M.R.O. 1—33,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2328 Press ~~Mis.~~

75-76 Dated 5-9- 19 1868

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Proceedings of the Madras Government, Revenue Department, 5th September 1868.

No. 75. Read the following Proceedings of the Board of Revenue, dated 30th July 1868, No. 5,513 :—

Read the following replies to Board's Circular Proceedings, dated 4th January 1868, No. 32, on a letter from the Acting Collector of Madras, dated 21st November 1867, No. 387, regarding remuneration to Vakeels for conducting suits against Government in District Munsiffs' Courts.

From		Collector	of Ganjam,	dated	18th	January 1868,	No. 67.
,,	Actg.	Collector	of Vizagapatam,	,,	25th	,, ,,	,, 68.
,,		,,	of Godavery Dist.,	,,	18th	,, ,,	,, 16.
,,	Actg.	,,	of Kistna	,,	3rd	February ,,	,, 40.
,,	,,	,,	of Nellore,	,,	16th	January ,,	,, 150.
,,		,,	of Cuddapah,	,,	7th	February ,,	,, 8.
,,		,,	of Bellary,	,,	18th	January ,,	,, 10.
,,		,,	of Kurnool,	,,	15th	,, ,,	,, 23.
,,		,,	of North Arcot,	,,	27th	,, ,,	,, 23.
,,		,,	of South Arcot	,,	17th	,, ,,	,, 17.
,,		,,	of Tanjore,	,,	20th	,, ,,	,, 17.
,,	Actg.	,,	of Trichinopoly,	,,	29th	,, ,,	,, 20.
,,		,,	of Madura,	,,	31st	,, ,,	,, 12.
,,		,,	of Tinnevelly,	,,	7th	April ,,	,, 141.
,,		,,	of Coimbatore,	,,	23rd	January ,,	,, 20.
,,		,,	of Salem,	,,	18th	,, ,,	,, 8.
,,	Actg.	,,	of South Canara,	,,	4th	February ,,	,, 138.
,,		,,	of Malabar,	,,	14th	January ,,	,, 11.

1 The Collector of Madras, in his letter of the 21st November 1867, brought to notice complaints made by Vakeels employed in conducting suits in the Munsiffs' Courts on behalf of Government, regarding the inadequate scale of remuneration allowed for such suits. As the question was of a general bearing, the opinions of Collectors of all districts were sought.

2. The result of the replies received is to shew that, as a rule, no practical difficulty has been experienced ; but this is chiefly owing to the fact that few suits are brought in any one Court.

3. The Acting Collector of Vizagapatam instances four cases in which the aggregate fees appear to have amounted to less than half a Rupee. That an allowance of five per cent. is wholly insufficient in cases involving small amounts is admitted on all hands, and the only difference of opinion is as to whether 5 or 7 Rupees should be fixed as the minimum fee.

4. The Collectors of South Arcot and Canara point out that a minimum fee will involve an additional expense to Government even in cases where their opponent is cast, as only the legal per-centage will be recoverable as costs.

5. The Board, however, consider that the expense will be trifling compared with the principle involved, and advocate the fixing of a minimum of 5 Rupees.

6. In Salem it appears the practice is invariably to move the Civil Court to refer the case to the Principal Sudder Ameen—an application which is always

complied with—and the suit is then conducted on behalf of Government by the Government Pleader.

7. In many districts, however, there is no Principal Sudder Ameen's Special Court, and when such Courts do exist, it must always be optional with the Civil Judge to admit or refuse the application.

8. Where practicable, the Board consider this mode of procedure desirable, as it is scarcely seemly that Collectors should be sued for official acts in the lowest Courts.

No. 76. ORDER THEREON, 5th September 1868, No. 2,328.

Miscellaneous.

1. The recommendation of the Board of Revenue is sanctioned with regard to fixing a minimum fee of Rupees 5 as remuneration for a Vakeel conducting a suit on behalf of Government.

