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MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.G.O. No. 257Press
M.R.*Original*Dated 29.2

1872

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
29th February 1872.*

Read the following papers :—

No. 132. From the Officiating Under Secretary to the Government of India, Home Department (Judicial), to the Secretary to the Government of Fort St. George, dated Fort William, 21st February 1872, No. 359.

I am directed to request that, with the permission of His Excellency the Governor in Council, it may be stated whether the Advocate-General receives any when he appears in the High Court for Government in any case, and whether there is any difference in the fees given on the Original and Appellate sides of the Court. The favour of an immediate reply is requested.

Referred to the Government Solicitor for immediate report.

FORT ST. GEORGE,
26th February 1872.

(Signed) H. E. STOKES,
Under Secy. to Govt.

No. 133. From the Government Solicitor, to the Acting Secretary to Government, Judicial Department, Fort St. George, dated Madras, 28th February 1872, No. 78.

I have the honour to acknowledge the receipt of the Order of Government, dated 26th instant, made on a letter from the Officiating Under Secretary to the Government of India, to Government, dated 21st instant, No. 359, requesting my report as to whether the Advocate-General receives any fees when he appears in the High Court for Government in any case, and whether there is any difference in the fees given on the Original and Appellate sides of the Court.

2. In reply, I have to state, for the information of the Government of India, that the practice has hitherto been in all suits on the Original side of the High Court in which the Advocate-General has been instructed to appear on behalf of Government to mark the usual fee on his brief, but with a memorandum endorsed on it "Fee not paid;" and it is only in those cases in which the Government succeed in getting their costs allowed as against the opposite side, and upon recovery of such costs, that the fee marked on the Advocate-General's brief, or such portion of it as is allowed on taxation, is paid to him.

3. With regard to the second question as to the difference of fees on the Original and Appellate sides of the High Court, I have to state that there is a difference in the fees payable on each side of the High Court. In the Original side the scale of fees is regulated according to the length of the brief and the trouble each case entails, and it has been and still is the practice on the part of the Attornies to exercise their discretion in fixing the amount of Counsel's fees on the Original side when sending briefs to them, but the amounts so fixed by the Attornies are liable to revision when the costs of the suit come to be taxed by the Taxing Officer of the High Court.

4. On the Appellate side of the High Court, however, the fee of Counsel is calculated according to the amount of the claim or the value of the property in dispute. If the amount of the claim is within 5,000 Rupees, Counsel is entitled, under Regulation XIV. of 1816, to a fee at the rate of five per cent. on the above amount.

*Proceedings of the Madras Government, Judicial Department,
29th February 1872.*

If above 5,000 Rupees and within 20,000 Rupees, for the first 5,000 Rupees at the rate of five per cent., and the remaining 15,000 Rupees at the rate of two per cent. If above 20,000 Rupees and within 80,000 Rupees, for the first 20,000 at the rate of two per cent., and the remaining 60,000 at the rate of one per cent., and if the claim exceeds 80,000 Rupees, the fee is 1,000 Rupees.

5. In all cases on the Appellate side of the High Court in which Government is a party, it has been and still is the practice for the Government Pleader to appear in such cases, and not the Advocate-General; but in cases in which Government require the advice of the Advocate-General, in consultation with the Government Pleader, a fee for advice and conference has always been required by the Advocate-General, and such fee is marked on his brief and paid to him, after first obtaining the express sanction of Government for such payment.

6. I return, herewith, the letter from the Officiating Under Secretary to the Government of India above noted.

No. 134. To the Secretary to the Government of India, Home Department (Judicial), dated Fort St. George, 29th February 1872, No. 257.

In reply to your Officiating Under Secretary's letter, No. 359, of 21st instant, I am directed to forward copy of a letter from the Government Solicitor, dated 28th instant, No. 78, explaining the system under which fees are receivable by the Advocate-General when appearing in the High Court for Government, on the Original or Appellate side of the Court.

(Sd/-) D. F. CARMICHAEL,
Acting Secretary to Government.

Ed. J. Wright.

11/3/72

No. 359

13

From,

H. M. Sutherland Esq. M.C.F.
Offg Under Secy to the Govt of India

At

The Secy to the Govt of Fort St. George,
Fort William, 27 February 1872

Home Dept. Sir
Judicial.

I am directed to request that, with the permission of His Excellency the Governor in Council, it may be stated whether the Advocate-General receives any fees when he appears in the High Court for Government in any case, and whether there is any difference in the fees given on the Original and Appellate sides of the Court. The favor of an immediate reply is requested.

I have the honor to be,

Sir,
Your most obedient servant.

H. M. Sutherland
Offg Under Secy to the Govt of India

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N^o 78

Madras 28th February 1872

From

H. L. Prichard,

Government Solicitor, Madras.

