

[13]
100-15-7-91

Educational (1904) Department.

ORDINARY PRINTED.

G.O., No. 357

DATED

9. 6. 04

INDEXED.

ORIGINAL

[Despatch Abstract.]

Leave

Declining to grant K. Ranganatha Mudali
Clerk in the office of M.D.P.O., any leave
after 5th April 1904 when he was
granted an invaliding certificate of
incapacity for further service.

Declining to grant K. Ranganadha Mudali, clerk in the office of the Director of Public Instruction, any leave after 5th April 1904 when he was granted an invaliding certificate of incapacity for further service.

GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

READ—the following paper :—

From the Hon'ble Mr. A. G. BOURNE, D.Sc., F.R.S., Director of Public Instruction, to the Secretary to Government, Educational Department, dated Madras, 9th May 1904, Ref. on Cur. No. 3236.

One K. Ranganadha Mudali, a clerk of my office, who was understood to be suffering from leprosy was sent before the Surgeon, First district, for medical examination on the 1st March last, and he was invalided on the 5th April as will be observed from the enclosed medical certificate (to be kindly returned when done with). In the meantime, the clerk applied for privilege leave for three months and furlough for one year in continuation thereof under article 233 of the Civil Service Regulations in consideration of his past service of 15 years. Under article 457 of the Civil Service Regulations privilege leave could not be granted to him. So I asked the Accountant-General whether he might be granted furlough for one year prior to his retirement and he informs me in his letter No. Pen. V. 38/1074, dated 2nd instant (copy enclosed) that furlough had been granted under similar circumstances to a Sub-Registrar and suggests that, in the absence of a definite ruling on the subject, a reference be made to Government. I have the honour accordingly to request that I may be informed at a very early date whether I can grant the clerk furlough for one year with effect from the 5th March 1904, the date from which he was permitted to be absent from duty, on the understanding that he should retire at the expiry of the leave. I should like to do so if it is permissible.

2. Pending decision of the above question I have allowed his pension papers to lie over.

ENCLOSURES.

No. 96.

(Certificate for retirement on invalid pension or gratuity.)

Certified that I have carefully examined K. Ranganadha Mudaliyar, son of K. Kolandavelu Mudaliyar, a clerk in the office of the Director of Public Instruction, Madras.

2. His age is by his own statement 35 years, and by appearance about 35 years.

3. I consider K. Ranganadha Mudaliyar to be completely and permanently incapacitated for further service of any kind or in the Department to which he belongs in consequence of leprosy.

4. His incapacity does not appear to me to have been caused by irregular or intemperate habits.

MADRAS,
1st March 1904.

F. C. REEVES, Lieut.-Colonel, I.M.S.,
Surgeon, First District.

(Countersigned).

MADRAS,
5th April 1904.

W. R. BROWNE, Colonel, I.M.S.,
Surgeon-General with the Government of Madras.

Statement of case.

- (1) Rank—Clerk.
- (2) Name—K. Ranganadha Mudaliyar.
- (3) Department—Educational Department.
- (4) Marks of identification—A scar on the right cheek and another on the right hand.
- (5) Age—35 years.
- (6) Service—15 years and 2 months nearly.
- (7) Sick leave granted during the service—Nil.
- (8) Disease or cause of disability—Leprosy.
- (9) Abstract statement of case.—Has well-marked signs of tubercular leprosy in both feet. There are also anæsthetic patches on face and back. He is therefore unfit for further service.

From the Accountant-General, Madras, to the Director of Public Instruction, dated 2nd May 1904, No. Pen. V. 38/1074.

In reply to your letter No. 3236, dated the 23rd April 1904, I have the honour to state that the case of the clerk referred to is somewhat analogous to that of Mr. T. K. Sankara Aiyar, Sub-Registrar of Vriddhachalam, disposed of by Government in their order No. 1586, Judicial, dated 18th October 1902. In that case the Sub-Registrar was declared by the Medical Board to be unfit for further service in consequence of leprosy. As he, however, applied for furlough for which he was eligible, he was first granted one year's furlough, which was afterwards extended to another year on the understanding that the Sub-Registrar should be retired at its expiry if he be declared to be still unfit for duty.

In the absence of a ruling that that procedure should be observed in all similar cases I would suggest that the case under reference be reported to Government for orders.

ORDER—No. 357, Educational, dated 9th June 1904.

The Government are unable to sanction for K. Ranganadha Mudali any leave after the 5th of April 1904, the date on which he was granted an invaliding certificate of incapacity for further service. For the period from the 5th of March to the 5th of April he may be granted furlough or leave on medical certificate.

(True Extract.)

H. D. TAYLOR,
Ag. Secretary to Government.

To the Director of Public Instruction.
„ Accountant-General.