2. The practice existing in Salem of applying to the Civil Judge to transfer suits from the Munsiffs' Courts to that of the Principal Sudder Ameen is unobjectionable, and may be adopted with advantage in other districts. Where a Principal Sudder Ameen's Court has not been established, the application should request the transfer of the suit from the file of the District Munsiff to that of a superior Court.

(True Extract.)

(Signed) R. A. DALYELL,
Acting Secretary to Government.

To the Board of Revenue.
,, the Judicial Department.
,, the Accountant General.

Exd. F. R. Bantleman.

No. 32.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 4th January 1868.

Read the following letter from G. THORNHILL, Esq., Acting Collector of Madras, to the Secretary to the Board of Revenue, dated Sydapet, 21st November 1867, No. 387:—

1. Some of the Vakeels in the District Munsiffs' Courts in this District have addressed me on the subject of the small remuneration they receive for conducting the defence of suits against Government in the District Munsiffs' Courts.

2. Since the introduction of Act No. VIII. of 1859, which authorizes suits against Collectors and other Covenanted Officers being entertained in the Munsiffs' Courts, such suits have become numerous in those Courts. In the Poonamallee District Munsiff's Court alone there are, at present, no less than twenty-two suits, and the value of property involved in most of them is within Rupees 100, and in about ten of them the value of property is only two or three rupees. Five suits are pending in the Munsiff's Court at Conjeveram and Caranguly, and the value of property involved in one of them is Rupees 300, while in the others it is within Rupees 50. These suits are defended by one of the Vakeels of the Court, who alleges that the labour involved in conducting suits of small value is as great as in suits of higher value, and that the legal scale of remuneration, particularly in suits of small value, does not at all pay him for his labour and trouble. He also states that the practice of Vakeels with private individuals has always been to make their own bargain according to the labour involved in each case discarding the legal scale of fees altogether.

3. They have, for the above reasons, applied to me for a better scale of remuneration. The Poonamallee Munsiff's Court Vakeel, who has most cases to defend, requests that he may be allowed Rupees 7 for every suit in which the value of property involved is Rupees 100 and below that sum, and seven per cent. for every other case without any regard to the amount of the suit, and that, if this cannot be done, a fixed salary may be given him in addition to the scale of fees allowed by law.

4. There is no doubt that the legal scale, namely, five per cent. on all suits up to 5,000 Rupees is far too law for suits of very small value. The scale of remuneration I would propose is Rupees 7 for all suits in which the value of property involved is Rupees 100 and less, and five per cent. in all others where that per centage would exceed 7 Rupees. This, I consider, will be fair remuneration for their trouble. I have no doubt the Vakeels generally get more from private parties, but then it must be remembered that they have not got to prepare the written Statements, as such Statements are prepared by the Collector and passed by the Board, and in intricate cases by the Government Pleader at Madras. If the Board agree with me, I beg they will be pleased to pass early orders on this letter.

Communicated to all Collectors, who will report, at an early date, whether a difficulty, similar to that referred to by Mr. Thornhill, is experienced in the several Districts.

(A true Copy and Extract.)

(Signed) R. A. DALYELL,
Secretary.

(True Copy.)

(Signed) J. T. MAYNE,
Acting First Assistant.

To all Collectors.

Exd. J. Wright.

2(8)

1867. Department.

No.

PROCEEDINGS OF THE BOARD OF REVENUE.

To all Collectors.

Dated 4th January 1868.

Received

No. 32.

Requesting all Collectors to report whether remuneration, granted to Vakeels in District Munsiffs' Courts, for conducting defence of suits against Government, is insufficient.

From G. A. BALLARD, Esq., Collector of Malabar, to the Secretary to the Board of Revenue, dated Calicut, 14th January 1868, No. 11.

Adverting to the Board's Proceedings, dated 4th January 1868, No. 32, I have the honour to report that no difficulty has arisen in this district, from the rate prescribed for the remuneration of Vakeels engaged in Government cases in Munsiffs' Courts, but that I think the small concession alluded to by Mr. Thornhill may advantageously be granted at discretion.

