

Political (1898) Department.

ORDINARY MS.

G.O., No. 700

DATED 3-10-98

INDEXED.



[Despatch Abstract.]

Recording proceedings, Judicial Dept, coming
to the Honble the Judges of the H. Court, to
all District Magistrates and District and
Sessions Judges and to certain other officers
G.O. No 576-77, 1029, and 1916-17, Judicial,
dated 8th March, 1st May, 10th Aug: 1894,
respectively, regarding the payment of fees
to Her Britannic Majesty's Consul, Saigon,
for a commission executed and processes
served by him

I/6/10/98

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Political (1898) Department

CURRENT No. 1263

Government (1898) of Madras.

JUDICIAL.

Recd.

Regd.

1898.

Enclosures

Spare copies

G.O., No. 1396, 7th September 1898.

Order w^o 700 of 30 Oct 98
Mis

Recorded

SEPTEMBER.

Curb
in CS
1. 4. 98
1898.

Execution of a Commission.

Communicating to the Hon'ble the Judges of the High Court, to all District Magistrates and District and Sessions Judges and to certain other officers G.Os., Nos. 576-77, 1029 and 1916-17, Judicial, dated 8th March, 1st May and 10th August 1894, respectively, regarding the payment of fees to Her Britannic Majesty's Consul, Saigon, for a commission executed and processes served by him.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

Read—again the following papers:—

G.O., Mis. Nos. 576, 577, Judicial, dated 8th March 1894.

Read—the following papers:—

From the Chief Secretary to Government, to the Honourable the Chief Justice, dated 10th November 1893, R. No. 1202.

I am directed to forward the enclosed copies of letters from Her Britannic Majesty's Consul at Saigon and to request that the Honourable the Judges will favour Government with a report on the subject.

(Signed) J. F. PRICE,
Chief Secretary.

ENCLOSURES.

From Her Britannic Majesty's Consul at Saigon, to the Secretary to the Government of India, Judicial Branch, Calcutta, dated 30th September 1893.

It is with great reluctance that I enclose you copies of despatches addressed to Judges in Tanjore and Negapatam, but it is evident that there is something wrong somewhere: the letters speak for themselves, and I have not to this day received a reply to either of them.

From Her Britannic Majesty's Consul at Saigon, to the Judge, District Court, Tanjore, dated 1st August 1891.

I have the honour to acknowledge receipt of your warrant of commission to take the evidence of Karuthan Chetty.

I have taken his evidence on affirmation upon the annexed interrogatories, and now return you the warrant, questions and replies of said witness: these could not be returned before the 21st July as the documents only arrived here on the 25th July.

It is stated that Rs. 5 were sent to meet expenses: but it was not enclosed, and in any case the amount is totally insufficient.

From Her Britannic Majesty's Consul at Saigon, to the District Judge, Tanjore, dated 15th August 1891.

I have the honour to acknowledge receipt of your despatch No. 319 of 25th July which arrived here on the 12th instant—a voyage of 19 days.

You seem to have a very vague idea of the distance between our offices, to think that a cover despatched from yours on the 29th June could be returned to you on the 21st July (22 days) and an enquiry held here besides.

I trust that, upon receipt of my despatch of 1st instant, you will remit me an adequate sum for the service rendered.

No. 1337, Judicial.

Transferred to the Government of Madras for disposal.

(By order.)

SIMLA,
25th October 1893.

(Signed) H. LUSON,
Under Secy. to the Govt. of India.

From D. W. G. COWIE, Esq., Acting Registrar of the High Court of Judicature, Appellate Side, Madras, to the Chief Secretary to Government, dated 20th February 1894, No. 540.

With reference to your letter, dated 10th November last, R. No. 1202, Judicial, I am directed to forward a copy of the report submitted by the Acting District Judge of Tanjore, dated 22nd December 1893, No. 1114, together with its enclosures, and to express the regret of the High Court at the lack of politeness shown by the District Munsifs of Tanjore (since retired) and Negapatam in neglecting to ascertain and remit the cost of the execution of the commission and the service of the summons, the deficient postage, &c., due to Her Britannic Majesty's Consul at Saigon. I am to request that you will be pleased to ascertain from the Consul what fees are due to him in the two cases specified and to forward a scale of them for the future guidance of the Courts in this Presidency. The officers in the Tanjore district to blame for their negligence will be censured and if the fees due to the Consul, when ascertained, cannot be procured at this late date from the, suitors those officials will be required to pay them as a punishment for their general neglect in the matter.

ENCLOSURES.

From J. H. A. TREMENHEERE, Esq., Acting District Judge, Tanjore, to the Registrar of the High Court of Judicature, Appellate Side, dated 22nd December 1893, No. 1114.

With reference to the High Court foot-note No. 3156 of the 27th November 1893, to the Chief Secretary's letter, No. 1202, Judicial, I have the honour to report that the warrant of commission in question was not issued by this Court, but by the District Munsif of Tanjore direct to Her Britannic Majesty's Consul at Saigon, that the warrant was returned executed to this Court and was sent to the District Munsif who was directed to remit proper commission fee direct to the said Consul. The fee has not been remitted as appears from the Munsif's letter, copy of which is herewith forwarded. The Munsif who issued the commission was transferred from this district in February 1892 and has since retired.

