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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

P W

DEPARTMENT

G.O. No.	565(W)	Press.
B.P. No.		Mis.
Dated	8. 3. 1980	197.

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.
PUBLIC WORKS DEPARTMENT.

8th March 1880, No. 565 W.

General
Establishment.

Read the following papers :—

No. 31. Proceedings of the Madras Government in the Judicial Department, dated 5th March 1880, No. 505.

Read the following official memorandum from the Public Works Department, dated 27th January 1880, No. 295.

COPIES of G.O., dated 25th October 1878, No. 2,176, and 5th December 1879, No. 3,094, which contain instructions as to the course to be pursued by Collectors in employing Vakils on behalf of Government and paying them, will be communicated to the Public Works Department.

2. The proper fee in the case under reference is Rs. 8-1-7.

(True Extract.)

(Signed) A. L. V. RAMANA,
Ag. Asst. Secretary.

To the Public Works Department, (with papers and the G.Os., quoted.)

No. 31-A. From J. W. RUNDALL, Esq., Acting Superintending Engineer, Fifth Circle, to the Chief Engineer, Public Works Department, dated Kuttalai, 24th January 1880, No. 1,297 T. N.

With reference to G.O., No. 2,208-A W., of the 25th August last, I have the honor to report that the suit against Mr. F. Watkins, Supervisor, by one Subramania Asari, the defence of which at the public expense was sanctioned in above Government Order was dismissed with costs against the plaintiff by the Subordinate Court of Tinnevely.

2. In reporting this the Vakil employed by Mr. Watkins claims a fee of Rs. 30 for his services in defending the suit, and states that the amount of fee to be awarded by the Court will not amount to this sum. The fee asked by this Pleader seems very high considering the amount involved was only Rs. 162.

3. In former days, when a Government Pleader was employed at each Court, only expenses were disbursed, now that there are no Government Pleaders I think some instructions as to the amount of fees allowable are necessary, and shall feel obliged by being furnished with them.

No. 32. ORDER THEREON, 8th March 1880, No. 565 W.

COMMUNICATED to the Superintending Engineer, Fifth Circle.

2. Judicial Department Proceedings of 25th October 1878 and 5th December 1879, Nos. 2,176 and 3,094, will be reprinted for the information and guidance of all officers of the department.

(True Extract.)

Major, R.E.,
Ag. Under Secy. to Govt., P.W.D.

To the Superintending Engineer, Fifth Circle.
„ all Officers of the Department.
„ the Secretary to the Code Committee.
Exd. S. T. Austin.
Spare Copies

GENERAL
ESTABLISHMENT.

Govt. of (1880) Madras
PUBLIC WORKS.

THE SUPERINTENDING ENGINEER,
FIFTH CIRCLE.

Dated March 31st

Issued

Read

G. O. No. 31-32, 1880, No. 31-32.

MARCH

Nos. 31-32.

Minutes for payable to Vakils for appearing on behalf of Government.—Proceedings of Judicial Department stating the proper fee to be paid for conducting a suit in the Fifth Circle communicated to the Superintending Engineer, and two other Proceedings of the same Department, fixing the fee, printed for the information and guidance of all officers of the Department.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

25th October 1878, No. 2176.

Pleaders.

Read the following paper:—

No. 112. *Proceedings of the Board of Revenue, dated 13th September 1878, No. 2526.*

Read the following paper:—

Proceedings of the Madras Government, dated 12th August 1878, No. 1286, Revenue Department.

ABSTRACT.—*Suit No. 4 of 1877 filed in the District Court of Vizagapatam by the adopted son of the late Proprietor of Siripuram Estate to obtain registration of the Estate in his name.—Passing orders on Proceedings of the Board of Revenue regarding the costs payable by the Collector in —.*

From J. F. PRICE, Esq., Acting Collector of the Chingleput District, to the Acting Secretary to the Board of Revenue, dated Conjeeveram, 8th August 1878, No. 133.

I have the honor to submit the following matter for the instructions of the Board of Revenue.

2. The late Government Pleader in the District Court of Chingleput, who has recently died, received from Government a sum of Rs. 1000, which he has expended of which he transacted, without fee, all miscellaneous business on account of his employers both in the District Court and the District Munsif's Court at Chingleput.

