

ORDINARY, PRINTED.

Pub DEPARTMENT.
G.O., DATED 4th Aug 1894
No. 572

INDEXED.

First copy sent to Press. 7/8

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[Despatch Abstract.]

Provincial Civil Service

Intimating to the effect
by telegram the opinion
of the Govt that the
appointment of Subordinate
Judges as Assistants
Judges is an important
factor in the working of
the scheme.

g/l

22-8-03 ✓

27-11-07 ✓

8/3/10

28-6-15 BVL ✓

2-9-16 ✓

1-2-18 BVL ✓

1-2-18 ✓

3-2-18 BVL ✓

10
READ AGAIN ORDER OF GOVERNMENT, DATED
16, No.

BACK PAPER, No.

FURTHER PAPER, No. 82 - 22 Feb 1895 Pub. 18

ENCLOSURE.

CURRENT No.

STATEMENT WITH DITTO.

ORDER, NO., OF GOVERNMENT—A.

PAPERS KEPT OUT OF FILE FOR DESPATCH IN ORIGINAL
(not paged).

50
NUMBER OF COPIES
REQUIRED. { Order complete.
Letter only.
Order complete with Letter.

A.B.—

A = Print in full.
B = Not to be printed.
P = Print abstract only.
Q = Print heading only.
R = Print, but not for monthly volume.

1909
No. 1099.

From

C. J. Lyall, Esq., C.S.I., C.I.E.,
Secretary to the Government of India,

To

Chief Secretary to the Government of Madras.

Home Department.

(Public)

Sir,

I am directed to acknowledge the receipt of your letter No. 326 (Public), dated the 11th ultimo, forwarding a copy of the rules for admission to the Madras Provincial Civil Service as finally revised and issued by the Government of Madras. In paragraph 3 of your letter, it is stated that, with a view to secure the training of Subordinate Judges in criminal work, His Excellency the Governor in Council proposes to appoint these officers to be Assistant Sessions Judges to try sessions cases referred to them by the Sessions Judges, and that he is causing steps to be taken to carry the proposal into effect.

2. With reference to this proposal, I am directed to say, in continuation of the telegram from this Department, No. 1098 dated 22nd instant, that, as the offices of Assistant Judges are reserved to the Indian Civil Service by Statute 24 and 25 Victoria, Chapter 54, it is necessary, before the proposal can be carried out, that a rule should be made by the Governor General in Council with the sanction of the Secretary of State in Council under Statute 33 Victoria, Chapter 3, Section 6, authorising the Local Government to appoint any Subordinate Judge to be also an Assistant Sessions Judge. Before considering, however, whether such a rule should be recommended for the sanction of the Secretary of State, the Government of India will be glad to learn the probable time when the appointments of District

25/6
It is really an investment
of power under the
C.P. Code not an
invest. This is
how I regard it

and Sessions Judges, or any of them, listed as open to the Madras
Provincial Civil Service ~~are~~ likely to become available for
transfer to that service.

I have the honour to be,

Sir,

Your most obedient Servant,

C. G. Hall

Secretary to the Government of India.

for

1907
Public Dept

From

The Govt of India
Home Dept (Public)

Simla

No 1099.

Dated 22/6 } 1894.
Recd 28/6 }

Subject

Regarding the appointment
of Subordinate Judges as Asst
Sessions Judges for training them
in Criminal work.

*Good
Mr. Lawrence
will have to be
2/16*

*I think this will do. But
perhaps Mr. M. P. had
better see also*

RM

7/7/94

I think it will do

18/6/9

Mr. Mawaredan Raja comes after

N. 77. $77 - 56 = 21 \div 4 \frac{1}{2} = 4 \frac{2}{3}$

$35 \div 4 \frac{1}{2} = \text{about } 8 \text{ years}$

Telegram

to Home

Simla

325 x Your 1099 June 22nd ^{This} ~~the~~ ^{Government} ^{respectfully advance} ^{an} ^{Committee} ^{would} ^{point out} that
scheduled appointment is Assistant
Judge and not Assistant Sessions
Judge & latter is not appointment
properly so called but merely investiture
with certain powers under Criminal
Procedure Code. Taking average
rate of retirements & deaths for past
four years Mawaredan Raja senior
Statutory ^{will} get permanent Judgeship
or Collectorate by about April 1899
first Provincial Service officer will
^{permanent} get Judgeship by about July 1902 &
vacancy at present exists for Asst.
Provincial Service officer as Acting
Judge. Please pass very early order
as recent investiture Sub. Judges with
powers Asst. Sessions Judges ~~would~~ to
assist Dist. Judges in clearing arrears
been withheld.

