

- (1) Number of Pages.....6
(2) Date of repair.....
(3) Initials of the Referencer.....15.14

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No. 292
B.P. No. _____

Press
Mis.

Dated 28-2-1876 196 .

Not to be folded or roughly handled

292
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*Proceedings of the Madras Government, Revenue Department,
28th February 1876.*

No. 329. Read the following Proceedings of the Board of Revenue, dated 28th January 1876, No. 260:—

Read the following letter from H. W. BLISS, Esq., Acting Collector of Madura, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated 24th December 1875, No. 518:—

I HAVE the honor to submit, for the orders of the Board of Revenue, copy of a letter from the Acting Head Assistant Collector, dated 18th November 1875, No. 372, regarding an application from Mr. R. Fischer for the refund of Rupees 563-4-0 paid on his behalf as process service fees in January and February 1870. In the rules relating to the service of processes at the time in force there was no provision for the refund of batta paid into a Revenue Court but not expended in consequence of its having been afterwards found unnecessary to issue the processes on account of which it had been paid.

2. But there is a later rule on the subject passed by the High Court, copy of which was obtained by me from the District Court and is* herewith forwarded, which authorizes the refund of such payments to the depositor. This rule was sanctioned by Government for the Civil Courts, but was not communicated by the Board of Revenue for the guidance of the Revenue Courts. It is obviously just however. I, therefore, recommend that it be added to the Process Service Rules in force in the Revenue Department, and that it be given retrospective effect to enable me to dispose of the present application and of any other similar ones which may be preferred.

* Proceedings of the High Court, No. 1,229, dated 15th July 1873.

ENCLOSURE No. 1.

From L. MOORE, Esq., Acting Head Assistant Collector, to H. W. BLISS, Esq., Acting Collector of Madura, dated Ramnad, 18th November 1875, No. 372.

I HAVE the honor to inform you that an application has been received here from Mr. R. Fischer requesting that Rupees 563-4-0 paid on his behalf into this office as process service fees in January and February 1870 in connection with certain summary suits in this Court may be refunded on the ground that the processes were never issued.

2. I have ascertained that the suits in connection with which these fees were paid were struck off the file in July 1870 for reasons which are not entered in the register. It is however certain that the processes were not issued.

3. I myself am of opinion that the money should not be refunded, but before passing an endorsement to this effect on the petition above alluded to, I have thought it better to make a reference to you on the subject.

4. Under the rules at present in force, all process service fees are paid in stamps which are punched out as soon as they are presented. No refunds are ever granted as far as I can ascertain on the ground that eventually it has been found unnecessary to issue the processes. The rules however are silent on this point. When the money, for the refund of which application is now made, was received, processes seem to have been paid for under the rules contained in the Collector's notice published at page 205 of the District Gazette for 1869. There also nothing is said as to whether batta should be returned when it is afterwards found unnecessary to issue the processes on account of which it has been paid. If refunds are not granted now, I cannot see any reason for allowing them in cases which, although they arose before the present rules came into

*Proceedings of the Madras Government, Revenue Department,
28th February 1876.*

force, yet are exactly similar to those in which they are now refused, especially as both the old and the present rules are silent on the subject.

5. It may also be remarked that no application for refund was made here till 22nd March 1875, or four and-a-half years after the suits had been struck off the file.

(True Copy.)

(Signed) C. W. W. MARTIN, Acting Sub-Collector,
for Acting Collector.

ENCLOSURE No. 2.—Copy of Proceedings of High Court.

SUBMITTED to Government with the recommendation that a rule similar to that sanctioned in G. O., dated 23rd June 1873, Judicial Department, for Civil Courts be added to the rules in force in the Revenue Department. The order of Government approving the refund of process service fees was not communicated to the Board, but there does not appear to be any reason why the power to refund deposits should be confined to Civil Courts.

2. The sanction of Government is also requested for the refund to Mr. Fischer of the sum claimed.

(True Copies and Extract.)

(Signed) C. A. GALTON,
Acting Secretary.

No. 330.

ORDER THEREON, 28th February 1876, No. 292.

Miscellaneous.

THE Board of Revenue will make the necessary addition to the Process Service Rules as proposed.

2. The refund of Rs. 563-4-0 to Mr. Fischer is sanctioned under the circumstances stated.

(True Extract.)

(Signed) D. F. CARMICHAEL,
Secretary to Government.

To the Board of Revenue.
„ the Accountant-General.

Exd. W. J. Lewis.

No. 260.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 28th January 1876.

Following letter from H. W. BLISS, Esq., Acting Collector of Madura, to H. E. STOKES, Esq., Acting Secretary to the Board of Revenue, dated 24th December 1875, No. 518 :—

HAVE the honor to submit, for the orders of the Board of Revenue, copy of a letter from the Acting Head Assistant Collector, dated 18th November 1875, No. 372, regarding an application from Mr. R. Fischer for the refund of Rupees 563-4-0 paid on his behalf as process service fees in January and February 1870. The rules relating to the service of processes at the time in force there was no provision for the refund of batta paid into a Revenue Court but not expended in consequence of its having been afterwards found unnecessary to issue the processes, count of which it had been paid.