3. The office of Government Pleader or Vakil in Mofussil Courts has been abolished by Act II of 1867 (Madras); and, on a reference which I made when Acting Collector of Cuddapah, Government ruled that the post having been abolished I was to employ such Vakil as I saw fit in each case.

4. I have accordingly arranged with Govinda Charlu, the Government Prosecuting Vakil in the Sessions Court, who is, in my opinion, the best, taking him in all points, in the Court over which I formerly presided, that so long as he gives me satisfaction he shall have the Government civil business in addition to the criminal. It is obviously by no means desirable to one day employ one man and one day another, as our work would never be worth having and would be carelessly done, to say nothing of the advantage to be gained by having at disposal the services of a Vakil who is acquainted with all that concerns Government going on in the Court, and who will be prepared to give the Collector information of anything which may transpire in which it may be desirable that he should move.

5. The question of fees has to be settled.

6. According to the usual practice, the lowest recognised charge made by a Vakil of the District Court for any motion, petition, or application is Rupees 5, and for advising on any petty matter the same.

7. Govinda Charlu has now proposed to compound all fees, excepting those regularly assigned to Vakils by the Court and recoverable from the opposite party, for a payment of the fee formerly given to the Government Pleader, and for this he undertakes to do all Government business in the District Munsif's Court at Chingleput and in that of the District Judge.

8. I think the proposal a fair one. There are certainly quite fifty occasions, if not considerably more, during the course of the year in which the Vakil employed by Government has to transact business for them, and if he was paid Rupees 5 per case the charges for law expenses during the year would be probably more than if fees were compounded for at the rate of Rupees 21 a-month.

9. On this ground, and on the consideration that it is advisable to have in the District Court a Vakil who by a regular salary is bound to watch for anything affecting the interests of Government, I would recommend that Govinda Charlu's offer should be accepted.

10. If the Board are pleased to accept my suggestion, I beg that sanction may be accorded for the monthly payment of the sum mentioned.

From W. DONALD, Esq., Officiating Deputy Accountant-General, to the Acting Secretary to the Board of Revenue, dated Fort St. George, 9th September 1878, No. I.A.F.-13.

With reference to your official memorandum, No. 1067, dated 2nd September 1878, I have the honor to state that Government Pleaders on Rupees 21 a-month are retained in all the districts except those noted in the margin. In Tanjore two and in Malabar three are retained. One of the three in Malabar is paid only Rupees 15.

2. In Ganjam and Cuddapah no Pleaders were employed for the last two years, and in North Arcot the charge ceased only from April last, but no order of Government is traceable abolishing the appointment in these districts.

The Collector of Vizagapatam will be called upon to furnish the explanation

2. It seems desirable that some definite rule should be laid down as to whether a Vakil should be retained in each district to conduct all legal business on behalf of Government and as to the remuneration to be paid to him. By G.O., dated 1st September 1866, it was decided that one of the enrolled Pleaders of the Chief Court of each district should be nominated by the Collector and appointed by Government during their pleasure. A retaining fee of Rupees 21 per mensem has hitherto been paid, besides special fees in particular civil cases, a minimum of Rupees 5 per case being fixed by G.O., dated 5th September 1868, No. 2328. It appears, however, to have been decided in G.O., dated 11th July 1877, No. 1634 (not communicated to the Board or to Collectors generally), that, as there is no longer any statutory provision for a Government Pleader, there is no necessity for continuing the appointment, a Pleader being selected by the Collector as occasion for his services may arise. The Board find on reference to the Accountant-General that Government Pleaders on Rupees 21 a-month are retained in all districts except Ganjam, Vizagapatam, Cuddapah, and North Arcot; that in Tanjore there are two and in Malabar three, one being paid only Rupees 15. The Collector of Chingleput points out the advantages of securing the services of a Vakil, as a permanent arrangement, to conduct all the Government civil business, and the same view appears to have been entertained when the subject was under discussion in 1866. The Board are decidedly of opinion that Collectors should be authorized to engage a Pleader in each District Court for the conduct of all miscellaneous legal business on behalf of Government, such as filing petitions, making motions for adjournments, advising the Collector on matters of procedure connected with suits, &c., on payment of a monthly fee, though it is not considered advisable to constitute the office of Government Pleader by formal appointment.