Exd. J. Wright.

From T. A. N. CHASE, Esq., Collector of Kurnool, to the Secretary to the Board of Revenue, dated on Circuit at Devanakonda, 15th January 1868, No. 23.

In reply to Proceedings of the Board, No. 32, dated 4th January 1833, I have the honour to inform you that only one case, within my recollection, has been brought against a Revenue Officer in this district, and that was against Sudersana Row, Deputy Collector, before the Munsiff's Court at Nandial. Regarding the fees in that case the Pleader has made no objection. I therefore consider on such small data that I am hardly in a position to offer any opinion, as to whether the fees of Pleaders should or should not be increased. At all events the present rate does not cause any difficulties.

Exd. J. Wright.

From J. A. C. BOSWELL, Esq., Acting Collector of Nellore, to the Secretary to the Board of Revenue, dated Camp at Allur, 16th January 1868, No. 150.

1. In reply to the Board's Proceedings, dated 14th January 1868, No. 32, I have the honour to state that no difficulties are experienced in regard to suits at Nellore, as the conduct thereof is entrusted to the Government Vakeel, who is allowed the usual fees in addition to his salary.

2. There are only two Courts of District Moonsiffs at Gudur and Ongole, where the services of Government Vakeel are not available. In these Courts there have been a comparatively few suits filed against Government officials. But in these suits no difficulties have been experienced.

3. But in the case of petty suits which may be filed in these Courts, as the fees allowed by the existing regulations are inadequate, I am of opinion that the suggestion made by Mr. Thornhill might be sanctioned with advantage.

Exd. T. Cartledge.

From C. W. READE, Esq., Collector of South Arcot, to the Secretary to the Board of Revenue, dated Cuddalore, 17th January 1868, No. 17.

1. In acknowledging the Board's Proceedings of the 4th instant, No. 32, I beg to state that I do not altogether share in the views expressed by Mr. Thornhill, on the subject of the necessity of increasing the Vakeels' fees, for the conduct of cases before the Munsiffs' Courts on the part of Government officers.

2. There has been no representation, or complaint, on the subject by the Vakeels in this district, nor has the question of fees ever been mooted.

3. Of all suits those against the authorities occasion the least trouble and labour to the Vakeels, whose province is to do little more than put in the pleadings and file any documents sent to them; so that I cannot think any increase is really called for; and in view of the absence of all responsibility in such suits, I am not disposed to second Mr. Thornhill's suggestion for an increased scale of fees.

4. The enclosed copy of a letter from my Sub-Collector suggests that in no case should a Vakeel, acting on behalf of Government before a Munsiff's Court, receive less than five rupees. I see no actual necessity for this, and it would certainly materially swell the item of State expenditure under that head, although no doubt the amount is trifling enough for an individual case; but we must recollect that, inasmuch as Government gain the great majority of suits brought against their officers, this increased fee would really be an additional tax on the party bringing the action, and not on the Government, and I doubt whether the Government could equitably agree to depart from the standard scale laid down, or at all events the increased rate could scarcely be equitably assessed as part of the costs on the plaintiff by whom the suit was instituted, and this difficulty appears to me a sufficient objection to the proposal.

Enclosure No. 1.

From W. F. HATHAWAY, Esq., Sub-Collector of South Arcot, to the Collector of South Arcot, dated Virdachalam, 15th January 1868, No. 17.

With reference to the Proceedings of the Board of Revenue, No. 32, of the 4th instant, received with your Memorandum, No. 31, of the 11th, I quite agree that the present remuneration of five per cent. is too small for petty cases. It must be remembered, however, that a large portion of cases are dismissed as against Government on production of the answer itself, so that in these the Vakeel does absolutely nothing. Accordingly, in such cases, I would recommend a fee of five rupees, nothing lower than which, I think, should ever be tendered to a Vakeel; and in other cases where the Vakeel has appeared to argue the case, a fee of seven, or perhaps even better, ten rupees.

(True Copy.)

(Signed) C. W. READE,
Collector.