Exd. P. Seetharam.

EDUCATIONAL DEPARTMENT.

NOTES CONNECTED WITH G.O., No. 357, EDUCATIONAL, DATED
9TH JUNE 1904.

[SUBJECT.—Grant of furlough to a Clerk in the Director's Office.]

From the Director of Public Instruction, No. 3236, dated 9th May 1904.

Following the decision arrived at by Government in G.O., No. 1586, Judicial, dated 18th October 1902, the Director may, it is submitted, be informed that the Government see no objection to the grant of furlough from the 5th March last to clerk K. Ranganadha Mudali of his office on the understanding that the clerk is retired on the expiry of the furlough.

N. LAKSHMANA RAO—13-5-04.

Submitted that this may be done with the concurrence of the Financial Department.

P. T. THARYAN—13-5-04.

A. GALLETTI—14-5-04.

The case is quite different. The man is suffering from leprosy and is incapacitated from further service. There is no probability held out that he will recover. In the other case quoted some leave had been already granted and the grant was in respect of an extension.

2. To what does article 501, Civil Service Regulations, old edition, correspond in the new edition?

H. D. TAYLOR—14-5-04.

Article 501 of the third edition corresponds to article 457 of the fourth edition—please see page 285 of the latter edition.

2. It is respectfully submitted that in the case disposed of in 1902, (1) in 1901 furlough was granted after a Board had declared the man to be suffering from leprosy and (2) in 1902 extension was granted after the District Medical Officer had certified that he was still a leper. The Surgeon-General however observed "it does seem very hard that an unfortunate, afflicted with leprosy, should have his calamity intensified, by any leave he may have earned being withheld from him." The extension was then granted. It is submitted that the same consideration would seem to operate in the present case also, and that it is the second occasion that forms the real precedent, as it was then quite certain that the man was a confirmed leper and could never recover. Respectfully submitted that it is more of a hardship to lose all one's leave than a part of it, and that to lose an extension of leave is less hard than to lose the whole leave.

P.T.T.—14-5-04.

A.G.—16-5-04.

It is a question of rule—not of hardship.

2. Is the wording in the old and new edition identical? Please put up copy of third edition.

H.D.T.—16-5-04.

The wording in the third and fourth editions is identical. A copy of the third edition is submitted.

P.T.T.—16-5-04.

The Director of Public Instruction reports that one K. Ranganadha Mudali, a clerk in his office, was invalided from 5th April on the ground that he was suffering from leprosy; the clerk has applied for privilege leave for 3 months and furlough for one year. The Director of Public Instruction wishes to grant the furlough, if permissible, but makes no recommendation as to the privilege leave. The clerk has been absent from duty from 5th March 1904.

2. Under articles 455—457, Civil Service Regulations, read together, it would appear that in the case of an officer invalided from active service the only leave that can be granted is subsidiary leave preparatory to retirement, though an officer who is actually on leave when the certificate is granted need not retire till the end of the leave, and, following the Government of India's ruling of 9th December 1902, it would appear that there is no objection to the extension of such leave—G.O., No. 1586, Judicial, dated 18th October 1903—note page 2.

3. In the precedent quoted, the clerk was on privilege leave when the furlough was granted in consequence of a medical certificate of unfitness for duty. In the present case no leave was apparently specifically granted, but the clerk was permitted to be absent from duty from 5th March, and the medical certificate was finally completed on 5th April.

4. If the clerk was not on leave on 5th April, the date of the certificate, then he cannot be apparently granted other than subsidiary leave preparatory to retirement under article 455, Civil Service Regulations.

5. The Accountant-General, however, to whom the Director of Public Instruction referred the matter, does not apparently offer any objection to the opinion of his predecessor being adhered to but asks for the specific orders of Government. Hence I do not think a further reference by Government necessary.

6. I consider that the clerk should, after 15 years' service, be treated with all possible consideration, and it seems to me that the difficulty pointed out may be overcome, and the case placed on the same footing as the precedent quoted if the Director of Public Instruction were to grant the clerk privilege leave from 5th March to 5th April, after which date he can be granted the furlough applied for. He cannot be granted any privilege leave (which counts as active service) after the date of the certificate, 5th April.

H. D. TAYLOR—17-5-04.

After the grant of the certificate on 5th April, which virtually declares the man incapacitated, the clerk cannot justly be given any leave, and the application for furlough after that date must be rejected. He will have privilege leave from 5th March to 5th April.

G. S. F[ORBES]—18-5-04.

Submitted that under article 264 of the Civil Service Regulations the clerk cannot have privilege leave from 5th March to 5th April unless he returned to duty on the latter date. He may therefore be regarded as having been on furlough or leave on medical certificate for this period.

