

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. 2363

Press
Mis.

175-177

Dated

8-10-1867.

Not to be folded or roughly handled

Read the following letters:—

No. 175. From the Acting Civil Judge of Guntoor, to the Acting Chief Secretary to Government, Fort St. George, dated Guntoor, 20th July 1867, No. 110.

1. I have the honor to bring to the notice of Government, that Mr. Henry Gompertz, a gentleman in the employ of Government, in the Revenue Survey Department, has been admitted as a Vakeel on the rolls of this Court by my predecessor, and that he holds Vakalatnamahs in some cases now pending in the Court.

2. I cannot fancy that Government will consider this arrangement at all desirable, and consequently report the matter for any orders they may deem expedient.

Referred to the Superintendent of the Revenue Survey for enquiry and report.
(Signed) W. HUDLESTON,

Secretary to Government.

24th July 1867.

No. 176. From the Superintendent of Revenue Survey, to the Secretary to Government, Revenue Department, Fort St. George, dated Chepauk, 20th August 1867, No. 1,609-45.

1. As directed in your docket of the 24th July, on a letter from the Acting Civil Judge at Guntoor (now returned), I have the honor to submit the copy of a letter from Mr. Gompertz, explaining the circumstances under which he was admitted as a Vakeel to the Court at Guntoor.

2. The fact of Mr. Gompertz having pleaded in the Court did not come to my knowledge officially, nor did it reach me until he had quitted or was on the point of quitting Guntoor, where he had been employed in a semi-independent charge. Under these circumstances (although I was of opinion that Mr. Gompertz ought not to have taken the step without first consulting the Officer from whom he received instructions for the conduct of his work), I considered it sufficient to address Mr. Wright, the officer in charge of the Kurnool Survey, demi-officially, desiring him to inform Mr. Gompertz that I disapproved of what he had done.

3. I concur with Mr. Beaumont in opinion that the tone of Mr. Gompertz's letter is not what it should be, and I think Mr. Gompertz's views of his duties erroneous, still as he has quitted Guntoor, Government may perhaps be satisfied with prohibiting his again entering into engagements which, notwithstanding all that is said to the contrary, must I think interfere with a thorough performance of his departmental duties.

From H. GOMPERTZ, Esq., First Assistant Superintendent, Revenue Survey, to the Deputy Superintendent, Revenue Survey, dated Camp at Oozilvada, 5th August 1867.

1. I have the honor to acknowledge the receipt (yesterday evening) of your docket No. 18, of the 29th ultimo, enclosing an original endorsement* of the Superintendent's on certain Proceedings of the Madras Government.

* Returned.

2. It is perfectly true that I have been admitted a Pleader in the Guntoor Court, and that I hold Vakaluts in certain cases pending there, but as the Superintendent has called for an explanation, I do not suppose that a bare statement only is wanted, and shall therefore do myself the honor to enter into the whole affair from the beginning.

*Proceedings of the Madras Government, Revenue Department,
8th October 1867.*

3. About the end of last year, from certain representations made to me, I came to the conclusion that there was a good opening for an independent English gentleman in our Mofussil Court, and as law has always been a hobby of mine, and I began to find that the continual wear and tear of the Survey was telling on my health, I determined, if possible, to give the thing a trial. I spoke to Mr. Hodgson, the Judge (for whom, I would remark, Mr. Leman is only acting), on the subject, and as he saw no objection to my taking the course I proposed, I applied for and obtained a Sunnud. I had then almost completed the work at Guntoor, and I applied for six months' leave on private affairs. I was offered Vakaluts in certain cases, and in anticipation of leave, which I had every reason to expect to obtain, I accepted them, as with due respect, I submit, I was fully justified in doing, and I proceed to give my reasons for this statement.

4. It seems to me that unless there is a distinct agreement that a person's whole time shall be given to his employer, that person has a perfect right to engage also in any other work he chooses and can get; provided

1st.—That this in no way interferes with the conduct of his regular duty.

2nd.—That it does not bring him into objectionable relations with those with whom he may have to do on the part of his employer. There has certainly been no distinct agreement with me, neither is there any general rule prohibiting Uncovenanted Servants from taking other work; on the contrary, the Notification of Government of which the 1st paragraph is—

"Several recent cases having forced on the notice of Government the necessity of prescribing some rule in regard to the pecuniary transactions of superior officers in the Uncovenanted Service, the Government resolves to notify to all such officers in positions of trust and responsibility, that they are absolutely prohibited from entering into any money or other dealings whatever with persons resident within their official ranges and liable to be brought into any official relations with them, if such transactions are of a nature to place the Government officer under an obligation to the individual, incompatible with perfect freedom and independence of official action" seems to me to prove clearly

1st.—That no previous rule on the subject existed.