The letter of the 17th September 1892 from the said Consul addressed to the Chief Judiciary, Negapatam, was delivered to the Sub-Judge, Negapatam, and sent by him to the District Munsif of the place for disposal and the Munsif has not taken any steps in the matter. Copies of letters from the Sub-Judge and District Munsif are herein enclosed.

I regret very much that there has been a want both of proper procedure and of proper politeness on the part of one of the Courts in this district, and I beg, if the Honourable the Judges see fit, that steps may be taken in order that this expression of regret be communicated to Her Britannic Majesty's Consul at Saigon.

From M.R.Ry. A. Kuppusami Aiyangar, District Munsif, Negapatam, dated 21st December 1893, No. 1508.

From M.R.Ry. S. Dorasamiah, District Munsif, Tanjore, dated 20th December 1893, No. 97.

From M.R.Ry. T. Ramaswami Aiar, Subordinate Judge, Negapatam, dated 13th December 1893, No. 1168.

Order—Mis. No. 576, Judicial, dated 8th March 1894.

The Consul at Saigon will be addressed accordingly.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

Letter—Mis. No. 577, Judicial, dated 8th March 1894, to Her Britannic Majesty's Consul at Saigon.

I am directed to inform you that enquiries have been made into the matters referred to in your letter, dated 30th September 1893, addressed to the Secretary to the Government of India and to forward to you copies of letters on the subject from the District Judge of Tanjore and the High Court.

2. I am to request that you will kindly state the amount which is due to you on account of the execution of the commission, the service of the summons, deficient postage, &c., and forward a scale of the ordinary fees payable for execution of commissions and service of processes for the guidance of the Courts in this Presidency.

3. In conclusion I am to express the regret of His Excellency in Council that the negligence and want of politeness of certain subordinate judicial officers should have rendered this correspondence necessary.

(Signed) J. F. PRICE,
Chief Secretary.

G.O., Mis. No. 1029, Judicial, dated 1st May 1894.

Read—the following paper :—

From Her Britannic Majesty's Consul at Saigon, to the Chief Secretary to the Government of Madras, dated 7th April 1894.

I have the honour to acknowledge receipt of your despatch of 8th ultimo, No. 577.

While thanking you for it, I very much regret that I should have been the cause of so much trouble, but the indifference, to use no harsher expression, shown about the matter in question, seemed to me to call for reproof and rectification.

I will answer your questions, as you are good enough to ask them, but I beg it will be understood that the monetary part of the affair is quite indifferent to me.

Paragraph 2.—There is no scale of fees for such services as I am called upon to render : unless the following may be considered to apply :—

Consular Fees—

NOTE.—If named Commissioner to examine witnesses, is allowed to charge the customary fees (?)—the remuneration being left to the parties requesting the service, and probably computed upon the value of it.

In the first case, I held a regular Court, with Secretary and Interpreter, and, although the result does not look much on paper, to get at it, occupied the greater part of one day : my actual outlay was \$ 5 to a bailiff to serve the summons upon Karathan Chetty and sundry gharri hires. As mentioned in my despatch of 17th September 1892 to the Chief of the Judiciary, Negapatam, I have received on two separate occasions from Singapore \$ 200 for similar work. I repeat, I do not of course ask for any such sum, nor, indeed, for any payment whatever.

In the second case (*re Muhammad Yusuf Rowthan*) 1 franc 30 centimes short postage was paid and \$ 5 as in the former case to a bailiff : the summons could not have been served otherwise.

Order—Mis. No. 1029, Judicial, dated 1st May 1894.

Communicated to the Honourable the Judges of the High Court in continuation of G.O., Mis. No. 576, Judicial, dated 8th March 1894, with the request that they will be so good as to arrange for the transmission to the Consul of such sum as they consider suitable.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Honourable the Chief Justice (with C.L.).

G.O., Mis. Nos. 1916, 1917, Judicial, dated 10th August 1894.

Read—the following paper :—

From H. W. FOSTER, Esq., Registrar of the High Court of Judicature, Appellate Side, Madras, to the Chief Secretary to Government, dated 24th July 1894, No. 2004.

With reference to G.O., Mis. No. 1029, Judicial, dated 1st May last, I am directed to forward a copy of letter, dated the 6th instant, No. 493, from the District Judge, Tanjore, fixing the sum of Rs. 81 as a fair amount of remuneration to be granted to Her Britannic Majesty's Consul at Saigon for the commission executed and processes served by him and suggesting the manner in which the sum should be recovered from the officers and other persons responsible.

2. It appears to the High Court that the District Judge has calculated the Consul's remuneration on a fair and reasonable scale and I am accordingly to request that Government may be pleased to remit Rs. 81 to him.