3. As regards the remuneration to be given for appearance in regular suits, it seems to have been the practice hitherto to pay the regulated fees according to the scale

laid down in Regulation XIV of 1816 invariably, and in a recent case which came before them the Board took the view that as the Board's Proceedings, dated 24th July 1877, Government Pleader has to appear in all No. 3451.

cases to which Government is a party, whatever their nature and the amount of trouble involved, the arrangement was fair, and that as it obviated the necessity for bargaining it was preferable to the settlement of special terms in each separate case on the score of simplicity. It is true that in some cases, as in that which has been brought to notice from Vizagapatam, the payment of a sum out of all proportion to the actual trouble incurred in the particular suit may be entailed, but the average remuneration may nevertheless not be excessive; the Board cannot say how far this is the case, but they doubt whether any saving will be effected by settlement of terms on each occasion of the employment of a Vakil.

4. The Board think that where a Vakil has to plead, to examine witnesses, and to watch the case on behalf of Government, which can only happen when Government is actively interested in the issue, the fees payable should be according to the scale prescribed in Section 25, Regulation XIV of 1816, but that where the duty to be performed, as in the case under notice, is of a trifling nature and makes but a slight demand on the Vakil's time and professional attainments, special arrangements should be made. It is desirable that the rates of remuneration should be approximately the same in every district, and Collectors might be authorized to settle what should be paid according to the nature of the service within a maximum of Rupees 150 in all cases where the regulated fee would be disproportionate, the present minimum of Rupees 5 being preserved. For miscellaneous business the Board would retain a Vakil specially on payment of a fixed monthly salary as heretofore; if it was understood that he would as a rule be entrusted with the conduct of all the regular suits to which Government might be a party, the fee of Rupees 21 per mensem hitherto allowed would probably be sufficient inducement to undertake the work.

(True Copies and Extract.)

(Signed) C. A. GATTON,
Acting Secretary.

Transferred to the Judicial Department.

OOTACAMUND,
27th September 1878.

(Signed) LORNE A. CAMPBELL,
Under Secy. to Govt. Rev. Dept.

No. 113.

ORDER THEREON, 25th October 1878, No. 2176.

The Government see no necessity to maintain a Pleader in each District Court (where litigation is seldom or never initiated) at a monthly cost of 21 Rupees for each Court. They prefer that the Collector should employ a Vakil *pro reata*; the same Vakil would do as long as he gives satisfaction; he would get the regulated fees, with 5 Rupees as a minimum in each case. The existing Pleaders will shortly be abolished.

(True Extract.)

C. G. MASTER,
Acting Chief Secretary.

To the Board of Revenue.
" All District Judges.
" the Revenue Department.
" the Government Pleader.
" the Accountant-General.

Exd. J. Wright.

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following

Memo from the Public Works Dept,
of 27 January 1880 No 295.

Order thereon 5 March 1880 No. 575

Copies of G.O. of 25 October 1878
No 2876 and 5 December 1879 No 3094,
which contain instructions as to the
courses to be pursued by Collectors
in impounding Vahils on behalf of
Government and paying them, will
be communicated to the Public
Works Department.

2. The proper fee in the case
under reference is Rs 8.1.7.

(Signature)
A. Ramaswami
Asst. Secretary

The Public Works Dept
(with papers & the G.O's quoted)

P.W.D.
CHAMBO

No.

Dated
Recd.

1880, No.

Nos.

Copy of Chief Engineer's
order for the
construction of the
canal to the
benefit of the
people of the
district.

Buildings
and Roads

No 1297 T.M.

Superinty Engineer's Office
Camp Mullatai 21st January 1880

From

J. W. Rundall Esquire,

Ag. Superinty Engineer 5th Circle

To

Colonel R. H. Sankey & B. P. K.

Chief Engineer P.W.D. Madras

Sir

With reference to L.O. No 2206
of the 25th August last, I have
the honor to report that the suit against
Mr J. Watkins Supervisor by Mr Subra
maniam Asari, the defence of which at the
public expense, was sanctioned, and also
L.O. was dismissed with costs against
the Plaintiff, by the subordinate court
of Tirunelveli.