2nd.—That so far from being prohibited, "other dealings" are distinctly recognised and allowed under certain well understood restrictions.

5. The relation of Pleader and client is simply that of an ordinary buyer and seller; the client buying the Pleader's skill and knowledge of the law. Moreover, none of the men with whom I was connected as Pleader, could well have had anything to do with me officially, so that there was nothing to prevent my putting myself under an obligation to them had I chosen, though I should be exceedingly sorry to put myself under an obligation to any man. The small amount of practise I accepted most certainly did not interfere with my work, and the best proof of it is the work itself, with which I have every reason to believe (from the monthly Memorandums received) the Superintendent was quite satisfied.

6. I shall now do myself the honor to allude to one or two other circumstances, which, though not touching the broad question, "can a Government servant engage in other work," ought I think to be mentioned. I am perfectly aware that it would be impossible to practice regularly as a Pleader, without neglecting my ordinary work, and I have not and never had any intention of so practising. As I before stated, I had applied for leave, which I had every prospect of getting, as is shewn by the fact that the Superintendent admitted I had "strong claims," (having only had three months' leave in eight years' service), and that while unable to recommend my leave just then, as there were so few Assistants (two having resigned, which I did not know when I sent in my application), that he found impossible to spare my services, he promised to recommend the leave as soon as he possibly could. At the expiration of my leave I intended either to send in my resignation, if my new business answered my expectations, or to give up my Pleader's work and return to the Survey.

7. The work at Guntoor, where I was in charge, was on the point of completion, and I had plenty of spare time, so that as I said before the small amount of practise I accepted in no way, under the peculiar circumstances of the case, interfered with what I had to do for Government.

*Proceedings of the Madras Government, Revenue Department,
8th October 1867.*

8. My arrangements with my client are essentially private, and I therefore do not allude to them further than to say that they in no way hampered me or tied me to Guntoor, and that they were perfectly satisfactory to both them and me.

9. I must add that some correspondence has already passed on this subject between Mr. Leman and myself, and that though I in no way concede to him the right he would seem to claim of interfering in my private concerns, (for as a Government servant he has nothing whatever to do with me, our only connection being as Judge and Pleader,) yet to avoid unpleasantness I gave him, though not so fully as I have done here, an explanation of the circumstances under which I had obtained a Sunnud in the Guntoor Court. I cannot but think that in making any reference to Government (without going into the question of the propriety of such reference being made by him at all, he was in honor bound to forward that explanation, which I am sorry to find he had not done. I do not here enter more fully into the correspondence alluded to and its attendant consequences, as I look on this as a matter between Mr. Leman and myself as Judge and Pleader, which I cannot with propriety lay before my official superiors, but it is my present intention to make it the subject of a separate letter either to Government or the High Court.

10. I have only further to say that the whole matter, from first to last, has been conducted in the most open manner, and that I trust the explanation now given may prove entirely satisfactory. I have the honor to request that this letter may be submitted in extenso.

From the Deputy Superintendent, No. 2 Revenue Survey, to the Superintendent of Revenue Survey, dated Kurnool, 9th August 1867, No. 273-1,105.

1. With reference to your Memorandum No. 1,455-67, of the 25th ultimo, I have the honor to enclose an original letter from Mr. Gompertz.

2. Mr. Wright informs me that when Mr. Gompertz was at Guntoor he was not connected with No. 2 party, and he knows nothing officially about his practising as a Pleader in the Court of that district.

3. I ventured my opinion to Mr. Gompertz that the style of his letter was too argumentative, and suggested that it should be altered. This he appears unwilling to do, so I send it on to you at once.

No. 177.

ORDER THEREON, 8th October 1867, No. 2,363.

Miscellaneous.

The Government cannot accept Mr. Gompertz's view of the case, and desire that the Superintendent of Revenue Survey will call upon him at once to resign his Sunnud as Pleader, and to remove his name from the roll of Vakeels in the Guntoor Civil Court, or to relinquish his position in the Uncovenanted Service. Colonel Priestley will report Mr. Gompertz's decision without delay.

