

(1) Number of pages 18(2) Date of repair 5 - 4 - 14(3) Initials of the Referencer GF

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	3018-19	Press Mis.
Dated	17-11-	1885.

Not to be folded or roughly handled

17TH NOVEMBER 1883, No. 3018, JUDICIAL.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper:—

From J. A. DAVIES, Esq., Acting Registrar of the High Court of Judicature at Madras, Appellate side, to the Chief Secretary to Government, dated Madras, 10th November 1883, No. 3536.

I am directed to submit, for the confirmation of Government, and the sanction of the Government of India, a copy of the rules for the service and execution of processes issued by the civil courts outside the Presidency town in the Madras Presidency, which have been framed by the High Court under chapter IV of the Court Fees Act, 1870, in modification of the rules sanctioned in G.O., dated 1st August 1873, No. 1210, Judicial.

2. I am to state that, in revising the rules, two of the objects the High Court has had in view, are (1) to relieve the munsifs' courts establishments where they are over-worked, and (2) to adjust the strength of all establishments to actual requirements. By economizing labor, it is expected that a saving will be effected in the present cost of establishments, and at any rate that no additional expense will be incurred under the new scheme, which, if it proves successful, will be followed up by a larger and wider one, more closely resembling that which has been in force for some years in Bengal and the North-Western Provinces. The system now recommended is identical with that which has been worked successfully in the Madura district, since the Government sanctioned the experiment in G.O., No. 240, Judicial department, dated 1st February 1881.

3. It is very desirable to bring the rules into force at the beginning of the ensuing calendar year, and I am therefore to request that the sanction of the Government of India may be obtained, if possible, by or before the 1st January next. The District Judges have been desired to make arrangements accordingly.

ORDER—dated 17th November 1883, No. 3018, Judicial.

The draft rules will be forwarded for the sanction of the Government of India.

(True Extract.)

Chief Secretary.

To the Honorable the Judges of the High Court, with C.L.

Exd. J. Wright.

Govt. of Madras.

JUDICIAL.

Issued

Recd.

Encl.

G.O., 17th November 1883, No. 3018.

NOVEMBER.

Court Fees Act—Rules.

Forwarding, for the sanction of the Government of India, a draft set of rules drawn up by the High Court for the service and execution of processes issued by the civil courts outside the Presidency town in the Madras Presidency.

RULES.

FOR THE SERVICE AND EXECUTION OF PROCESSES ISSUED BY THE CIVIL COURTS OUTSIDE THE PRESIDENCY TOWN IN THE MADRAS PRESIDENCY.

I. There shall be one general establishment of Amins and Peons for the execution and service of processes issued by all the Civil Courts at the following stations and at such other places as the High Court may hereafter direct:—

Cuddalore, Tanjore, Madura, Tinnevely, Calicut, Tellicherry, and Mangalore.

Such establishment shall be under the immediate direction of a Central Nazir and the control of the District Judge; or of the Sub-Judge in the event of a Central Nazarat being established at any station where there is no District Judge.

II. At all other stations the Process establishment shall be under the immediate direction of a Deputy Nazir, who shall be under the control of the District Munsif having jurisdiction at such station.

III. (Except where the High Court may otherwise direct—)

- (a) the pay of each Central Nazir shall be Rs. 50 a month where there are more than two Courts, and elsewhere Rs. 40;
- (b) that of each Deputy Nazir shall be Rs. 25;
- (c) not more than one-fourth of the Amins shall receive 14 rupees and the rest 12 rupees;
- (d) not more than one-fourth of the Peons shall receive 7 rupees and the rest 6 rupees.

All these charges shall be debited to the Process Service Fund.

IV. Each central Nazir must furnish security in a sum of Rs. 500, and each Deputy Nazir in a sum of Rs. 250.

V. The "proper officer," to whom processes shall be transmitted for service

the Union brackets cancelled - new rule substituted.
of 14/11/83
22/11/83
(E)

under § 72 of the Code of Civil Procedure, 1882, shall be—

- (a) the *Central Nazir* in respect of all processes issued by any Court located or having jurisdiction at a station where there is a Central Nazir, for service within the jurisdiction of a Munsif located at such station;
- (b) the *Deputy Nazir*, at stations where there is no Central Nazir, and in respect of processes issued by any superior Court for service within the jurisdiction of an outlying Munsif.