To

~~H. E. Stokes Esq.~~

Under Secretary to Government

Judicial Department

Fort Saint George.

Sir,

I have the honor to acknowledge the receipt of the Order of Government dated 26th Instant, made on a letter from the Officiating Under Secretary to the Government of India to Government dated 21st Instant N^o 359, requesting my report as to whether the Advocate General receives any fees when he appears in the High Court for Government in any case and whether there is any difference in the fees given on the Original and Appellate sides of the Court.

In reply I have to state for the information of the Government of India, that the practice has hitherto been in all Suits on the Original side of the High Court in which the Advocate General has been instructed to appear

Judicial 1872 Sept 4

From

The Offg. Under

Secy to the Government of India, Home Dept

N^o 359.

Of 21st Feb 1872

N^o 398

Enquire whether

the Advocate General re-

ceives any fees when he ap-

pears in the High Court for

Government in any case, and whether

there is any difference in

the fees given on the Original

and Appellate sides of the Court.

Refered

1872 Feb 27

Refered to

the Advocate

General

H. L. Prichard

Under Secretary

Judicial Dept

26th Feb 1872

appears on behalf of Government to mark the usual fee on his Brief but with a Memo endorsed on it "Fee not paid" and it is only in those cases in which the Government succeed in getting their Costs allowed as against the opposite side and upon recovery of such Costs, that the fee marked on the Advocate General's Brief, or such portion of it as is allowed in taxation, is paid to him.

3. With regard to the second question as to the difference of fees on the Original and Appellate sides of the High Court, I have to state that there is a difference in the fees payable on each side of the High Court, on the Original side the scale of fees is regulated according to the length of the Brief and the trouble such case entails and it has been and still is the practice on the part of the Attorneys to exercise their discretion in fixing the amount of Counsel's fees on the Original side when sending Briefs to them - but the amounts so fixed by the Attorneys are liable to revision when the Costs of the Suit come to be taxed by

the taxing Officers of the High Court. 7/4
4. On the Appellate side of the High Court, however the fee of Counsel is calculated according to the amount of the claim or the value of the property in dispute. If the amount of the claim is within 5000 Rupees, Counsel is entitled under Regulation IV of 1876 to a fee at the rate of 5 per Cent on the above amount. If above 5000 Rupees and within 20000 Rupees, for the first 5000 Rupees at the rate of 5 per Cent and the remaining 15000 Rs. at the rate of 2 per Cent. If above 20000 Rs. and within 80000 Rupees, for the first 20000 at the rate of 2 per Cent and the remaining 60000 at the rate of 1 per Cent and if the claim exceeds 80000 Rupees the fee is 1000 Rupees.

5. In all cases in which Government is a party on the Appellate side of the High Court in which Government is a party it has been and still is the practice for the Government Pleader to appear in such cases and not the Advocate General but in cases in which Government requires the advice of the Advocate General in consultation with the

The Government Reader a fee for advice and
conference has always been required by the
Advocate General and such fee is marked
on his Brief and paid to him, after first
obtaining the express sanction of Govern-
ment, for such payment.

To. I return herewith the letter from
the Offg Under Secretary to the Government
of India above noted.

I have the honor to be

Ser.

Your most obedient servant

A. H. Richard

Government Solicitor

Recd. July 26. 426/92

Decr. 29/2/72

To the Secy Genl of India
No. 257.
Home Dept (Judicial)

Sir.

In reply to your letter under Secy's
letter No. 59 of 21st inst, I am directed
to ~~forward~~ forward copy of a
letter from the Secy to the Secy of 20th
inst No. 78, explaining the system
under which fees are receivable by the
adv. Genl. when appearing in the
High Ct for Govt, on the original
on Appellate side of the Ct.

29-2.

For St. George
29th Dec 1872

156

Jan 6. 1873. Mch 1.

From
The Secy. to the Secy
Adv. Genl.

The Secy. to the Secy
to the Secy. to the Secy
Judicial Dept.

29th Dec 1872
29th Dec 1872

No. 257. 11/4/26
Enclosure 1.

Reports for the in-
formation of the Secy
regarding the Adv. Genl.
General's fees when he
appears in the High Ct
for Govt. and the Adv.
Genl. in the High Ct
on the original side of
the High Ct for Govt.
regarding the Adv. Genl.
reports.

Home 1872

from Government of

Fort St. George

Dated *May 27* } 1872 No.
R. } Enclos
spare copy

D. No. Progs. { D.
L. No. *257* } No.

257
29.272
Nos. 132. 134

27th May 1872
Enclosing copy of a letter
from the *Ch. Collector*, in
relation to the system and
the fees received