*CB
5/7*

*60
5/7/94*

Current No. 2195

Public DEPARTMENT.

From

The Govt of India
Home Dept.
Simla

No. 1300 Public

Dated 31/7 }
Received 1/8 } 1894.

Enclosures

SUBJECT.

Stating that, that Govt adheres to the view stated in their letter of the 22nd June 1894 that Sub. Judges cannot be appointed as Asst Sessions Judges save in the way therein indicated, and enquiring whether this Govt desire to make any further remarks on the subject.

Hlu stori

For Orders

The only remark that it now

appears possible for this Govt.

to make is that it

considers the apppt. of Sub. Judge

as Assistant Sessions Judge.

to be an important factor in

the working of the Provincial

Service scheme. After considerable

discussion it was decided that

this was the best practically

method of securing the transfer

of these officers in criminal

work in order to fit them for

the post of Dist Sessions Judge.

please see the notes on pages

86 et seq of the original of

G.O. of 26.10.93. No 869). This

course has also been decided

upon as a measure of relief

to Dist Judges

C.B.
1/8

11/8/94

This is in accordance with the decision of the Govt of India dated 31/7/94.

C 2/8

Public Department

C.No.1909

For Orders.

As regards the contention of the Government of India that the investiture of Sub-Judges with the power

of Assistant Sessions Judges can be

carried out only under 24/5 Vic, Cap

54, it is to be observed that there

are no separate offices of Assistant

Sessions Judges in this Presidency (as

there are in Bombay for example) and

that this fact has been recognised by

the Secretary of State and the Govern-

ment of India in laying down the cadre

of the Indian Civil Service for this

Presidency-please see the list on page

348 of the book file. The appointment

of Assistant Sessions Judge is really

not scheduled so far as this Presiden-

cy is concerned. The rules framed under

33.Vic.Cap 3 Sec.6 are contained in

the Home Department notification of

the 2nd November 1892. These concern

the listed appointments only, which

Assistant Sessions Judgeships are not.

But the recent appointments-if they

are to be considered as appointments

in

Page 51 of Hand-book of
Procedure

The Scheduled apppt. is that of "Asst Judge" - The proposal is to appoint certain Prob. C. Sec. 54 to be "Asst Sessions Judge" - But this is not the same as "Assistant Judge", in the first place; and, in the second, it is not an appointment at all, properly so called, but a mere way of stating that a person has been invested with certain powers in criminal cases. India seems to be the wrong.

I agree. I think we may reply 3/4/94

Page 53 of Hand-book of
Procedure.

Page 394 of the book file

6 July

In the strict sense of the word would
 appear to be covered, so far as the
 native members of the Provincial Civil
 Service are concerned (Mr. W. E. Clarke,
 not being a native of India, his case
 would, according to the Government of
 India fall under para 5 of its letter
 on page 392 of the book-file), by the
 ruling of the G. of I. laid down in
 the condition "Thirdly" in para 3 of
 its letter on page 367 of the book-
 file whether it is stated that new
 appointments created outside the cadre
 may be treated as exceptional and as
 posts to which members of the Provin-
 cial Civil Service may properly be
 appointed. Such exceptional appointments
 are, it will be observed from the
 extract marked on page 251 of the
 book-file, exempt from the ruling as
 regards the consideration of the
 claims of Indian Civil Servants. To
 these arguments the Government of India
 would probably reply that that the
 post of Assistant Sessions Judge is
 scheduled under 24 & 25 Vic. Cap 54 &
 that no rules have been framed under
 20 Vic. Cap 2 Sec 6 as regards the appt.
 of members of the Provincial Civil
 Service to ~~the~~ scheduled appointments

*not assistant sessions judge but
 assistant judge
 25/4/3*

+
 Pages 251-256 of the book-file
 ++
 Pages 245-252 of the book-file

which are outside the cadre & which
 are not listed, The omission is the
 Government of India's and it seems as
 well that the point should be settled.