P. T. THARYAN—20-5-04.

A. GALLETT—20-5-04.

Yes; as he apparently did not return to duty. Please draft accordingly.

H.D.T.—21-5-04.

A draft is submitted for approval. If approved Financial may be asked to accept it.

P.T.T.—21-5-04.

A.G.—21-5-04.

H.D.T.—23-5-04.

To the Financial Department.

FINANCIAL DEPARTMENT.

Submitted that the draft may be accepted.

2. There seems to be no account objection to the grant of furlough in the present case as pointed out by the Accountant-General—letter No. Pen. V. 38/1074, dated 2nd May 1904.

S. DURAISWAMI MUDALIYAR—24-5-04.

Pension had better note first. They have precedents of leave granted before retirement.

C. M. SCHMIDT—26-5-04.

To the Pension Department.

PENSION DEPARTMENT.

No precedent can be traced in which leave after the date of the invaliding certificate was granted in a case similar to the one under reference.

2. Please see paragraph 4 of the letter to India, No. 593, Pension, dated 21st June 1893. P. Srinivasachari, the individual therein mentioned, was granted two years' furlough towards the end of his service and when only four months had expired he was recalled to duty. He subsequently fell sick and was invalided. He, however, applied that the unexpired portion of his furlough might be granted and retired at the end of it. The Government held that the grant of a medical certificate of incapacity for further service in the case precluded the grant to him of any leave other than subsidiary leave prior to retirement—article 499, Civil Service Regulations, third edition (article 457, fourth edition); and this view was upheld by the Government of India and the Secretary of State—see paragraph 2 of despatch to Secretary of State, No. 227, dated 25th July 1893, and despatch from Secretary of State, No. 184, Financial, dated 14th September 1893, in G.O., No. 1199, Pension, dated 7th November 1893.

3. In the present case the man was not on any leave prior to retirement and the application for furlough after the date of the medical certificate must be rejected.

4. In his letter No. 147, dated 1903. In endorsement No. 15, dated 24th April 17th March 1903, the Surgeon-General enquired whether he could take the orders contained in G.O., No. 1586, Judicial, dated 18th October 1902, as guidance in future similar cases. The Surgeon-General's attention was simply drawn to article 457, Civil Service Regulations.

K. SRIKANTA AIYAR—31-5-04.

The Sub-Registrar, whose case formed the subject of G.O., No. 1586, Judicial, dated 18th October 1902, was in the first instance invalided while on privilege leave. The Medical Board afterwards withdrew the invaliding certificate, and recommended the Sub-Registrar for a year's furlough. At the end of this furlough he was again invalided, whereupon he applied for an extension of leave for another year. The case then was one of an officer who produced a medical certificate of incapacity while on leave, and it was therefore held by the Accountant-General to fall under article 457, Civil Service Regulations. The extension of leave was granted on the condition that the Sub-Registrar retired at the end of it.

2. The case in G.O., Nos. 592, 593, Pension, dated 21st June 1893, quoted in the Pension department note on the previous page, is in no way similar to the present one. It was that of an officer who, three years after his retirement on medical certificate, applied to be granted the balance of furlough due to him at the date of his retirement, so that his pension might be increased.

3. No precedents being available in the Pension department I have obtained one in Public, please see G.O., No. 515, Public, dated 6th May 1899. Major Patch, I.M.S., reported sick and was relieved of his duties as District Medical and Sanitary officer at Kurnool on the 9th December 1898. He proceeded to Madras to appear before a Medical Board, and was finally invalided there on the 28th February 1899. He desired, however, to be granted all the leave for which he was eligible prior to retirement. The Accountant-General held that if Major Patch were granted leave from the 9th December 1898, the invaliding certificate might be regarded as having been produced while he was on leave, and that the case would thus be brought under article 501 (present article 457) Civil Service Regulations. The matter was arranged accordingly. Major Patch was granted leave for a year and eleven months, with the proviso that his retirement should have effect from the termination of his leave.

4. In the case now under consideration, clerk Ranganadha Mudaliyar of the Director of Public Instruction's office was struck off duty on the 5th March and was finally invalided on the 5th April 1904. The case is very similar to that of Major Patch. The clerk may be granted a year's furlough with retrospective effect from the 5th March. The medical certificate may be regarded as having been produced while he was on leave, the retirement may have effect at the termination of his leave under article 457, Civil Service Regulations.

5. The Educational Department may be informed accordingly?

C. S. SIMPSON—3-6-04.

For myself I cannot see how the permission can be given in the face of article 457, Civil Service Regulations. That article to my mind forbids any such course unless the officer is on furlough. He is not so in this case. He has asked for privilege leave—that seems to be forbidden.