(True Extract.)

(Signed) W. HUDLESTON,
Secretary to Government.

To the Superintendent of Revenue Survey,
.. the Civil Judge of Guntoor.

Erd. S. T. Augustin.

Rev. DEPARTMENT.

No. 2248

From Supt. Rev. Survey

Dated 28th Aug 1864

FOR ORDERS.

Mr. Sompert's letter is objectionable in style & matter, and shows want of ignorance of his proper official position as an employee in the Gov. Survey. It is not when, I apprehend, that a second look at the Civil Service will be found willing to attach Mr. Sompert to the office of a Baker in the Civil part of the Survey, so long as Mr. Sompert remain attached to the Survey Department; but, as such a freak of eccentricity is not unpopable, I would authorize Col. Dyer to remove Mr. Sompert's name from the Survey list immediately Mr. Sompert seeing his removal from any other list, and I would now cause a notice - and I would now cause

an intimation to be conveyed to Mr
Gompertz that that will be the course
taken -

Under Section III, Reg. XIV of 1846, a Civil
Judge may appoint either officer of
barrister in his court, any person duly
qualified for the situation; but, by Section
IV Act I of 1846 no person can be admitted
a pleader (or barrister) unless he produces
a certificate such as the Lord, now
the High Court may have prescribed.

It does not appear whether Mr. Gompertz
produced that certificate when Mr. W
Harrison made him Pleader of the
Court. The point should be
ascertained of course with the present acting
Judge, Mr. Herman, who, if Mr. Gompertz
had not such a certificate at the time,
should now cancel Mr. G's nomination
as invalid -

It may also be pointed out to Mr. G
C. Judge, that, unless, as Pleader of the
Court, Mr. Gompertz has been admitted to the

under leave of absence formally obtained,
his appointment as Pleader is at Mr. Herman's
mercy & should be annulled -
Very recently, the High Court intimated, that,
for reasons assigned, a member of the Scotch
barristers' association, not an advocate, could
not be admitted as a Pleader of the Edinburgh
Court - It was in the Scotch Reports.
That the High Court were addressed. The
papers connected with the reference were
out of a petition presented to Lord Napier
on the Scotch Court, might throw some
light on the propriety of Mr. Gompertz's appointment
in the Court - W.H.

I agree, and further if Mr. Gompertz
surrender as Pleader in the Court
Court cannot be cancelled by
the Acting Judge with the same
above indicated I would require
Mr. G himself to remove his name

from the 20th. For Orders
and if did not do so,
would have been much & out of
of the public service.

Major Pownall & amply seen,
in fact. J.P.

I think that Mr Gompertz should
be called upon to resign his Summat
as pleader or his position in the
unconfronted service at once.

c 24 aug 1867 20 26 28 0 21 27

Revenue Department
N^o 2363.

Proceedings of the Madras Government.
Under date the 8th August 1867. —

Read the following
Papers. —

From the A^d Civil Judge, Quilon.
Bringing to the notice of Govt. that
Mr Gompertz who is employed in the Govt.
services has been admitted as a Vakool of
the Court by Mr. Hodgson and requesting
the orders of Govt. on the subject. —

(Here enter 20th July 1867 N^o 110.)

From the Supt^r Revenue Survey.
Submitting the report called for
in docket of the 24th July 1867 regarding
Mr Gompertz practising as a Vakool
in the Quilon Court. —

(Here enter 20th August 1867 N^o 1609
45)

The Government
cannot accept Mr Gompertz's
view of the case. and de-
- sire that the Superintend-
- ent of Revenue Survey
will call upon him at
once to resign his Summat
as Pleader and to remove
his name from the roll

of Vakils in the Guntur
Civil Court, or to re-
linquish his position
in the Unconquered
service. Colonel Priestley
will report Mr. Gampert's
decision without delay.

W. H. G.

10 Copies To the Supd of Civil Survey Dept
1 Copy to Civil Judge of Guntur

25-
4.

Approved
[Faint handwritten notes and signatures follow]

20.
No. 10. 1867
Value in the Golden Rule.

Revenue 1867 Deficit
No of 4005 for Oct 1867

No 2363.

No of the Head and Feet
of 8th October 1867.

From the supply of the day
of 25th October 1867 No 2901

Continued

No 1450 177