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(2) Date of repair 22-11-48

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MADRAS RECORD OFFICE.

Government of Madras.

Judicial

DEPARTMENT.

G.O. No. *3207*

Press
Mis.

Original

Dated *1 - 12*

18 *86*.

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper :—

From J. P. HEWETT, Esq., Officiating Under Secretary to the Government of India, Home Department (Judicial), to the Chief Secretary to the Government of Madras, dated Calcutta, 12th November 1886, No. 1618.

Adverting to the correspondence ending with the letter from this department, No. 564, dated the 28th April last, on the subject of the necessity for affording relief to the Madras High Court either by increasing the strength of that court or by reduc-

* Paragraphs 4 to 11 of despatch, No. 38, (Judicial), dated the 16th September 1886. ing the work which at present comes before it, I am directed to forward the accompanying extract * from a despatch from Her Majesty's Secretary of State, and

to request that you will be good enough to move His Excellency the Governor in Council to favor the Government of India with an expression of opinion on the points therein discussed.

Holidays.	Madras.	Bombay.	Bengal.
† Christmas holidays ..	19	17	11
Hindu holidays ..	5	14	9
Muhammadian holidays ..	1	..	6
Vacation ..	62	35	20
Other holidays ..	11	..	3
Total ..	98	66	49

2. I am at the same time to say, with reference to the concluding portion of paragraph 11 of the despatch, that the Governor-General in Council will be glad to learn why the number of holidays † taken by the Judges of the Small Cause Court at Madras is so largely in excess of the number taken at either of the other two Presidency Small Cause Courts.

ENCLOSURE.

EXTRACT from a despatch from the Secretary of State to His Excellency the Right Honorable the Governor-General of India in Council, No. 38, dated the 16th September 1886 (Judicial), paragraphs 4 to 11.

Para. 4. While considering the proposals submitted in the letter, No. 113, my attention has

* See paragraph 1 of letter from Government of Madras to the Government of India, dated 23rd July 1885.

been called to the statement made by the Government of Madras * that the numbers of civil and criminal appeals instituted in the Madras High Court in 1884 exceed the corresponding numbers for 1875 by 87.46 per cent., and 90.73 per cent., respectively. A statement so remarkable having led to an examination of the returns for the years in question, the examination shows that the statement must be based on some very serious mistake, inasmuch as there appears to be no very substantial increase in the number of civil and criminal appeals in the later year as compared with the earlier.

5. On the Original Side of the court the returns give a material diminution in the number of suits instituted, viz., 361 in 1884 as against 541 in 1875. As regards civil appeals they give, on the whole, a slight increase, viz., in 1875 "first" appeals from decrees 149 and "second" appeals 727, and appeals from orders 127, as against 145, 1,041, and 181 in 1884. In the later year there also were 39 appeals from the decision of a Judge of the High Court, *sitting alone*, there being no entry under that head for 1875. As to criminal appeals they were 499 in 1875 besides 70 referred for confirmation of sentence of death, the corresponding numbers for 1884 being 516 and 63.

6. These figures indicate no very substantial increase in the appellate business of the court. I observe, however, that in the later returns referred to by the Madras Government a large number of "revision" petitions and cases are included. But these cannot properly be classed with appeals or suit instituted, and should not appear in a statement purporting to show the increase of civil and criminal appeals.

* Government of India, to Secretary of State, Judicial, No. 29, dated 12th August 1882.
 Secretary of State, to Government of India, Judicial, No. 31, dated 26th October 1882.
 Enclosures in Judicial No. 17, from Government of India, to Secretary of State, dated 8th June 1883.

7. The unusual amount of time devoted by the Madras High Court to revision was the subject of correspondence some years ago,* and revision still seems to occupy in that court a place more prominent than in the Bombay Court, and very much more so than in the Calcutta Court.

8. As regards the proposed transfer of jurisdiction from the Madras High Court to the Small Cause Court, the matter does not appear to be as yet ripe for my decision.

9. Your Lordship's Government has (in your letter, No. 152, of the 18th May), intimated your intention to consult the Government of Bombay, being of opinion that relief should be afforded to the Bombay High Court either by the enlargement of the jurisdiction of the Presidency Small Cause Court in the manner contemplated in the case of Madras, or by some other arrangement which should involve the transfer to a less expensive tribunal of the greater portion of the less important work which now comes before the High Court as a court of first instance. Moreover, the papers relating to the new Bankruptcy Bill, which has been introduced in your Excellency's (Legislative) Council, indicate an intention to authorise the transfer of a certain portion of insolvency or bankruptcy work to some at least of the Presidency Courts of Small Causes. Further, I gather from the public newspapers, that the Finance Committee, recently appointed by your Lordship, are considering the question of the possibility of abolishing or diminishing the Original Jurisdiction of all the High Courts. In these circumstances, and pending these various inquiries, I think it unadvisable to take any step at present which involves an alteration of the jurisdiction of the courts.

