

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—again the following paper:—

G.O., dated 29th June 1887, Mis. No. 1375, Judicial.

Read—the following papers:—

From J. W. HANDLEY, Esq., Chief Judge, Madras Court of Small Causes, to the Chief Secretary to Government, dated Madras, 18th April 1887, No. 320.

I have the honor to bring to the notice of Government a question which has arisen between this Court and the Examiner of Commissariat Accounts.

That officer objects to send to court every month the portion of pay of Government servants attached in his hands in execution of decrees, and requests that a bailiff or other officer of this court may be sent to his office every month to receive and bring the money to court. The reasons for his objection are set forth in his letter of the 5th instant, herein enclosed.

2. Section 268 of the Code of Civil Procedure provides that the disbursing officer, in whose hands the pay of a Government official has been attached by notice under that section, *may*, from time to time, pay into court the portion of salary attached, but it does not appear to provide what is to be done if he does not choose to do so. In that case he holds the portion of salary attached “until the further order of the court,” but what that further order should be is not clear. If it be to bring the money into court, the court has no means of enforcing such an order.

3. As far as attachments of this court are concerned, I believe it has always been the practice for the disbursing officer to pay the money into court under the last clause of section 268, and this appears to be the most convenient course for all parties. The staff of bailiffs is wholly insufficient to undertake the work of going to the various Government and Railway offices to receive the portions of salaries attached in addition to their ordinary work, and there is no means that I am aware of of levying an additional process fee to cover the cost of employing additional bailiffs or other officers for the purpose.

4. I entirely sympathize with Colonel Saunders's sentiments as to the unfairness of throwing extra work and responsibility upon Government officials merely for the benefit of creditors, who are for the most part money lenders; but this appears to me to be a necessary incident of the law of attachment of salaries of Government and Railway officials as it now stands. Against that law I have often protested both on that ground and also on the ground that by making borrowing easier it increases the indebtedness of Government servants. I trust that some day there may be an inquiry into the working of the law on this subject, which may result in its modification; but meanwhile the law has to be administered as it is, and to that end I would suggest that Government should issue some general instructions to its servants as to the course to be followed with respect to attachment of pay in their hands.

ENCLOSURES.

From Colonel H. G. SAUNDERS, Examiner of Commissariat Accounts, to the Chief Judge, Small Cause Court, Madras, dated Fort St. George, 5th April 1887, No. 64.

I have the honor to acknowledge receipt of your No. 292, dated 4th instant, and am quite willing to accept the explanation in paragraph 1, that your Acting Registrar's letter was not intended to be offensive.

2. I note that in paragraph 2 you state it has been the "invariable practice" in this Presidency for the disbursing officer to pay into court the portion of the salary attached. I object to the practice on principle and on the following grounds:—

- (a) The Civil Procedure Code does not require a disbursing officer to send the money to the court.
- (b) The court gives costs against the defendant, and the cost of sending a bailiff to collect the money forms part and parcel of the costs connected with the case.
- (c) It is irregular and considerably stops work by sending a Government peon to the Small Cause Court with the money; he is kept at the court for hours before he can get a receipt.
- (d) If the number of bailiffs is insufficient to carry out the court decrees, then, I submit, it is the duty of the Chief Judge to bring the matter to the notice of Government.

3. For the reasons given above, I must decline to waste the time of a Government servant by sending him to your court with the money recovered for judgment-creditors, who are for the most part, I believe, money-lenders and undeserving of any consideration. The money now in my hands, recovered from pay for March, awaits the arrival of a bailiff to take charge and grant me a receipt.

4. In connection with this subject, I would ask who would be held responsible for any loss if—

- (1) the peon was robbed on his way to your court;
- (2) if he bolted with the money.

If the peon, the Government would naturally turn round and ask what business I had to employ an office servant on such work.

I think it cannot admit of a doubt that a bailiff is the proper person to collect the money.

From H. F. CLOGSTOUN, Esq., Accountant-General, to the Chief Secretary to Government, dated Fort St. George, 3rd June 1887, No. 1462.

Adverting to the reference No. 1758, dated the 7th of May 1887, on the subject of salaries attached by the Small Cause Court, Madras, I have the honor to state that I see no reason why attached portions of salary should not be deducted in the monthly salary bills. As these may be signed by heads of offices at any hour on the last day of a month, attachment orders should reach the officers concerned at latest on the day before the last working day of the month, otherwise prompt deduction cannot be reckoned upon.

2. With regard to these deductions being credited in civil books to Small Cause Court's deposits, this can be done in the case of all civil establishments, and the deposit account will be cleared monthly by the Accountant-General sending a cheque to the Small Cause Court for the sums so recovered, accompanied by the advice lists of recoveries to be effected which each head of an office should attach to the pay bill; but I do not advise this course with regard to recoveries from establishments paid by the Military and Public Works Departments, as in these cases the credits must come through the exchange accounts, and there would consequently be a delay of two or three months.

