M.R.O. 1—20,002—12-8-65.

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# MADRAS RECORD OFFICE

## GOVERNMENT OF MADRAS

Revenue DEPARTMENT

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| G.O. No. | 40 | Press |
| B.P. No. | | Mis. |

Dated 6-7-1874 196 .

*Not to be folded or roughly handled*

No. 138. Read the following letter from J. H. GARSTIN, Esq., Magistrate of South Arcot, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Merkanum, 6th June 1874, No. 31 :—

In the *Fort St. George Gazette* of the 26th ultimo, at page 818, K. I. Vijiaragava Chari, who since the 17th February had uninterruptedly exercised the powers of a 2nd-Class Magistrate, was gazetted to be a 3rd-Class Magistrate on his transfer on promotion to be Deputy Tahsildar and Magistrate of Tittagudi.

2. I have the honour, therefore, to request that he may be again invested with second-class powers and to suggest that a Notification be issued by Government to the effect that an officer once invested with magisterial powers in a district shall always be able to exercise those powers in that district in any magisterial capacity to which he may be transferred, even though he may for a time revert to an appointment not involving the exercise of such powers, provided always that such reversion is not by way of punishment or degradation nor with a view to the prevention of his exercising magisterial jurisdiction.

3. As the law at present stands a Tahsildar and 2nd-Class Magistrate may be transferred from Ganjam to South Arcot and would exercise the same power in the latter district as in the former under Section 56 of the Code of Criminal Procedure without any special reference to Government being necessary, but a Tahsildar transferred from one taluq to another in the same district seems to require to be reinvested with magisterial powers. If this is really the state of the law it is very anomalous, but I should imagine that there is really no necessity for reporting every transfer of a Magistrate from one station to another in the same district, as under Section 37 of the Code of Criminal Procedure the local Government has power to appoint 1st, 2nd, and 3rd-Class Magistrates at discretion to be Magistrates *in the district*, so that the appointment of a Magistrate in a district gives him jurisdiction, *ipso facto*, in any portion of the district to which he may be transferred.

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No. 139. ORDER THEREON, 19th June 1874, No. 1117.

The mistake arose from its being supposed by this department, in the absence of any information to the contrary, that the nominee was appointed *for the first time* to a post which involved the exercise of magisterial powers; whereas, in fact, he was merely transferred from one taluq to another. The Notification of 23rd May, No. 927, will now be cancelled, the result being that the previous Order empowering the nominee to exercise second-class powers will remain in force. Meanwhile the Revenue Department will be requested to use the word "transfer" instead of "appoint" in cases of the kind, notifying specially to this department instances in which higher magisterial powers are desired for the transferee.

2. With reference to the second paragraph of the District Magistrate's letter, it is observed that a reappointment to be a Magistrate is, of course, only necessary when an officer who has been gazetted to a permanent appointment involving magisterial functions vacates that appointment by resignation or dismissal, or by being permanently transferred to some non-magisterial office; or, *secondly*, when an Acting Magistrate reverts to his own non-magisterial duties, or otherwise ceases to act as a

*Proceedings of the Madras Government, Judicial Department,*
*19th June* 1874

Magistrate. In either of these cases the officer concerned could not take up a magisterial office again without being invested again with magisterial powers.

(True Extract.)

1874
Ag Under Secretary
for Acting Chief Secretary.

To the Revenue Department.
To all Magistrates.

No. 40.

Communicated to the Board of Revenue

those attention will be requested to para

of the G.O. above recorded.

2/7/74

To Bd Revenue 8/10-7-74

Govt. of 1874 Madras.

JUDICIAL.

To The REVENUE DEPARTMENT,

&c., &c., &c.

Dated June, 1874.

Read ... ...

G.O., 13th June 1874, No. 1117.

JUNE.

Nos. 138-139.

*Magisterial powers.*—With reference to a question raised by the Magistrate of South Arcot, instructions issued to the Magistracy as to the cases in which it is necessary to reinvest ex-once appointed Magistrate with Magisterial powers; and the Revenue Department requested to use the word "transfer" instead of "appoint" in cases where officers exercising such powers are merely removed from one taluq to another.

40