

No. 288, MARINE, 29TH APRIL 1896.

GOVERNMENT OF MADRAS.

MARINE DEPARTMENT.

READ—the following paper :—

From R. H. SHIPLEY, Esq., Acting Registrar of the High Court of Judicature, Appellate Side, Madras, to the Chief Secretary to Government, dated 18th March 1896, No. 1046.

Adverting to paragraph 2 of G.O. No. 365, Marine, dated 6th December 1895, I am directed to forward copy of a letter from the District Judge, Górávari, and to state that Rule 4 referred to in the Government Order did apply to the case in question, inasmuch as the Port officer is reported to be subordinate to the Collector, and that, in the circumstances stated in Mr. Mackenzie's letter, it may be taken that the Collector took no objection to the appointment of the Port officer as Commissioner, but tacitly assented thereto.

ENCLOSURE.

From G. T. MACKENZIE, Esq., District Judge, Górávari, to the Acting Registrar, High Court of Judicature, Appellate Side, Madras, dated 24th February 1896, No. 711.

In reply to your letter No. 558, dated 18th February, I have the honour to submit the report called for in G.O. No. 365, Marine, dated 6th December 1895.

2. I beg in the first place to point out that the place is thirty miles from Cocanada, and not three miles as erroneously printed in the Accountant-General's letter to the Government of India.

3. Suit No. 8 of 1889 was filed by the proprietrix of Kapilesvarapuram against the Collector of Górávari on behalf of the Secretary of State. It raised important questions about river formations. When the suit came before the High Court as appeal No. 86 of 1892, the High Court ordered that a person of nautical experience be sent to take tidal observations at the spot. My predecessor Mr. Ross, in October 1894, issued a commission to the Port officer, Cocanada, and fixed the remuneration at Rs. 100 per diem and his travelling expenses.

4. I cannot find that any permission was obtained from the official superiors of the Port officer, but the Collector was a party to the suit and the Port officer is his subordinate.

5. When these observations were reported to the High Court, the Government Pleader moved the High Court to order that the observations be repeated when the river was low, and this was done. In accordance with the order of the High Court, I issued a commission to the Port officer to repeat his observations. I thought that the remuneration was high, but, as I became Judge here in the course of this investigation, I did not feel myself at liberty to reduce the rate fixed by my predecessor. As the repetition was on the motion of the Government Pleader, I made no reference to the Collector on the subject. On the first occasion Captain James worked six days and received Rs. 612. On the second occasion he worked five days and received Rs. 518.

6. The High Court has since decided the appeal in favour of the Secretary of State. This remuneration is costs in the cause and will be paid by the unsuccessful plaintiff.

No. 680, Judicial.

Transferred to the Marine Department.

26th March 1896.

(Signed) W. FRANCIS,
Ag. Under Secretary.

ORDER—No. 288, Marine, dated 29th April 1896.

Ordered that the Government of India be addressed.

[Here enter No. 289, Marine, dated 29th April 1896.]

(True Extract.)

Under Secy. to Government.

To the Presidency Port Officer.
„ the Judicial Department.

Exd. T. K. Narayana Aiyangar.
Spare Copies

Gobt. of {1896} Madras.
MARINE.

217-8 Mar 30-3-96
541 .. 7-8-96.

Dated April, 29th.

Recd.

Encl.

G.O. No. 288, 29th April 1896.

APRIL.

Commission

Ordered that the Government of India be addressed in connection with the execution by the Port officer, Cocanada, of a — issued by the District Judge, Gódvári, to take certain tidal observations at the Gódvári river.

No. 289, MARINE, 29TH APRIL 1896.

MARINE DEPARTMENT.

LETTER—from

COLONEL D. McNEIL CAMPBELL, R.E.,
Joint Secretary to the Government of Madras,
Marine Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
HOME DEPARTMENT, JUDICIAL.

SIR,

Adverting to paragraph 3 of your letter No. 1573, dated 29th October 1895, and in continuation of my letter No. 218, Marine, dated 30th March 1896, I am directed to forward herewith the accompanying copy of a letter from the District Judge, Gódvári, in paragraph 4 of which it is stated that there is nothing to show that "any permission was obtained from the official superiors of the Port officer, but the Collector was a party to the suit and the Port officer is his subordinate."