2. As regards the query at the end of
 para 2 of the letter-

The rules governing the promotion
 of Statutory Civilians and Members of
 the Provincial Civil Service are con-
 tained in G.O's No. 583 dated 24th
 August 1892 & No. 600 d/ 3rd August 1893

As regards the listed District Judge-
 ships, 4 of which appts have been decla-
 -ed open to the Provincial Civil ~~Service~~

it is to be noted that-

I The claims of all members of the
 Indian Civil Service who were recruited
 in 1879 - i.e. down to 77 Mr. M. D. Bell-
 must be satisfied before any statutory
 or Provincial Service officer is
 appointed to be a District and Session
 Judge.

II. The maximum number of appointment
 which can, save in the exceptional cir-
 cumstances stated in para 21 of the
 Secretary of State's despatch on page
 151 of the book file, be given to
 Statutory Civilians & Provincial
 service officers ^{combined} after
 the

the claims of Indian Civilian recruited
subsequent to ¹⁸⁷⁹ have been satisfied,
is stated in column 5 of the table on
page 352 of the book-file i.e. the
Indian Civilian who arrived in 1883
can claim that no more than one post
higher than those occupied by them
can be given to a Provincial Service
officer, the Indian Civilian who arriv-
ed in 1884 that no more than 2, of
1885 that no more than 3, & of 1886 that
no more than 4.

III. The posts held by Statutories
must be deducted from the total number
available for Provincial Service officers.

IV. The claims of a Statutory to
advancement will come under considera-
tion after those of the last of the
Indian Civil Servants whose covenants
bear date previous to his confirmation.

With reference to IV, Mr. Manavedan
Raja, the Senior Statutory, ranks for
promotion after 77 Mr. M.D. Bell; Mr.
Muhammad Raza Khan after 80 Mr. W.O.
Porne; Mr. Mir Shujat Ali after 84 Mr.
E.A. Elwin & Mr. T.M. Swaminatha Aiyar
after 95 Mr. H.V. Cobb - The remaining
statutories need not enter into the
present calculations -- Supposing

Mr. Manavedan Raja is promoted to a
Collectorate when his turn comes. Mr.
Muhammad Raza Khan can, it is thought,
be left out of the calculation for a
Collectorate or Judgeship - With Mr.
Manavedan Raja's promotion the Indian
Civilian who arrived in 1883 will
already have one post higher than that
occupied by them given to the Statutory
service so that under conditions ^{II} & ^{III}
supra & according to column 5 of the
table on page 352 of the book file no.
Provincial Service officer can be
permanently promoted to a Collectorate
or Judgeship till the Indian Civilian
of 1883 are provided with one of these
appointments. After the Civilian of
this year have been promoted, the claim
of Mr. Mir Shujat Ali will, under
condition IV supra, come under considera-
-tion. Supposing ^{that} he is appointed a
permanent District Judge, the Indian
Civilian who arrived in 1884 will have
two posts higher than those occupied
by them held by the Statutory service
and under conditions II & III supra
and according to column ⁵ of the table
on page 352 of the book-file these
Indian Civilian must be provided with
a Collectorate or Judgeship before the

the permanent promotion of a Provincial Service officer to one of these ^{posts} can be considered. But after the Indian Civilian of 1884 have been promoted to District Judge or Collector there will be permanent post of one of these classes available for the Provincial Service - for column ⁵ of the table shows that the Indian Civilian who arrived in 1885 can only claim that not more than three higher posts than theirs are occupied by Statutories & Provincial Service officers combined & under the above arrangements only two posts will be so occupied; further the claims of Mr. T. M. Swaminatha Aiyar to promotion will come under consideration only after those of 95 Mr. H. V. Cobb. The junior permanent Collector or Judge is 56. Mr. H. G. Joseph - 50 Mr. V. A. Brodie ^{yet} has to be provided for but the Nellore Judge Vacancy is being kept open for this purpose. Mr. ^{A. F. Pinhey}, the last of the 1884 Civilian, is No. ⁸² so that ³³ Indian Civil Servants have to be promoted to District Judge or Collector before a Provincial Service officer will get one of these posts permanently - i.e. ³³ vacancies must occur in the service. Counting in the two Statutories, who

