[Edl. 6.]
800—15-7-01.

Educational (1905) Department.

ORDINARY MS.

G.O., No 67

DATED 7 . 2 . 05

C

17

[Despatch Abstract.]

Mr. R. A. Nelson, Principal, Law School

Coming to — with remarks the endorsement of the
stating that he was not eligible for furlough
on the 16th July 1905.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

[E]
500—10-2-04.

EDUCATIONAL DEPARTMENT.

CURRENT FILE.

CONTENTS.

From	Number.	Date.	Pages.
D. P. I. through A.G.	10359	21—12—04	1—6.

[P. T. O. FOR PUT UP PAPERS.

PAPERS PUT UP WITH CURRENT No.

Papers of the department to which the current belongs.

Number.	Date.	Original (=O) or spare copy (=S. C.).	Remarks. (In this column such of the papers as have been removed for copying, printing, &c., should be marked with a cross.)	Initials of Referencer with date in token of return to Reference department.
Jdly. no. 57 of	5-7-04			
V. 3722 of	26-7-04			
" 530 of	26-10-03			
" 426 of	24-7-01			
" 446 of	12-8-01			
" 46 of	26-3-96			
" 3600 of	18-5-91			

Papers of other departments.

Department.	Number.	Date.	Original (=O) or spare copy (=S. C.).	Despatcher to note the return of the papers to the departments concerned.

Stock Form No. 151
5,000—13-7-03.1

Educational
Local & Munl. (190A) Department.

(Through the Accountant General)

CURRENT No. 9

From

[Name] Rao Bahadur Mr. A.G. Bourne B.Sc. F.R.S.

[Designation] Director of Public Instruction

[Station] Madras

ACCOUNTANT GENERAL'S OFFICE
23 DEC 1904
MADRAS

East

W.D.

V. Ref. my Lr. No. 10359 of 04

Dated 21st December 1904

Enclosures 1 in original

Received 5-1- 1905

Registered Do. 190.

SUBJECT.

Submitting an application for eighteen months' furlough in continuation of the midsummer vacation of 1905 on behalf of Mr. D. A. Nelson, Principal, Law College, Madras.

BACK PAPERS.

V. 446 of 12-8-01 ✓ 10769/02 ✓
372R of 22-7-04 ✓ 359-00 Copy 668
Jdly. no. 57 of 5-7-04 ✓ 04 04

ED 23/12

FURTHER PAPERS

P.W.

To

The Secretary to Government,

Local and Municipal Department.

Sir,

C.
2 240- 20-8-03.

No.

LAW COLLEGE, MADRAS.

3 No 10359/4

4

Dated 16 December 1904.

From

R. A. NELSON, Esq., M.A., L L.M., *Barrister-at-law*,

PRINCIPAL, LAW COLLEGE, MADRAS,

To The Secretary to Government
Educational Department

Through The Director of Public Instruction
Madras

SIR,

I have the honour to request that I may be granted eighteen months furlough in continuation of the Midsummer vacation of the College 1905, May 1st to July 15th, out of India.

2. I have had no leave since taking up my appointment in May 1891, with the exception of 4 months on medical certificate in 1902, & 1 months extraordinary leave without pay this year, & under the terms of my re-engagement as Principal, I am eligible for furlough & leave allowances - vide G. O. Educational No. 447, dated 12th August, 1901.

E.

I have the honour to be,

Sir,

Your most obedient Servant,

R. A. Nelson

Principal.

4

Department of Public Instruction.

LAW COLLEGE, MADRAS.

No. , *190* .

Despatched } 190 . Enclosures

Received }

SUBJECT.

5

N. Rep on Cuo 10359/04 dated 21 Dec. 12

Submitted to Government through the Accountant General and recommended.

A. G. Bourne

Director of Public Instruction

A.D.A
332

Mr R. A. Nelson will not; on the 16th July 1905, be eligible for any furlough under article 338 of the Civil Service Regulations 4th Edition, as he will not; on that date, have put in ten years' service qualifying for furlough.

Fort Saint George
Acct Genl's Office
4th January 1905

J. Hughes.
Asst Acct Genl

To The Secretary to Government
Educational Department.

[F 2.]
1,500—3-12-04

ACCOUNTANT GENERAL'S OFFICE
11 JAN 1905
MADRAS

EDUCATIONAL DEPARTMENT.

C. No. 9 From the A.G. No. A.D.H 332, dated 4-1-1905.

LEGAL & MUNICIPAL
12 JAN 1905
SECRETARIAT.

SUBJECT.

Mr. Nelson's application for furlough.

[It should not have taken 5 days to find this out.]
Ptl
12

The A.G's Endorsement on page 6 of the current file has not been signed. Submitted that it may be returned to him U.O. for signature.

Re 10/1/5 Ptl. 10/1/5 A.G. U.O. 10.1.5

desp 10/1/5

Edl. Ele no 22.D
11.1.05

Signed and returned
11/1.

A.G's. Ele. O. No. 164
11-1-05

Mr. Nelson may be informed accordingly.
12-1-05

× on page 6 of the ct. file.

Before informing Mr. Nelson in terms of the Accountant Generals' × Endorsement it is respectfully submitted that the point may be considered whether that Endorsement is quite correct.

⊙ Page 206 of the Civil list pataf.

2. Mr. Nelson entered on his duties as Principal of the Law College on the 2nd of May 1891 under a five years' agreement — G.O. No. 360 Edl: dt 18-5-1891. This agreement was renewed for another five years in 1896 (G.O. 167 Edl: dt 26-3-96 and again for another five years in 1901 — G.O. No. 447 Edl: dt 12-8-01. Of these 15 ye Secretary of State has allowed

C.
D.
E.

* Para: 5 of the 2q-Do despatch on page 3 of this G.O.

from the * 2nd of April 1896 to count for pension - G.O. no. 426 Edl: dt 24-7-02. Mr. Nelson ~~has~~ will thus, having put in for pension purposes only a service of a little over ~~3 years and 9 months to his credit~~ 9 years and 3 months by the 16th July 1905.