VI. The processes of each Court shall be numbered consecutively, as soon as all batta charges have been paid, and shall be entered in a Register in the Form A annexed hereto. The entry in the last column shall be either "Central Nazir" (C.N.), or the designation of the Munsif's Court through which the process is to be served, as the case may be.

VII. At stations where there is a Central Nazir, at 3 P.M. daily, or such other hour as the District Judge may fix, the chief ministerial officer of each Court shall sign the Register A, and transmit it to the Central Nazir, together with the processes to be served or executed by him, which have been prepared up to that hour, and the witnesses' batta. Such processes prepared after 3 P.M., or such other hour, shall be sent to the Nazir not later than 11-30 the following morning, together with the Register signed as above.

After verifying the entries relating to himself, the Central Nazir shall return the Register to the Court concerned with his countersignature.

This rule shall also apply to processes to be served or executed by the Deputy Nazir of the head-quarter Munsif, where there is no Central Nazir.

VIII. One hour before the Post time for each outlying Munsif's station, the chief ministerial officer of each superior Court shall have a list prepared in the Form A of all processes to be served or executed within the jurisdiction of such outlying Munsif, and such list shall be forthwith sent by Post on Her Majesty's Service to the Deputy Nazir of such Munsif, together with all such processes.

IX. On receiving any batch of processes, the Central or Deputy Nazir, as the case may be, shall give them general

numbers and enter them in a Register, which shall be kept by himself or under his superintendence in the Form B annexed hereto.

X. He shall thereupon arrange for the distribution of the processes, and, after the necessary entries have been made in the Roster (Form C hereto annexed), shall deliver them to the several process-servers. As far as possible, all processes other than warrants of arrest, for persons residing in the same neighbourhood shall be served by one process-server and not by several, whether issued by the same or by different Courts.

XI. Every day, at such hours as the District Judge may fix, having regard (when necessary) to the hours at which the Post closes, the Central Nazir and each Deputy Nazir shall prepare a list for each Court of the processes to be returned to it, giving them their original Court numbers, and shall transmit them with the list to the chief ministerial officer, who shall sign and return the list.

XII. It shall be the duty of the chief ministerial officer to have the processes returned struck off in his Register A and to bring to the notice of the presiding Judge any unusual delay. Where such Judge is not the District Judge, he shall report such delay to the District Judge in the absence of satisfactory explanation.

XIII. At the close of each day, every Central and Deputy Nazir shall enter in the Register B the number of processes distributed during the day and the number of peons remaining unemployed after the distribution.

XIV. The return of service shall ordinarily be verified by affidavit, and, under section 197 (b) of the Code of Civil Procedure, all Nazirs and Deputy Nazirs are hereby empowered to administer the oath to any process-server. Such affidavit may be read at the hearing and used as proof of service.

When a process is returned under sections 80, 168 or 343, the Court is required to examine the serving officer on oath, but under section 386 (e), in the case of the process-servers of an outlying Court, such examination may generally be taken under a commission. The commission will be in the form of an authority (written or printed at the foot of, or attached to, every process) to the Munsif to examine the process-server if necessary.

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XV. When any person has been arrested, or movable property seized, by a process-server of an outlying Court under a Warrant issued by a superior Court, the process-server shall forthwith bring such person or property to the station of such Court and deliver him or it to the Central or Deputy Nazir, as the case may be provided that this rule shall not apply to property not required to be brought to the Court house.

Such Central or Deputy Nazir shall immediately give the process-server a receipt and send him back to his own Court, and shall produce such person or property before the Court which issued the process.

When money shall have been paid upon any such process, it shall be received by the outlying Munsif and duly transmitted, together with the process, to the Court concerned: provided that, where such sum does not exceed the batta due (or likely to become due within three days) by such Court, the Munsif may order it to be credited to such Court's Batta Account, sending immediate notice of the same that the Court concerned may pay the judgment-creditor out of the batta accumulations.

XVI. A permanent advance of Rs. 100 will be made to each Deputy Nazir of an outlying Court for the batta of witnesses, &c. The amount of batta to be paid must be notified on each process sent to it for service, but may be retained in the Court issuing the process until the accumulations reach Rs. 50, or till the end of the month. Whenever the sum of Rs. 50 is due by any one Court to another, and at the close of each month in any case, the full amount due must be remitted through the Government treasury, if there is a treasury at the outlying station, and if not, by a Postal Money Order, the cost of which may be charged in the Contingent Bill.