1st July 1888-1st July 1889		9
" " 1889- " " 1890		9
" " 1890- " " 1891		7
" " 1891- " " 1892		3
" " 1892- " " 1893		4
" " 1893- " " 1894		4

Total for 8 years 36

average per annum 6

X This what we have taken in making calculations as to the chances of promotion of particular officers but I am inclined to think that the rate is rather too liberal

I remember how that when I made the calculation, I think in 1894 the average of retirements and deaths was only a little more than 4

will receive promotion before this takes place, the number is ³⁵. The rate of retirements for the past six years is given in the margin and taking the average - ^X 6 per annum - the first permanent Judgeship or Collectorate will be available for the Provincial Civil Service ^{before} July ¹⁹⁰⁰. This seems the nearest calculation that can be made.

As regards acting appointments it will be seen from Mr. Rawlins D.O. in G.O. dated 29 - 5 - 94 R.No. 540 that an acting Judgeship or Collectorate was available for the Provincial Civil Service last May. Mr. E. A. Elwin, on his return from leave in August, will get an Ag. Collectorate or Judgeship so that even after that the acting appointment will still be available. If Mr. Mir Shujat Ali comes back and get an acting Judgeship or Collectorate he will absorb this acting appointment but such an appointment will be available after the Civilian of 1884 (86 Mr. Morris to 89 Mr. Pinhey) have been provided with one - which will probably be next furlough season.

3. The Government of India may be

plied to by telegram it is thought.

3.
VI.

30 June

3/7/94.

Provincial Civil Service
Assistant Judgeship

Here

For Orders

E

4/4/94

1048 SL Pub

572

24/7

* A proper report will be presented

Public Dept

Read again S.O. 325/6 Public - (F)
11.5.94
S.O. 1309 Judg - (P)
31.5.94
S.O. 1575 " - (A)
25.6.94
" - C. No. 1909 - (A)
Telegram 325 - (A)
" - C. No. 2195 - (A)

not
the 30 June

9

Order of the Court of 4/4/94, No. 572
The following telegram will be despatched to

Home, Simla

379 & your telegram 1300 public thirty first July & This has considered [the] Subordinate Judges as Asst. Sessions Judges to be [an] important factor in [the] working of [the] Provincial Service Scheme and after considerable discussion it was decided that this was [the] best practicable method for securing [the] training of these officers in criminal work in order to fit them for [the] post of District Sessions Judge.

(From Orders)

C.S.
3/8

3/8/94

Jud. Dept., Dero 20/8/94

Note for the CS

It is do not intend last sentence of office note to be embodied?

Submitted
CS

4TH AUGUST 1894, No. 572, PUBLIC.

GOVERNMENT OF MADRAS.
PUBLIC DEPARTMENT.

READ—again the following paper :—

G.O., dated 11th May 1894, Nos. 325, 326, Public.

ABSTRACT.—Notifying the rules for admission to the Provincial Civil Service as finally revised, and forwarding a copy of the same to the Government of India.

READ—also the following papers :—

G.O., dated 31st May 1894, No. 1309, Judicial.

ABSTRACT.—Passing orders on proposals of the High Court for the appointment of certain Subordinate Judges as Assistant Sessions Judges.

G.O., dated 25th June 1894, Mis. No. 1575, Judicial.

Read—again G.O., dated 31st May 1894, No. 1309, Judicial.

Read—also the following telegram from the Secretary to the Government of India, Home Department, Simla, to the Chief Secretary to the Government of Madras, Ootacamund, dated 22nd June 1894 :—

No. 1098, Public. Your letter 326, 11th May. Madras Provincial Civil Service Rules. Proposal in paragraph 3 regarding appointment of Subordinate Judges to be Assistant Sessions Judges cannot be carried out except in accordance with Statute 33 Victoria, Chapter 3, Section 6. Letter follows.

Order—dated 25th June 1894, Mis. No. 1575, Judicial.