10. I for the present defer any decision as regards your proposals, and shall await a further communication of your opinion upon the subject generally.

11. I may observe, however, that if it is eventually decided to add a Judge to the staff of the Madras Court of Small Causes, the salary assigned to the new office ought not, in my opinion, to exceed Rs. 1,200 a month, unless special reasons, of which I am not aware, exist, which necessitates a higher rate of payment. I would, moreover, direct the attention of your Lordship's Government to a matter which has come under my notice in the course of the inquiries suggested by your letter. From the annual reports of the several Presidency Small Cause Courts, it appears that the authorised holidays of the Madras Courts are greatly in excess of those of the Bombay Court, and still more of those of the Calcutta Court. This is a point which your Excellency will no doubt bear in mind, and cause to be further inquired into when the question of adding to the judicial strength of these courts is again under your consideration.

ORDER—dated 1st December 1886, No. 3207, Judicial.

The figures referred to in paragraph 4 of the despatch were based upon those given in the statement appended to the letter of the Registrar of the High Court, Appellate Side, dated 27th February 1885, No. 585. Revision petitions and references are therein shown as appellate work, and in the opinion of Government they are properly so shown. Before addressing the Government of India, however, His Excellency the Governor in Council would like to have before him the remarks of the Honorable the Judges of the High Court upon the various points raised.

2. Paragraph 2 of the letter from the Government of India will be referred to the Judges of the Small Cause Court for remarks.

(True Extract.)

Ag. Chief Secretary.

To the Honorable the Judges of the High Court, 11th C.L.
 „ Judges of the Court of Small Causes, Madras.

Ed. T. O'Connor.

Govt. of (1886) Madras.

JUDICIAL.

Issued

Recd.

Encl.

G.O., 1st December 1886, No. 3207.

DECEMBER.

Madras High Court.

Communicating to the Honorable the Judges and to the Judges of the Small Cause Court for report a letter from the Government of India enclosing a despatch from the Secretary of State asking for further information on certain points before considering the question of affording relief to the —.

25
Extract from a Despatch from the Secretary of State to His Excellency the Right Honourable The Governor General of India in Council. No 38 dated the 16th September 1886 (Judicial) Paragraphs 4 to 11. 31

* See para 9 of letter from Government of Madras to the Government of India, dated 13th July 1886.

(4) While considering the proposals submitted in the Letter No 113, my attention has been called to the statement made by the Government of Madras that the numbers of civil and criminal appeals instituted in the Madras High Court in 1884 exceed the corresponding numbers for 1875 by 87.46 per cent., and 90.73 per cent. respectively. A statement so remarkable having led to an examination of the returns for the years in question, the examination shows that the statement must be based on some very serious mistake, inasmuch as there appears to be no very substantial increase in the number of civil and criminal appeals in the later year as compared with the earlier

(5) On the original side of the Court the returns give a material diminution in the number of suits instituted, viz 361 in 1884 as against 541 in 1875. As regards civil appeals they.

they give, on the whole, a slight increase, viz in 1845 "first" appeals from decrees 149 and "second" appeals 727, and appeals from orders 127 as against 145, 1041, and 181 in 1884. In the later year there also were

39 appeals from the decision of a judge of the High Court, sitting alone, there being no entry under that head for 1873. As to criminal appeals they were 1299 in 1873 besides 70 referred for confirmation of sentence of death, the corresponding numbers for 1884 being 576 and 63.

(6) These figures indicate no very substantial increase in the appellate business of the Court. I observe, however that in the later returns referred to by the Madras Government a large number of "revision" petitions and cases are included. But these cannot properly be classed with appeals or suit instituted, and should not appear in a statement purporting to show the increase of civil and criminal appeals.

(7) The unusual amount of time devoted by the Madras High Court to revision was the subject of correspondence some years ago, and revision still seems to occupy in that Court a place

place more prominent than in the Bombay Court, and very much more so than in the Calcutta Court.

(8) As regards the proposed transfer of jurisdiction from the Madras High Court to the Small Cause Court, the matter does not appear to be as yet ripe for my decision.