2. His Excellency the Governor in Council observes that the Port officer, Cocanada, cannot strictly be held to be the subordinate of the Collector. He is directly under the Presidency Port Officer. Rule 4 of the rules regarding commissions must therefore be held to apply, and though prior notice was not served on the Port officer's official superior, it will be seen from paragraph 2 of the Port officer's letter No. 11/13, dated 7th January 1896, which accompanied my letter No. 218, Marine, dated 30th March 1896, that the fact of his appointment as Commissioner "was notified (by the Port officer himself) to the Presidency Port Officer, Madras, on each occasion, and sanction received to leaving the port."

I have the honour to be,
Sir,

Your most obedient servant,

Colonel, R.E.,
Joint Secretary to Government.

OOTACAMUND,
29th April 1896.

Exd. T. K. Narayana Aiyangar.
Spare Copies

Govt. of {1896} Madras.

MARINE.

Dated April, 29th.

Recd.

Encl.

No. 289, 29th April 1896.

APRIL.

Commission

Stating that Rule 4 of the rules regarding commissions must be held to apply to the Judicial — executed by the Port officer, Cocanada, and that the fact of his appointment as Commissioner was notified to his superior officer and sanction received to his leaving the port.

No. 1046

High Court of Judicature

CURRENT NO. 1333

Madras, 18th March 1896

From

R. H. Shipley Esquire,
Acting Registrar of the High Court
of Judicature, Appellate Side,
Madras.

To

The Honorable Mr. J. F. Price, C. S.,
Chief Secretary to Government,
Fort Saint George.

Honorable Sir,

Adverting to para. 2 of G. O.
No. 365, Marine, dated 6th December 1895,
I am directed to forward copy of a letter
from the District Judge, Godavari, and to state
that Rule 4 referred to in the G. O. did apply
to the case in question, inasmuch as the
Port officer is reported to be subordinate
to the Collector and that, in the circumstances
stated in Mr. Mackenzie's letter, it may be
taken that the Collector took no objection
to the appointment of the Port officer as
Commissioner, but tacitly assented thereto.

I have the honor to be,
Honorable Sir,
your most obedient servant,

R. H. Shipley

Acting Registrar.

Every letter, whether printed or in manuscript, should be docketed and abstracted on the back ;
and the abstract should state clearly the purport of the letter and not merely its title subject.

Enclosures and statements also, whether sent with letters, or merely under cover, should be numbered, docketed and abstracted. The headings of statements should be written in full to prevent mistakes. (G. O. 8th April 1893, No. 289, Public.)

1333
116 D18-1-96
Marine Current No: 364
Judicial 1896 Department.
No.
FROM
The Registrar of the High Court
of Judicature, Appellate Side,
Madras.
Dated 18th March } 1896.
Received 20/3
Rep 21/3
UNDER SECRETARY
20 MAR '96
PUBLICITY DEPT.
No. 1046
Enc 1.
Forwarding copy of a letter
from the District Judge, Godavari
and stating that Rule 4 referred
to in paragraph 2 of G.O. No. 365,
Marine, d/6th December/95,
does apply to the case in question.
To the Marine Dept.
Envoysment No 680
26-3-96
Transferred to the Marine
Dept.
Francis.
As Under Secretary
Dated: 27.3.96
25/3/96
6.12.95. 365. Marine
30.3.96. 217
30.3.96. 218

No. 711.
District Court, Godavari
24th February 1897
From G. J. Mackenzie Esquire,
District Judge.
To R. H. Shipley Esquire,
As Registrar,
High Court of Judicature
Appellate Side, Madras.
Sir,
In reply to your letter No. 558 dated
18th February, I have the honor to submit
the report called for in G.O. No. 365, Marine,
dated 6th December 1895.
2. I beg in the first place to point
out that the place is thirty miles from
Cocanada and not three miles as erroneously
printed in the Accountant General's letter
to the Government of India.
3. Suit No. 8 of 1889 was filed by the
Proprietrix of Kapileswarapuram against
the Collector of Godavari on behalf of the
Secretary of State. It raised important
questions about river formations. When
the suit came before the High Court as
appeal No. 66 of 1892 the High Court ordered
that a person of nautical experience be
sent to take tidal observations at the spot.
My

predecessor Mr. Ross, in October 1894, issued a commission to the Port officer, Co. Canada, and fixed the remuneration at Rs. 100 per diem and his travelling expenses.