The following telegrams will be despatched to the Sessions Judges of Coimbatore, Tinnevely and Madura :—

299. "Pending further orders no cases should be transferred for trial to recently-appointed Assistant Sessions Judges."

(True Extract.)

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

To the Honorable the Chief Justice, with C.L.
" Sessions Judges of Coimbatore, Tinnevely and Madura.
" District Magistrate, Nilgiris.

From C. J. LYALL, Esq., C.S.I., C.I.E., Secretary to the Government of India, Home Department (Public), to the Chief Secretary to the Government of Madras, dated Simla, 22nd June 1894, No. 1099.

I am directed to acknowledge the receipt of your letter, No. 326 (Public), dated the 11th ultimo, forwarding a copy of the rules for admission to the Madras Provincial Civil Service as finally revised and issued by the Government of Madras. In paragraph 3 of your letter it is stated that, with a view to secure the training of Subordinate Judges in criminal work, His Excellency the Governor in Council proposes to appoint these officers to be Assistant Sessions Judges to try sessions cases

referred to them by the Sessions Judges, and that he is causing steps to be taken to carry the proposal into effect.

2. With reference to this proposal, I am directed to say, in continuation of the telegram from this department, No. 1098, dated 22nd instant, that, as the offices of Assistant Judges are reserved to the Indian Civil Service by Statute 24 and 25 Victoria, Chapter 54, it is necessary, before the proposal can be carried out, that a rule should be made by the Governor-General in Council with the sanction of the Secretary of State in Council under Statute 33 Victoria, Chapter 3, Section 6, authorising the Local Government to appoint any Subordinate Judge to be also an Assistant Sessions Judge. Before considering, however, whether such a rule should be recommended for the sanction of the Secretary of State, the Government of India will be glad to learn the probable time when the appointments of District and Sessions Judges, or any of them, listed as open to the Madras Provincial Civil Service, are likely to become available for transfer to that service.

Telegram from the Chief Secretary to the Government of Madras, Ootacamund, to the Secretary to the Government of India, Home Department, Simla, dated 9th July 1894.

325. Your 1099, June 22nd. This Government would respectfully advance that scheduled appointment is Assistant Judge and not Assistant Sessions Judge. Latter is not appointment properly so called but merely investiture with certain powers under Criminal Procedure Code. Taking average rate of retirements and deaths for past four years, Manavedan Raja, senior Statutory, would get permanent Judgeship or Collectorate by about April 1899, first Provincial Service officer will get permanent Judgeship by about July 1902. Vacancy at present exists for appointment Provincial Service officer as Acting Judge. Please pass very early orders as recent investiture Sub-Judges with powers Assistant Sessions Judges to assist District Judges in clearing arrears been withheld.

Telegram from the Secretary to the Government of India, Home Department, Simla, to the Chief Secretary to the Government of Madras, Ootacamund, dated 31st July 1894.

No. 1300, Public. Your telegram 325, 9th instant. Proposed appointment of Subordinate Judges to be Assistant Sessions Judges. Governor-General in Council, having again considered the point, adheres to view stated in letter of 22nd ultimo that Subordinate Judges cannot be appointed Assistant Sessions Judges save in the way there indicated. Government of India will consider desirability of making rule under Statute 33 Victoria, Chapter 3, Section 6, but would be glad to know whether Madras Government desire to make any further remarks upon the subject.

ORDER—dated 4th August 1894, No. 572, Public.

The following telegram will be despatched to the Government of India, Home Department, Simla :—

379. Your telegram 1300, Public, 31st July. This Government considers appointment Subordinate Judges as Assistant Sessions Judges to be important factor in working of Provincial Service scheme, as after considerable discussion it was decided that this was best practicable method for securing training of these officers in criminal work in order to fit them for post District and Sessions Judge.

(True Extract.)

Chief Secretary.

To the Judicial Department.

Exd. A. Raitt.

Govt. of {1894} Madras.

PUBLIC.

Issued

Recd.

Encl.

G.O., 4th Aug. 1894, No. 572.

AUGUST.

Provincial Civil Service.

Intimating to the Government of India, by telegram, the opinion of this Government that the appointment of Subordinate Judges as Assistant Sessions Judges is an important factor in the working of the — scheme.