(9)

Your Lordship's Government has (in your Letter N^o 152 of the 18th May) intimated your intention to consult the Government of Bombay, being of opinion that relief should be afforded to the Bombay High Court either by the enlargement of the jurisdiction of the Presidency Small Cause Court in the manner contemplated in the case of Madras, or by some other arrangement which would involve the transfer to a less expensive tribunal of the greater portion of the less important work which now comes before the High Court as a Court of first instance. Moreover, the papers relating to the new Bankruptcy Bill which has been introduced in your Excellency's (Legislative) Council indicate an intention to authorize the transfer of

Government of India to Secretary of State for India
12 September 1884
Secretary of State for India
12 September 1884
of which the following is a copy
of which the following is a copy
of which the following is a copy

of a certain portion of insolvency or bankruptcy
to work to come at least of the Presidency
Courts of Small Causes. Further, I gather from
the public newspapers, that the Finance
Committee recently appointed by your Lordship
are considering the question of the possibility
of abolishing or diminishing the original
jurisdiction of all the High Courts. In these
circumstances, and pending these various
inquiries, I think it inadvisable to take any
step at present which involves an alteration
of the jurisdiction of the Courts.

(10) I for the present defer any decision
as regards your proposals, and shall await
a further communication of your opinion
upon the subject generally.

11. I may observe, however, that if it be
eventually decided to add a Judge to the
staff of the Madras Court of Small Causes
the salary assigned to the new office ought
not, in my opinion to exceed Rs 1,200 a month
unless special reasons, of which I am not aware,
exist which necessitates a higher rate of payment.

I would, moreover, direct the attention of
your Lordship's Government to a matter which
has

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has come under my notice in the course of
the inquiries suggested by your letter. From the
annual reports of the several Presidency Small
Cause Courts, it appears that the authorized
holidays of the Madras Courts are greatly in
excess of those of the Bombay Court, and still
more of those of the Calcutta Court. This is
a point which your Excellency will no doubt
bear in mind, and cause to be further
inquired into when the question of adding to
the judicial strength of these Courts is again under
your consideration.

(True Extract)

John Lubbock
Registrar, Home Department

101618 CURRENT NO. 131

From

J. B. Hewitt Esq.

Off: Under Secy: to the Govt of India

To, The Chief Secy: to the Govt. of Madras

Dated Calcutta the 12th November



Home Dept
(Judicial)

Sir,

Adverting to the Correspondence ending with the letter from this Department No. 564 dated the 25th April last, on the subject of the necessity for affording relief to the Madras High Court either by increasing the strength of that Court or by reducing the work which at present comes before it, I am directed to forward

* Para: 4 to 11 of the accompanying extract from a Despatch No. 38 (H.S.) dated the 16th Sept 1886. despatch from Her Majesty's Secretary of State and to request that you will be good enough to move His Excellency the Governor in Council to favour the Govt of India with an expression of opinion on the points therein discussed.

2. I am at the same time to say, with reference to the concluding portion of para: 11 of the despatch

Despatch, now in progress
General in Council will be
glad to learn why the
number of holidays
taken by the Judges
of the Small Cause
Court at Madras is

Holidays	Madras	Bombay	Bangalore
Christmas holidays	19	17	11
Hindu holidays	5	14	9
Mohammedan holidays	1	0	6
Vacation	62	35	20
Other holidays	11	0	3
	98	66	49

is largely in excess of the number
taken at either of the other two
Presidency Small Cause Courts.

I have the honor to be
Sir

Your most obedt servt

18-4-56

J. P. Hewitt.

Offg. Under Secy to the Govt of India

Jan 1900 - 12 - 18

[9]

GOVERNMENT 4343

Judicial DEPARTMENT.

Order 1-12-86 29/11 3207

The figures referred to in para 4 of the despatch were based upon those given in the statement appended to the letter of the Registrar of the High Ct., Appellate Side, of 27th July, 1886 No. 585. Revision petⁿ and references are therein shown as appellate work, and in the opinion of Govt. they are properly so shown. Before addressing the Govt. of India, however, the H.S. the C. in C. would like to have before him the remarks of the Hon. the Judges of the High Ct. upon the various points raised.

From G.O., Home Dept

No. 1618

Dated 12-2-86

Received 17-2-86
Do for reg^y 18-2-86
Enclosures One

SUBJECT.

Calling for opinion in points raised by the Bench of State reg necessity for affording relief to the Madras High Court

2. Para 2 of the letter from the Govt. of India will be referred to the Judges of the Small Cause Ct. for remarks.

Has

23/xi

Send this paper to Mr. Master. Mr. Hutchins also see it

23-11-86 25/11 R 25/11 K 30/11

The Hon the Just^s of the High Court with 6 of the Judges of the Small Cause Ct. and

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PRESS.

JUDICIAL DEPARTMENT.
 G.O. DATED 1 December 1912.
 No. 3207

First copy sent to Press. 2/12
 Returned for signature. 7/12
 Despatched in print. 8/12

[Despatch Abstract.]

Madam High Court coming to the
 from the proper to the proper of the
 of Court a letter for the enclosed
 a letter from the S.P. asking for further
 information on certain points, before con-
 sidering the question of granting
 relief to the —.