3. The party in Original Suit No. 46 of 1890, on the Tanjore District Munsif's file, agrees to pay no more than Rs. 20 for the expenses of the commission issued at his instance. There is no means now of compelling him to pay any greater amount and the District Judge has accordingly been directed to collect this sum and credit it to Government. The High Court agrees with the District Judge that the balance of Rs. 40 should be levied from M.R.Ry. G. Ramaswami Aiyar, Avargal, retired District Munsif, who is responsible for not taking care to have a sufficient sum deposited, and I am accordingly to recommend that the said sum be recovered from this officer by stoppages from his pension.

4. The present District Munsif of Negapatam, M.R.Ry. M. A. Kuppasawmi Aiyangar, Avargal, is responsible for the cost of service of the summons and the deficient postage, Rs. 21 in all, and I am to recommend that this sum be recovered from him, as the District Judge proposes, by stoppage from his pay.

ENCLOSURE.

From J. A. DAVIES, Esq., District Judge, Tanjore, to the Registrar of the High Court of Judicature, Appellate Side, Madras, dated 6th July 1894, No. 493.

With reference to the High Court's Proceedings, No. 1641, of the 22nd May last, requesting me to report what would be a fair remuneration for certain services rendered by Her Britannic Majesty's Consul at Saigon and how it is to be collected, I have the honour to inform you that as the Consul states that he actually spent \$ 5 for the service of the summons and as he must have taken trouble over the matter himself besides expenditure of stationery, &c., for which another \$ 5 should be allowed, \$ 10 or, say, Rs. 20 is, in my opinion, due to him for the service of the summons. I should make the Munsif of Negapatam pay the Rs. 20 to which he agrees. The despatching clerk should be held liable for the deficient postage on the letter sending the summons to Saigon and the insufficient postage, 1 franc 30 centimes or about 1 rupee, may be collected from him.

2. As regards the execution of the commission from the Tanjore Munsif, considering that it took the Consul the greater part of a day to take the evidence, I think Rs. 50 or, say, \$ 25, is the least that can be offered him to which must be added \$ 5 spent out of his pocket for the service of the notice, that is \$ 30 in all. The party agrees to pay only Rs. 20 = \$ 10. The other \$ 20 = Rs. 40 should be collected from the late Munsif M.R.Ry. G. Ramaswami Aiyar, who is now retired on pension, and the Government might be asked to recover it from his pension.

Order—Mis. No. 1916, Judicial, dated 10th August 1894.

The Government agrees with the High Court, and the Accountant-General will be requested—

(1) to remit the sum of Rs. 81 to Her Britannic Majesty's Consul at Saigon ;

(2) to recover the sum of Rs. 40 from the pension of M.R.Ry. G. Ramaswami Aiyar, Avargal, retired District Munsif, and Rs. 20 from the pay of M.R.Ry. M. A. Kuppasawmi Aiyangar, Avargal, District Munsif of Negapatam.

The despatching clerk will, as suggested by the District Judge, be held liable for the deficient postage, amounting to about Re. 1.

2. The following letter will be despatched to Her Britannic Majesty's Consul, Saigon.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Honourable the Chief Justice (with C.L.).
,, Accountant-General.

Letter—Mis. No. 1917, Judicial, dated 10th August 1894, to Her Britannic Majesty's Consul, Saigon.

With advertence to the correspondence ending with your letter, dated 7th April 1894, I am directed to inform you that, on the advice of the High Court of Judicature, the Accountant-General, Madras, has been ordered to remit to you the sum of Rs. 81 on account of your trouble and expenses in connection with the service of summons upon Muhammad Yúsuf Rowthan and the execution of the warrant of commission to take the evidence of Karuthan Chetti. I am also to express the hope that the sum now forwarded will be regarded as reasonable and the regret of His Excellency the Governor in Council for the delay which has occurred in remitting it.

(Signed) J. F. PRICE,
Chief Secretary.

ORDER—No. 1396, Judicial, dated 7th September 1898.

The Proceedings read above will now be communicated to the Honourable the Judges of the High Court, to all District Magistrates and District and Sessions Judges, to the Chief Judge, Court of Small Causes, Madras, to the Chief Presidency Magistrate, to the Resident in Travancore and Cochin and to the Political Agents, Pudukkóttai, Banganapalle and Sandúru, for information and guidance.

(True Extract.)

G. STOKES,
Chief Secretary.

To the Honourable the Chief Justice (with C.L.).
,, all District Magistrates.
,, all District and Sessions Judges.
,, the Chief Judge, Court of Small Causes, Madras.
,, the Chief Presidency Magistrate.
,, the Resident in Travancore and Cochin.
,, the Political Agent, Pudukkóttai.
,, " " Banganapalle.
,, " " Sandúru.

(True copy)

A. Edgington
for Chief Secretary.

Exd. A. F. Eccleston.

To the Political Dept.

When given for copying _____
When copied _____
When examined _____
When signed _____

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READ AGAIN G.O., No.
189

, DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT.

A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy heading only.