Exd. J. Wright.

From C. N. POCHIN, Esq., Collector of Salem, to the Secretary to the Board of Revenue, dated on Circuit at Omalur, 18th January 1868, No. 8.

In answer to the Board's Proceedings of the 4th instant, No. 32, I have the honour to state that it is not the practice in this district to carry on suits against Government Officers in Munsiffs' Courts. Should a suit be ever filed in a Munsiff's Court against a Government officer, the Civil Court is invariably moved to refer the case to the Principal Sudder Ameen's Court, and the Civil Court of Salem have always complied with the application. The difficulty of the kind, referred to by Mr. Thornhill, has never, therefore, been experienced in this district. The fact of all suits being brought on the file of the Principal Sudder Ameen is, that the Government Pleader is enabled to defend such actions without the intervention of any other Pleader.

Ed. J. Wright.

From A. WEDDERBURN, Esq., Collector of Bellary, to the Secretary to the Board of Revenue, dated Camp at Bellagooppa, Raidroog talook, 18th January 1868, No. 10.

1. In reply to the Proceedings of the Board of Revenue, dated 4th January 1868, No. 32, requesting me to report whether similar difficulty to that reported by Mr. Thornhill is experienced in this district, in reference to the smallness of the legalized fees in District Moonsiff's Courts for conducting a suit on the part of Government, I have the honour to state that as there is scarcely an instance of Government Officers being sued in a District Moonsiff's Court in this district, experience is wanting.

2. I agree with Mr. Thornhill that a fee of 5 per cent. on suits of small value is far too small, as the trouble involved is rather gauged by the intricacy than by the value of the suit; I would recommend a minimum fee of Rupees 10 and 5 per cent. on all suits above Rupees 200 in value.

Exd. T. Cartledge.

From J. FRASER, Esq., Collector of the Godavery district, to the Secretary to the Board of Revenue, dated Amalapur talook, 18th January 1868, No. 16.

I have the honour to acknowledge the receipt of the Proceedings of the Board of Revenue, dated 4th January 1868, No. 32, and to report that no difficulty, similar to that therein referred to, is experienced in this district.

Exd. T. Cartledge.

From D. F. CARMICHAEL, Esq., Collector of Ganjam, to the Secretary to the Board of Revenue, dated Camp at Gooma, 18th January 1868, No. 67.

In reply to Board's Proceedings, No. 32, of the 4th January, instant, I have the honour to state that no difficulty is experienced here on account of the (alleged) insufficient remuneration obtainable by Pleaders in District Moonsiff's Courts in conducting Government Suits.

Exd. T. Cartledge.

From G. L. MORRIS, Esq., Collector of Tanjore, to the Secretary to the Board of Revenue, dated Vedaraniem, Tritrapundi talook, 20th January 1868, No. 17.

1. With reference to the Board's Proceedings, dated the 4th instant, No. 32, I have the honour to state, that the difficulty referred to by the Acting Collector of Madras, has not hitherto been experienced in this district, as it rarely happens that in suits instituted against Government the value of property involved is less than Rupees 100.

2. I agree, however, with Mr. Thornhill in thinking that the minimum fee for Vakeels of Moonsiff's Courts should be fixed at Rupees 7 for each suit, the prescribed rate of 5 per cent. being allowed wherever such per-centage exceeds Rupees 7.

Exd. T. Cartledge.

Exd. T. Cartledge.

From P. GRANT, Esq., Collector of Coimbatore, to the Secretary to the Board of Revenue, dated 23rd January 1868, No. 20.

In reply to the Board's Proceedings of the 4th instant, No. 32, I have the honour to report that, in consequence of the small number of suits instituted in the District Moonsiff's Courts against the Collector and other Revenue Officers in this district, no cases of actual difficulty in procuring Vakeels to defend them have hitherto taken place. I would, however, state that I consider the present scale of remuneration to Vakeels to be very inadequate, and that difficulty might be experienced in enlisting their services when suits become numerous, as they are likely to do ere long. I would, therefore, recommend the adoption of the scale proposed by Mr. Thornhill, which appears to be an equitable one.