4. I cannot find that any permission was obtained from the official Superiors of the Port officer but the Collector was a party to the Suit and the Port officer is his Subordinate.

5. When these observations were reported to the High Court the Government Pleader moved the High Court to order that the observations be repeated when the river was low and this was done. In accordance with the order of the High Court, I issued a commission to the Port officer to repeat his observations. I thought that the remuneration was high but, as I became Judge here in the course of this investigation, I did not feel myself at liberty to reduce the rate fixed by my predecessor. As the repetition was on the motion of the Government Pleader I made no reference to the Collector on the subject. On the first occasion Captain James worked
Dia

Six days and received Rs. 612. On the second occasion he worked five days and received Rs. 518.

6. The High Court has since decided the appeal in favor of the Secretary of the Port. This remuneration is costs in the cause and will be paid by the unsuccessful Plaintiff.

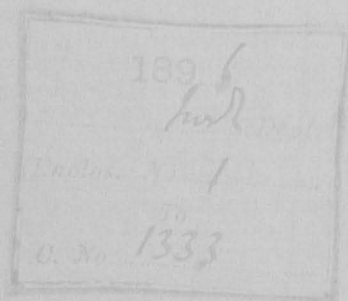
I have &c.,
(Signed) G. F. MacKenzie,
District Judge.

(True Copy.)
High Court of Judicature,
Appellate Side,
Madras, 18th March 1896. } R. H. Shipley
Acting Registrar

1/11
encd
Case

Enclosure No. 1, to letter from the
High Court of Judicature, Appellate Side, Madras,
dated 18th March 1896, No. 1046.

Copy of a letter from the
District Judge, Godavari.



PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following

Endorsement in the Judicial Department, No. 680, dated 26th March 1896, on
letter from the Registrar of the High Court of Judicature, Appellate
Side, Madras, No. 1046, dated 18th March 1896.

No. 288 Marine 29 April 1896

Ordered that the Government of
India be addressed.

(H.E. No. 269 Mer d/29 April 1896)

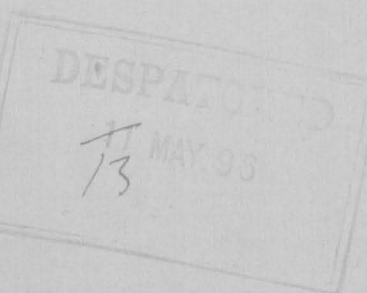
To

The Secretary to the
Government of India,
Home Deptt. Judicial.

Sir,

Adverting to para 3 of your --
letter No. 1573 dated 29th October
1895, and in continuation of my letter
No. 218 Marine dated 30th March 1896,
I am directed to forward herewith --
the accompanying copy of a letter
from the District Judge Godavari in
para 4 of which it is stated that --
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permission was obtained from the --
official superiors of the Port officer
but the Collector was a party to the
suit and the Port officer is his --
subordinate."

2. His Excellency the Governor in
Council observes that the Port officer,
Cocanada,



*The PPO
"Jud. Deptt."*

Cocanada cannot strictly be held -
to be the subordinate of the Collect-
or. He is directly under the Presi-
dency Port officer. Rule 4 of the
rules regarding commissions must --
therefore be held to apply, and --
though prior notice was not served
on the Port Officer's official --
superior, it will be seen from para
2 of the Port Officer's letter No.
11/13, dated 7th January 1896, which
accompanied my letter No. 218 Marine,
dated 30th March 1896, that the fact
of his appointment as Commissioner
"was notified (by the Port officer
himself) to the Presidency Port ---
officer, Madras, on each occasion, and
sanction received to leaving the
port".

A principal Commissioner in
invented by the Port officer
Cocanada

24/4/96

CH-1075
24/4/96

signed copy issued
from port
office

15/5/96

Shane copy issued
from Madras office

18/5/96

W
A few additional
commissions have been
issued

22/4/96