4. But there is a later rule on the subject passed by the High Court, copy of which was obtained by me from the Proceedings of the High Court, No. 1,229, District Court and is* herewith forwarded, which authorizes the refund of

payments to the depositor. This rule was sanctioned by Government for the Revenue Courts, but was not communicated by the Board of Revenue for the guidance of the Revenue Courts. It is obviously just however. I, therefore, recommend it be added to the Process Service Rules in force in the Revenue Department, that it be given retrospective effect to enable me to dispose of the present application and of any other similar ones which may be preferred.

ENCLOSURE No. 1.

L. MOORE, Esq., Acting Head Assistant Collector, to H. W. BLISS, Esq., Acting Collector of Madura, dated Ramnad, 18th November 1875, No. 372.

I HAVE the honor to inform you that an application has been received here from Mr. R. Fischer requesting that Rupees 563-4-0 paid on his behalf into this office as process service fees in January and February 1870 in connection with certain summary suits in this Court may be refunded on the ground that the processes were never issued.

2. I have ascertained that the suits in connection with which these fees were paid were struck off the file in July 1870 for reasons which are not entered in the register. It is however certain the processes were not issued.

3. I myself am of opinion that the money should not be refunded, but before passing an order to this effect on the petition above alluded to, I have thought it better to make a reference to you on the subject.

4. Under the rules at present in force, all process service fees are paid in stamps which are cashed out as soon as they are presented. No refunds are ever granted as far as I can ascertain on the ground that eventually it has been found unnecessary to issue the processes. The rules never are silent on this point. When the money, for the refund of which application is now made, was received, processes seem to have been paid for under the rules contained in the Collector's notice published at page 205 of the District Gazette for 1869. There also nothing is said as to whether batta should be returned when it is afterwards found unnecessary to issue the processes on account of which it has been paid. If refunds are not granted now, I cannot see any objection for allowing them in cases which, although they arose before the present rules came into force, yet are exactly similar to those in which they are now refused, especially as both the old and the present rules are silent on the subject.

5. It may also be remarked that no application for refund was made here till 22nd March 1875, or four and-a-half years after the suits had been struck off the file.

(True Copy.)

(Signed) C. W. W. MARTIN, Acting Sub-Collector,
for Acting Collector.

Enclosure No. 2.—Copy of Proceedings of High Court.

SUBMITTED to Government with the recommendation that a rule similar to that sanctioned in G. O., dated 23rd June 1873, Judicial Department, for Civil Courts be added to the rules in force in the Revenue Department. The order of Government approving the refund of process service fees was not communicated to the Board, but there does not appear to be any reason why the power to refund deposits should be confined to Civil Courts.

2. The sanction of Government is also requested for the refund to Mr. Fischer of the sum claimed.

(True Copies and Extract.)

Acting Secretary.

To the Secretary to Government, Revenue Department,
with copy of High Court Proceedings, to be returned.
Copy to the Acting Collector of Madura.

Exd. W. J. Lewis.

No 292
The Board of Revenue will make the necessary addition to the process service rules as proposed.

The refund of Rs. 563-4-0 to Mr. Fischer is sanctioned under the circumstances stated.

14. 2. 76
The Board of Revenue with the sanction of Government.

28th February 1876

Revenue 1876. *De. 1876*
BOARD OF REVENUE,
MADRAS.

PROCEEDINGS, 28TH JANUARY 1876, No. 260.

Copy 5 Feb 1876

Encl. 1

Received

7. Feb 1876

JANUARY.

No. 260.

Process Service Fees.—Submitting to Government letter from Collector of Madura, recommending that a rule similar to that sanctioned by Government for Civil Courts authorizing the refund of — to the depositor when no processes are issued be added to the rules in force in the Revenue Department, and requesting sanction of Government for the refund to Mr. Fischer of Rupees 563-4-0 paid by him in 1870 as process service fees in connection with certain summary suits in which however processes were not issued.

22/2/76 P. 21: 76
21/2/76 P. 10: 19 76/56

28th February 1876 No 292
with order

No 516

17-1-94

Govt. of 1876-1877.

REVENUE.

To

THE BOARD OF REVENUE.

Rs., &c., &c.

Dated February, 28th.

Recd.

Encl.

G.O., 28th February 1876, No. 292.

FEBRUARY.

No. 329-330.

Process Service Fee.—Directing the Board of Revenue to add to the rules in force in the Revenue Department a rule similar to that sanctioned by Government for Civil Courts authorizing the refund of — to the depositor when no processes are issued, and sanctioning the refund of Rs. 503-4-0 to Mr. Fischer.