Exd. T. Cartledge.

From J. H. MASTER, Esq., Acting Collector of Vizagapatam, to the Secretary to the Board of Revenue, dated Camp Sunku of Jeypore, 25th January 1868, No. 68.

Referring to the Board's Proceedings, dated 4th instant, No. 32, I have the honour to state that no difficulty in reference to remuneration of Vakeels, for small sums against Government, has hitherto arisen in this district, but it would perhaps be well to prescribe some such course as is advocated by Mr. Thornhill, in order to protect the interests of Government should any contingency arise, for there is nothing to prevent a Pleader from refusing to take up suits for petty sums. In this district, we have lately had four suits for sums of one, two, and three Rupees each, which gave the Pleader fees of something below one, two, and three Annas only; fortunately for us they did not demur to receive even these trifling sums.

Exd. T. Cartledge.

From J. D. ROBINSON, Esq., Collector of North Arcot, to the Secretary to the Board of Revenue, dated Wallajahpet, 27th January 1868, No. 23.

In acknowledging receipt of the Board's Proceedings, dated 4th instant, No. 32, I have the honour to state that there are at present but two suits pending against Government, one in the Civil Court at Chittoor, the other in that of the District Moonsiff at Palmanair. No difficulty has hitherto arisen in this district in regard to the remuneration of the Vakeels engaged in the defence of such suits, nor have any applications for a higher scale of fees, than those now given, been presented. Suits of this nature are, comparatively speaking, so rare and simple, that the question has never practically arisen in this district.

Exd. T.Cartledge.

From C. T. LONGLEY, Esq., Acting Collector of Trichinopoly, to the Secretary to the Board of Revenue, dated 29th January 1868, No. 20.

Adverting to the Board's Proceedings, No. 32, dated the 4th instant, I have the honour to report, that the Vakeels in this district are decidedly dissatisfied with the present low rate of remuneration, and I would recommend that a fee of five Rupees be allowed for every suit, where the amount involved does not exceed Rupees 100, and five per cent. for every suit involving property of a greater value than Rupees 100.

Exd. T. Cartledge.

From the Honourable D. ARBUTHNOTT, Collector of Madura, to the Secretary to the Board of Revenue, dated 31st January 1868, No. 12.

1. With reference to the Board's Proceedings, No. 32, dated 4th January 1868, I have the honour to report that no suits in which the Collector or his subordinates are parties are now pending in any of the District Moonsiff's Courts of the district. Plaints against Government are seldom preferred in the Courts of the District Moonsiffs, with the exception of the Madura Moonsiff's Court, where the suits in which the Government is a party are always defended by the Government Vakeel, who never complained of the inadequacy of the legal scale of fees paid to him for his professional labour. Written Statements to be put in on behalf of Government are prepared by the Collector, and in important cases by the Government Pleader at Madras.

2. The difficulties referred to by Mr. Thornhill has not, as far as I can learn, been experienced in this district.

Exd. T. Cartledge.

From W. WILSON, Esq., Acting Collector of the Kistna district, to the Secretary to the Board of Revenue, dated Masulipatam, 3rd February 1863, No. 40.

1. In reply to Board's Proceedings, No. 32, dated 4th ultimo, I have the honour to inform you that, when Acting Sub-Collector, the late Government Vakeel of the District Moonsiff's Court at Bapatla represented to me that non-remuneration by a fixed salary of Government Vakeels in Moonsiff's Courts was felt by him at least to be a grievance. He made out a list of the miscellaneous work which he had to do chiefly owing to the since abolished practice of filing motions in security of revenue whenever lands paying revenue to Government were sold under decree of Court. I forwarded it to the Collector for consideration. That officer thought that there was not ground for conceding salary to one only and not to others, and that the mere status of Government Pleader secured to the holder of the office a larger practice, the returns from which compensated for the absence of salary. I have called upon the Government Vakeel to send returns of the work done by them, and the fees received by them during the last year, and have asked them to express an opinion upon the mode of increased remuneration, should it be resolved upon that they would prefer.