The High Court may, at its discretion, increase or reduce the permanent advance of any particular Deputy Nazir.

XVII. On or before the 6th of each month, the Deputy Nazir of each outlying Court shall send to each superior Court a statement showing the account between them as it stood at the close of the preceding month, and any subsequent month. Such accounts, when furnished to any other Court than the District Court, shall be sent on to the District Judge for verification and with

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any explanation which may seem necessary. It shall be the duty of the District Judge to see that no excessive sum of money is retained in any Court.

XVIII. The presiding Judge of any Court may, for any sufficient reason, at any hour of the day, transmit a process for emergent execution within the jurisdiction of the head-quarter Munsif, and it shall be the duty of the Central or Deputy Nazir (as the case may be), on receiving such process signed by the Judge, to make immediate arrangements accordingly.

In a case of very special urgency, the presiding Judge may deliver any such process to one of the process-servers in attendance on his Court for immediate service or execution.

XIX. The Deputy Nazirs of outlying Courts shall on no account delay any process which may be signed by a presiding Judge as emergent. All other processes it shall be lawful for them to keep back for any period, not exceeding three days, which may be necessary to admit of a sufficient number accumulating for a particular neighbourhood.

XX. The presiding Judge of any superior Court may direct, on the application of the party applying for any particular process which would ordinarily be sent for service to an outlying Court, that it be served or executed by a special process-server from head-quarters: provided that the pay of such process-server, at the rate of 4 annas a day for a Peon or 8 annas for an Amin, for the time he is likely to be employed on such duty, be paid in advance; and the Judge may, for any sufficient reason, direct that such extra charge be costs of the suit or proceeding.

XXI. Except for very special reasons, which must be recorded in writing, no Court shall direct, under Section 349, that a judgment-debtor be left in the custody of a Peon, unless a second Peon is deputed to assist him and the pay of both, at 4 annas a day for each up to the time fixed for the adjourned hearing, be paid in advance.

Payments under this and the preceding rule shall be made in Process-fee Stamps.

XXII. Unless the High Court shall otherwise direct upon due cause being shown, the number of Peons to be employed under any Nazir or Deputy Nazir

shall be sufficient, and no more than sufficient, for the execution of 250 processes a year by each Peon: provided that three Peons for each Court shall be told off in rotation for ten days at a time to attend the Court, to help to keep order and guard the Court-house, and to be available for emergent processes under Rule XVIII.

In calculating the number of processes, if more than one of the same description have been issued on behalf of the same party at the same time in the same suit or proceeding and executed in the same town or village, the first only shall be reckoned as a full process, and each subsequent set of three or part thereof shall count as but one process, whether executed by one or more Peons. Three processes will be counted for each emergent process, and one for each day that a Peon is in charge of a judgment-debtor or engaged on any special duty.

XXIII. Every Central or Deputy Nazir shall, at the end of each month, report to the District Judge the number of processes, calculated as above, which may have been executed by their subordinates within the month; and such report shall show the number declared by each Court to be emergent.

The District Judge shall reduce the number of Peons in the Central Nazarat, or any outlying Court, whenever the average number of processes for each man (exclusive of those allowed under Rule XXII to be in attendance in the Courts) falls short of the prescribed minimum by more than ten per centum: provided that, if sufficient cause appears for lowering the minimum, he may report the matter for the orders of the High Court.

The periodical returns of receipts and disbursements on account of Process Service Fees, furnished to the High Court, shall show the minimum fixed for each Court, as well as the average number of processes actually executed by each Peon or Amin.

HIGH COURT OF JUDICATURE, (Signed) CHARLES A. TURNER, *Chief Justice*.
MADRAS, J. KERNAN,
8th November 1883. J. R. KINDERSLEY, *Judges*.
T. MUTTUSAMI AIYAR,
P. P. HUTCHINS.

(A true copy)
J. A. Davis
Acting Registrar
Appellate Side.

A.

No.	In what Suit or Proceeding.	Nature of Process.	NUMBER OF			Amount of Batta.			By whom to be served.
			Originals.	Copies.	Copies of Plaint.				
						RS.	A.	P.	

B.