2 In reporting this the Taluk
employed by Mr Watkins claims a fee
of Rs 30 for his services in defending
the suit, and states that the amount of
fee to be awarded by the court will not
amount to this sum. The fee asked by
this Pleader ^{seems} very high considering the
amount involved was only Rs. 162.

8.11.1-7

3 In former days when a Pleader
was employed at each

about, only expenses were disbursed, now
that there are no Government Pleaders,
I think some instructions as to the amount
of fees allowable are necessary and shall
feel obliged by being furnished with
them.

I have the honor to be

Sir

Yours most obedt servt

L. W. Russell

Aty Superintendent Engineer

P.W.D.

27 JAN 90

N.B.

I now,

The Sups Engineer

To,

50 mile

The Chief Engineer

P. W. D.

Re 1297 T.M

Dated 24th January 1880.

Suit brought against
Smt. W. Ashmus, Superins
by one Siva Subramo-
nia Achari-

Reports that the
was dismissed by
the subordinate court

C.E. No 295 of 27th Jan 1880

Referred to the Judicial
Dept for remark on the question
raised in the 2nd & 3rd paras of
the S. Engis letter.

L. J. P.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

5th December 1879, No. 3094.

Vakils.

Read the following paper:—

No. 15. *Proceedings of the Board of Revenue, dated 17th October 1879, No. 2949.*
ABSTRACT.—Recommending that the proposal of the Collector of Madura to allow Vakils of District Munsifs' Courts a minimum fee of Rs. 2 in all cases other than suits fully investigated and decided be sanctioned, and suggesting that the Judges of the High Court be addressed in view to the necessary instructions being issued to the Lower Courts to allow reasonable time for opposing applications to sue *in forma pauperis*.

Transferred to the Judicial Department.

Fort St. George,
7th November 1879.

(Signed) J. H. GARSTIN,
Ag. Secy. to Govt., Rev. Dept.

No. 16. *ORDER THEREON, 5th December 1879, No. 3094.*
His Grace the Governor in Council is pleased to fix Rs. 2 as the minimum fee payable to Vakils for appearing on behalf of Government or the Court of Wards in all miscellaneous cases.
2. It is observed that the suggestions of the Board of Revenue in regard to the course to be pursued by Collectors on receiving notices under Section 408 of the Code of Civil Procedure have been anticipated by Government in G.O., dated 30th September 1879, No. 2526, a copy of which was communicated to the Revenue Department.
3. The Honorable the Judges of the High Court will be requested to instruct all the Courts subordinate to them to allow a reasonable time to Collectors in notices under Section 408 of the Code of Civil Procedure in order that the expense and inconvenience caused by adjournments may be avoided.

(True Extract.)

C. G. MASTER,
Acting Chief Secretary.

To the Honorable the Judges of the High Court,
with Board's Proceedings, No. 2949.
„ the Board of Revenue.
„ all Collectors.

Ed. J. Wright.

13565h.

P. W. Department.

525

PROCEEDINGS of the MADRAS GOVERNMENT.

Under date the 8th March 1880.

Read the following

Prop: Judl Dept. (H.C. No. 505 of 5th March/80.

Communicated
to the Suptg. Engineer
5th Circle.

2. Judicial Dept.
Prop: of 25th October
1878, and 5th December
1879, Nos. 2176 and
3094, will be re-
printed for the
information and

Suptg. Engr. 5th Circle / Guidance of all
All Officers of the Dept. / Officers of the Dept.
Secy. to the Code Committee.

Do M

17-3-80

6/3

L 80

GOVT. OF MADRAS

JUDICIAL

THE HONORABLE THE JUDGES OF
THE HIGH COURT

Chief Justice

Justice

Justice

GOVT. OF MADRAS 1879, No. 2004

DECEMBER

Nos. 16-18.

Printed by the Government of Madras at the Government of Madras Press, No. 1, Cross Street, Madras.

No 1617

Govt. of Madras.
PUBLIC WORKS.

To

Dated

Issued

Recd.

Each

G. O. 8 Mar 1880, No. 5654

Nos. 31-32

Minimums fee payable
to the Kils for appearing on
behalf of Govt. Prop. paid
Dept. stating the proper fee
to be paid for conducting
a suit in the S. Circle, and
to the S. Circle, and two other
Prop. of the same Dept. being
the —, reported for the
information & guidance
of all Officers of the Dept.