3. The procedure, I would suggest, for these cases is that the head of the office concerned should forward with the pay bill an advice list of the several individuals from whom the respective amounts are to be recovered, and that the paying officer issue a cheque for the balance due to the establishment and credit the recoveries to a debt head to be cleared monthly and dealt with as in the civil department; or that the head of the office should ask for two cheques in payment of his bill, one for the sum to be disbursed to the establishment, and the other for the amount attached to be sent to the Small Cause Court. This latter can be enclosed in a letter and sent in ordinary course; to do this no exception can be taken by any Government officer.

4. In the case of attachments against gazetted officers in the Military and Public Works Departments, the paying officer must send with details the sum recovered to the Small Cause Court by cheque either at the time of payment or with others before the close of the month.

Letter—to the Chief Justice of the High Court of Judicature at Madras, dated Ootacamund, 29th June 1887, No. 1375.

I am directed to forward the marginally-noted correspondence on the subject of the recovery of portions of salaries of officials attached under decrees of Civil Courts, and to request that Government may be favored with the remarks of the Honorable the Judges thereon. I am to say that the Government would be prepared to make or sanction any rules for the adoption of the system proposed in paragraph 2 of the Accountant-General's letter in the case of civil officers, and of that proposed in paragraph 3 of the same in the case of officers of the Military or Public Works Departments.

(Signed) H. E. STOKES,
Ag. Chief Secretary.

READ—also the following paper:—

From H. T. ROSS, Esq., Registrar of the High Court of Judicature at Madras, Appellate Side, to the Chief Secretary to Government, dated Madras, 28th July 1887, No. 1929.

In reply to your letter, dated the 29th ultimo, No. 1375, Judicial, forwarding, for remarks, correspondence on the subject of the recovery of portions of salaries of officials attached under decrees of Civil Courts, I am directed to state that, in the opinion of the Honorable the Judges, the suggestions made by the Accountant-General, in his letter of the 3rd June 1887, No. 1462, Book Department, appear well calculated to meet the requirements of the position, and may be adopted.

ORDER—dated 15th August 1887, No. 1830, Judicial.

The Government resolve to direct that portions of salary of a public servant attached by decree of a Civil Court shall in future be deducted in the monthly salary bill of such officer, who will be paid only the balance after this deduction.

2. As regards the method to be followed in adjustment of these deductions, in all civil establishments it will be effected by a corresponding book credit to Civil Courts' deposits, this deposit account being cleared monthly by the Accountant-General in the Presidency town, or by the Treasury officer in the districts. The Accountant-General will issue the necessary instructions by circular, which should be furnished to all courts as well as to officers in charge of treasuries.

3. In the case of recoveries from establishments paid by the Military and Public Works Departments, the head of the office will ask for two cheques in payment of his establishment bill, one for the sum to be disbursed to the establishment, the other for the amount attached and deducted as directed in paragraph 1 of this order. The latter can, then, be enclosed in a letter and sent to the court in ordinary course. When orders of attachment from more than one court are received, separate cheques will be asked for equal to the amount attached by each court.

4. In the case of attachments against gazetted officers in the Military and Public Works Departments, the paying officer, having made the deduction on the salary bill, will send the amount recovered by the cheque to the court, with an advice of the details thereof, either at the time of the payment of the salary bill or before the close of the month.

5. The attention of courts will be drawn to the necessity of sending attachment orders so as to reach paying officers at latest on the day before the last working day of the month, to ensure prompt deduction being made.

(True Extract.)

H. E. STOKES,
Ag. Chief Secretary.

To all Departments of the Secretariat.
„ all Collectors.
„ all District Judges.
„ all Heads of Departments.
„ the Registrar, High Court.
„ the Chief Judge, Small Cause Court, Madras.
„ the Accountant-General.

Order then no 2476 of 15/8/87

Govt. of 1887 Madras.

JUDICIAL.

Communicated to
the officers of the P. N.
Department.

18th 15th B.

Issued

Recd.

Encl.

G.O., 15th August 1887, No. 1830.

AUGUST.

Attachment of Salaries.

Passing orders in regard to the recovery of portions of salaries of public servants attached by decrees of Civil Courts.

15TH AUGUST 1887, No. 1830, JUDICIAL.

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H. E. Johns

Ag. Chief Secretary.

To all Departments of the Secretariat.

- „ all Collectors.
- „ all District Judges.
- „ all Heads of Departments.
- „ the Registrar, High Court.
- „ the Chief Judge, Small Cause Court, Madras.
- „ the Accountant-General.

Govt. of (1887) Madras.

JUDICIAL.

Communicated
to the officers of the
P. W. Department.

6.9.87

8/9/87

Issued

Recd.

Encl.

G.O., 15th August 1887, No. 1830.

AUGUST.

Col: Engrs for Irrigation
Consgr. Engrs for Ry
Supdy. Engrs
C. A. to Govt
Exr. P. W. Works
Exr. G. Ld. Ry
Exr. State Ry
Engr. in Chief, State Ry
S. S. S. S.

Attachment of Salaries.

Passing orders in regard to the recovery of
portions of salaries of public servants attached by
decrees of Civil Courts.

B5

A4