General No.	Court No.	Court by which sent.	Nature of Process.	Batta received.			Batta spent.			Name of Process-server to whom entrusted.	Date of Despatch.
				RS.	A.	P.	RS.	A.	P.		

C.

General No.	Nature of Process.	Name of Village.	Distance in Miles.	Despatched, 188 .	Returnable, 188 .	Returned, 188 .	Amount of Batta.			Signature of Process-server.	Explanation of delay, if any.
							RS.	A.	P.		

Enclosure to High Court's
letter No 3536 dated
10 November 1883

No 3536.

High Court of Judicature,
Madras, 10 November 1883.

From

J. A. Davis Esquire,
Acting Registrar of the High Court of
Judicature at Madras.

To

C. S. Master Esquire,
Chief Secretary to
Government.

Sir,

I am directed to submit for the confirma-
tion of Government, and the sanction of the Govern-
ment of India, a copy of the Rules for the service
and execution of Process issued by the High Court
outside the Presidency Town in the Madras Session
which have been framed by the High Court
under Chapter IV of the Court Rules of 1870, in
modification of the Rules sanctioned in G.O. dated
1st August 1873, No 1210, Judicial.

2. I am to state that, in framing the Rules,
two of the objects the High Court has had in

Nov 13/83

view are (1) to relieve the numerous courts established
in places where they are overworked; and (2) to adjust
the strength of all establishments to actual require-
ments. By economizing labour, it is expected
that a saving will be effected in the present
cost of establishments, and at any rate that no
additional expense will be incurred under the
new scheme, which, if it proves successful, will
be followed up by a larger and wider one, more closely
resembling that which has been in force for
some years in Bengal and the North Western
Provinces. The system now recommended is identical
with that which has been worked successfully
in the Madras District, since the Government
sanctioned the experiment in G. O. No. 240, Judicial,
Department, dated 1st February 1881.

It is very desirable to bring the Rules
into force at the beginning of the ensuing calendar
year, and I am therefore to request that the
sanction of the Government of India may be obtained
if possible by or before the 1st January next.

The District Judges have been desired to make
arrangements accordingly.

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

G. S. Davis
Ap. Registrar,
Appellate Side.

Sd/
V. B. Humphreys

1. 1. 2-11:240 h.
1-2-73: 1210
27-6-73: 1000
1-5-73: 652

17th Nov/83, No. 3018.

draft rules will be forwarded
to sanction of the Govt. of India

11th Nov/83, No. 3019
draft rules will be forwarded
to sanction of the Govt. of India

To Secy. to Govt. India
Home judicial
Dept. 20/11

I am directed to forward for
consideration a copy of a draft rules
which have been drawn up
by the High Ct. under S. 20 of C. 79
Act. V of 79. I am to request that
the sanction of the Govt. of India may be obtained
to the same. The High Ct. desires, if
possible, that the rules shall come into
force from the commencement of the
next year. I am directed to ask
that the sanction requested may
be communicated to the Government

Judicial { 1883 . } Department

No.

FROM

THE REGISTRAR OF THE HIGH COURT
OF JUDICATURE AT MADRAS,
Appellate Side.

Dated 10th November 1883.
Received 11

CURRENT No. 3536.

Submitting for confirmation
of Government and the sanction of
the Government of India, a copy of
the Rules for the service and execution
of processes issued by the Civil
Courts outside the Presidency
Town in the Madras Presidency
in modification of the Rules
sanctioned in G.O. dated 1st
August 1873, 1210. G.O.

With order

Despatch
READ AGAIN Order of Government, dated
1883, No. Miscellaneous.

APER, No.

OF 10

ENCLOSURES.

CURRENT No.

43

STATEMENT WITH DITTO.

ORDER, &c. OF GOVERNMENT—A.

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

Order 31
Letter 20
Collection 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.

26-4-26

[1]

PRESS.

DEPARTMENT.

G.O. DATED 17th Nov/23

No. 3018 & 3019.

First copy sent to Press. 17/11/23.

Returned for signature. 19/11

Despatched in print. 20/11

[Despatch Abstract.]

Court Fees - Rules Forwarding,
for the sanction of the G.O.,
a draft set of rules drawn up
by the High Ct., for the revision
and execution of processes issued
by the civil courts outside the
Pres of Town in the Madras
Presidency.

18/5/26

10-2-1927

10/1/29

109-09

10 11

25-1-15

30-11-16

25-39

25-10-1