2. So soon as this is received, a further report will be submitted.

Exd. T. Cartledge.

From H. S. THOMAS, Esq., Acting Collector of South Canara, to the Secretary to the Board of Revenue, dated Shiradi in Uppinangadi talook, 4th February 1863, No. 138.

1. In reply to Board's Proceedings, dated 4th January 1868, No. 32, I have the honour to report that as yet no difficulty has been experienced in this district in procuring Vakeels for conducting the defence of suits against Government in the District Moonsiff's Courts, on the score of the insufficiency of the remuneration allowed for their services.

2. It is true, however, that most of such suits in the district are of a trivial value, and the Vakeel's fee in some of these does not even amount to a single Rupee. The absence of difficulty in procuring the Vakeel's services is attributable to the comparative rarity of requisitions for their agency, as the suits are not numerous here and are distributed over several Courts, as well as at a general desire on the part of the Vakeels to distinguish themselves by being employed on these rare occasions as the advocates of Government.

3. Should the Board be inclined to recommend an increase in the scale of fee, I would propose Rupees 5 for all suits of the value of Rupees 100 and under, and five per cent. in all others.

4. It should not be lost sight of that if this is sanctioned, such portion of the fees as exceeds the legal scale, cannot be recovered from the party cast, but will have to be borne by Government

Exd. T. Cartledge.

From H. G. SMITH, Esq., Collector of Cuddapah, to the Secretary to the Board of Revenue, dated 7th February 1868, No. 8.

With reference to the Proceedings of the Board of Revenue, dated 4th January 1868, No. 32, I have the honour to report, for the information of the Board, that suits against Collectors and other Covenanted Officers under Act No. VIII of 1859, have hitherto been scarcely filed by any parties in the District Moonsiff's Courts, and that any difficulty similar to that referred to by Mr. Thornhill, in his letter to the Board, dated 21st November 1867, No. 337, has never been experienced in this district, as all the suits defended at the public expence under sanction of the Board of Revenue, are invariably conducted by the Government Pleader, who, in addition to his fixed salary, gets the regulated fees in every suit.

Exd. T. Cartledge.

From R. K. PUCKLE, Esq., Collector of Tinnevelly, to the Secretary to the Board of Revenue.
dated 7th April 1863, No. 141.

In reply to the Board's Proceedings, No. 32, dated 4th January 1863, I have the honour to inform you that no difficulty is experienced in this district regarding Vakeels' fees for conducting the defence of Civil Suits against Government.

Exd. T. Cartledge.

Rev. 1868. Department.

Proc of Court for Septr.

No. 2643.

PROCEEDINGS OF THE BOARD OF REVENUE.

all Collectors, etc.

from the Bd of Rev

dt 19 January 1869 C.No. 201

ted 30th July 1868.
ceived 1st Augt 1868

No. 5,513.

Submitting to Government replies of Collectors Board's Proceedings of 4th January 1868, relative to remuneration to be granted to Vakeels for conducting suits filed against Government in District Munsiffs' Courts, and recommending that Rupees 5 be fixed as minimum fee.

No 2328-5 Septr 68

Withpan Order

No 2328

Order

The recommendation of the Board of Revenue is sanctioned, with regard to fixing a minimum fee of R. 5 as remuneration for a Vakeel conducting a suit on behalf of Government.

The practice existing in Salem of applying to the Civil Judge to transfer suits from the file of the P. S. Court is objectionable and may be adopted, with advantage in other Districts where a P. S. Court has not been established.

The abbreviation shewed when the transfer of the suit from the file of the Dist: Court to that of a subordinate Court—

45
4

Govt add the above

5th Septr 68.

Copies to Bd of Rev Dec 30
Govt Dept
Steve Genl

Rev - 2643/68

Proc-s 5th Sept/68 ok HJ 15-

File of public forms

Collrs Appointment
to Vakeels.