2. If Education decide to sanction the proposal I shall be obliged if they will send the order here for counter-initial.

M. HAMMICK—4-6-04.

To the Educational Department.

EDUCATIONAL DEPARTMENT.

It is submitted that so far as Educational was concerned it was settled that the clerk should not have any leave after the 5th April 1904. The Chief Secretary does not object to the draft, but, on the other hand, seems to accept it. Submitted therefore that the draft may now issue.

P. T. THARYAN--6-6-04.

Perhaps Honourable Member would wish to see Major Patch's case, which is an exact precedent. Major Patch was granted furlough with retrospective effect after he had been invalided by the Medical Board, and it was held that he was invalided while on furlough and was entitled to the furlough remaining due to him. The decision in Major Patch's case was based on the Accountant-General's opinion.

A. GALLETTI—7-6-04.

Submitted to Honourable Member for approval of the draft which is slightly at variance with the orders passed by Honourable Member, "furlough" having been substituted for privilege leave from 5th March to 5th April.

Yes.

G. S. F[ORBES].

G. S. F[ORBES].

2. I am not prepared to recommend that the precedent in Major Patch's case should be followed.

H. D. TAYLOR—7-6-04.

I do not know why both Financial Department and our office are so anxious to get precedents for an obnoxious course, which in any case there is absolutely no good reason for trying to pursue in this case. In my previous note I distinctly said he could not "justly" get leave.

G. S. F[ORBES]—8-6-04.

Issue.

H.D.T.—9-6-04.

[G.O., No. 357, Educational, dated 9th June 1904.]

Educational (190⁴) Department.

CURRENT No. 851.

From

[Name] The Hon'ble Mr. A.G. Bourne, D.Sc., F.R.S.,

[Designation] Director of Public Instruction,

[Station] Madras



Ref on No. 3236 of 04.

Received 190 .

Dated 9th May 1904.

Enclosures 2

Registered 12-5-1904

SUBJECT

Enquiring whether one K. Ranganatha Mudali, a clerk of this office who is suffering from leprosy can be granted furlough for one year prior to his retirement from service.

BACK PAPERS.

FURTHER PAPERS.

To

The Secretary to Government,

Educational Department.

Sir,

One K. Ranganadha Mudali, a clerk of my office who was understood to be suffering from leprosy was sent before the Surgeon, First District for Medical examination on the 1st March last and he was invalided on the 5th April as will be observed from the enclosed medical certificate. (To be kindly returned when done with). In the meantime the clerk applied for privilege leave for 3 months and furlough for one year in continuation thereof under article 233 of the Civil Service Regulations in consideration of his past service of 15 years. Under article 457 of the Civil Service Regulations privilege leave could not be granted to him. So I asked the Accountant-General whether he might be granted furlough for one year prior to his retirement and he informs me in his letter No. Pen. V. 38/1074 dated 2nd instant (copy enclosed) that furlough had been granted under similar circumstances to a Sub-Registrar and suggests that in the absence of a definite ruling on the subject, a reference be made to Government. I have the honour accordingly to request that I may be informed at a very early date whether I can grant the clerk furlough for one year with effect from the 5th March 1904, the date from which he was permitted to be absent from duty, on the understanding that he should retire at the expiry of the leave. I should like to do so if it is permissible.

2. Pending decision of the above question I have allowed his pension papers to lie over.

I have the honour to be,

Sir,

Your most obedient servant,

A. G. Bowser
Director of Public Instruction.

7-5-04

[E.
12]

1,200-7-1000.

EDUCATIONAL DEPARTMENT.

READ AGAIN G.O., No. , dated 190

" " " " " " 190

READ ALSO:-

C. No. 851, From the 8.8.9, No. 3236, dated 9-5-1904

" " " " " " 190

" " " " " " 190

ORDER

No. 357, dated 9-6-1904

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9/5/4

Not please
that printed
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9/6/4

The Govt. are unable to sanction
the consideration that K.

Ranganadha Mudali should not have
any leave after the 5th April 1904 the
date on which he was granted an
invaliding certificate of incapacity
for further service. For the period
from the 5th of March to the 5th of April
he may be granted ~~leave~~ furlough
or leave on medical certificate.

9/5/4

1451
23.5.04

In the 8.8.9 with certificate returned (Pto)
- A.G. (Pto) - 22 Printed copies will follow

9/6/4

First copy sent to Press.

Returned for signature.

Despatched in print.

READ AGAIN G.O., No.
190 .

DATED

CURRENT No.

ENCLOSURES TO G.No.

ORDER OF GOVERNMENT.

LETTER OF GOVERNMENT.

STATEMENT WITH DUTY.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
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