as at present but that the Poonamallee allowance should be reduced to Rs. 50 *per mensem.* As already stated, however, His Excellency the Governor in Council defers making formal proposals pending information as to the head to which the allowances should be charged. I am to ask that the Government of India's decision on this point may be communicated to this Government at an early date as the Accountant-General has been directed to continue to pay the present allowances pending further orders.

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Vizianagram.

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Since these letters were written, the troops have been withdrawn from Vellore and Mangalore and the Officers Commanding at Malapuram and Vizianagram have been invested with magisterial powers. But it is still necessary that the cantonments of Cannanore, Trichinopoly and Bellary should be exempted under section 33 from so much of section 5 as requires the appointment of a Cantonment Magistrate for each cantonment. It has also been represented that a similar exemption should be granted in respect of the cantonments of Calicut and Berhampur. I am to request that the necessary notification may be issued at an early date.

I have the honour to be,
Sir,
Your most obedient servant,

Ootacamund,
24th April 1895.

Chief Secretary.

ANNEXURE.

Note by His Excellency the Commander-in-Chief, Madras, dated 24th March 1895.

I retained these papers until my return from Burma as I wished to make further enquiry.

At Poonamallee the duties of Cantonment Magistrate are carried out by the Officer Commanding station and at Wellington by the Officer Commanding depôt, receiving in each case Rs. 100 per mensem.

In Poonamallee the population (exclusive of garrison) is 7,468, at Wellington it is 3,096.

The test applied in the Secretariat office-note to the amount of work done by these officers is restricted to a comparison of the number of cases tried, *i.e.*—

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Thus, whilst the population of Poonamallee is more than twice that of Wellington, the number of cases tried is about half.

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In the case of Wellington, therefore, I consider Rs. 100 per mensem is not too much to pay to the military officer performing the Cantonment Magistrate's duties.

As regards Poonamallee, I recommend a reduced allowance of Rs. 50 per mensem after the expiry of the present officer's tenure on 22nd July 1895.

(Signed) C. M. CLARKE, c.b., Lieut.-Genl.

Regr. No.

HOME 1895 DEPT.

[ ]

From the Government of
Fort St. George.

Issued

Recd. *Encl.*

Letter, 24th April 1895, No. 840.

APRIL.

Cantonment Magistrates.

Enquiring whether the reduced allowances which might in future be paid the part-time — of Poonamallee and Wellington would be debitable to the Civil or Military budget before making formal proposals as to what those allowances should be; and inviting attention to past correspondence suggesting the issue of a notification dispensing with Cantonment Magistrates in certain specified cantonments.

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