But the Secretary of State has sanctioned the conditions of Mr. Nelson's re-engagement in 1901 and one of these conditions was that Mr. Nelson should be eligible for furlough and leave allowances after he has served two years from the date of that re-engagement - vide para: 4 of the Despatch from the Govt: of India to the Secretary of State and the Despatch from the Secretary of State to the Govt: of India on page 3 of G.O. no. 407 Edl: dt 12th August 1901. In the letter of this Govt: no. 637 Edl: dt 10th December 1900 Eligibility for furlough, two years after re-engagement in 1901, was recommended irrespective of past service counting for pension.

3. It would thus seem that Mr. Nelson's present application for furlough should be dealt with outside the C.S.R. or under article 308 of the C.S.R. The A.G. may perhaps be asked whether the point requires any re-consideration from him in the light of these remarks.

E.

H.

ACCOUNTANT GENERAL'S OFFICE 29 JAN 1905 273 MADRAS

Ltr 4

Dft 17/1/5

H.M. 19.1.05

Yes H.D. 18.1.05

G.O. no 30 Dd 18-1-05

A.G. no

D.D. 19.1.05.

GP. No636-37 dl
10-12-00. H.

No637dl10-12-00. H.

It may have been the intention of Mr. Nelson, as it seems to have been the intention of Mr. Stuart, the Director of Public Instruction, in forwarding Mr. Nelson's letter on the subject of his present re-engagement, that he should be granted furlough during his present term of re-engagement whether the Civil Service Regulations admitted of its grant or not, but there is nothing in the letter from Government to the Government of India asking that the sanction of the Secretary of State may be obtained to the re-engagement of Mr.Nelson, which would indicate that the furlough was to be dealt with apart from the rules in the Civil Service Regulations governing such leave. In fact the absence of the mention of any period of furlough would indicate that these rules would be applied and that the amount of furlough to be taken would be calculated in accordance with these rules. I may add that if the furlough was to be granted irrespective of the Civil Service Regulations, the absence of any mention of the amount to be granted would require a reference to the Government of India.

2. In putting the matter before the Secretary of State, the Government of India in their despatch reproduced in G.O. Educational, No.447 of the 12th of August 1901 appear merely to have suggested that the clause in Mr. Nelson's agreement which provides that he is not entitled to leave allowance should be withdrawn during the period of re-engagement. I think this is all that can be claimed from the terms of the reference to the Secretary of State. The withdrawal of the prohibition to take leave with allowances should in the absence of any special orders to the contrary, be considered only as bringing Mr.Nelson under the leave rules of the Service.

E.

3. The question of the particular leave rules which should be applied whether the European Service or the Indian Service Leave Rules, has not been considered, and in the absence of any special orders this question must be determined by the rules in the Civil Service Regulations, which prescribe what officers come under each of these sets of rules. The officers to whom the European Services Leave Rules apply are mentioned in Article 297 of the Civil Service Regulations, and Mr.Nelson is not one of these officers. He is not a member of the Imperial Branch of the Education Department, Article 297(d); nor was he ever an officer on the old graded list of the Education Department, (Article 330(c) of the Civil Service Regulations, 2nd Edition), nor does he hold any of the appointments enumerated in Article 297(e) of the Civil Service Regulations, 4th Edition. I can find no orders under which he can be brought under the European Services Leave Rules, and in the absence of any such orders must deal with his case as that of an officer under the Indian Services Leave Rules.

4. In coming to this decision I have not lost sight of the fact that such an appointment as that of Principal and Senior Professor of the Law College may well be considered as on a par with other appointments included in the Indian Educational Service, but in the absence of any definite orders to treat the holder of that appointment as an officer subject to the European Services Leave Rules I am of course unable to do so.

L.D.
23.1.05.
A. G.

A.Gen.H.O.No. 164
23-1-05

The question for decision is whether the orders of the Secretary of State in his despatch read in G.C. No. 447 Edl., dated 12th August 1901 should override the terms of the Civil Service Regulations.

The Accountant General contends that the provisions of the Civil Service Regulations apply and that 10 years service subsequent to Mr. Nelson's second engagement in April 1896 is necessary before furlough is due.

2. Mr. Nelson was first appointed in 1891 for a term of five years, and in 1896 for a second similar term. In 1901 he was reengaged for a further term of five years, and the Government of India in para.4 of their despatch stated that Mr. Nelson would be entitled to furlough 2 years after his re-engagement. The Secretary of State agreed. Mr. Nelson took furlough on medical certificate in July 1902 before this period of two years had expired.

Page 557 of History of Services of Gazetted officers.

3. Please see para.3 of G.O. No.637 Edl., dated 10th December 1900 in which the question of counting the whole period of 15 years for leave and pension was ordered to lie over. In para.3 of letter No.10 Edl,, dated 6th January 1902, the Government asked that the entire period might count for pension, but made no reference to furlough.

4. In para. 5 of his despatch on p. 3 of G.C. No.426 Edl., dated 24th July 1902 the Secretary of State allowed only service from 1896 to count for pension. The Accountant General seems to take this as referring to leave also, and as cancelling the arrangement referred to in the conditions of re-engagement (Despatch in G.C.No.447 Edl., dated 12th August 1901).

5. It is for consideration how far the leave on medical certificate taken in 1902 would modify the terms of leave specified in the conditions of re-engagement.

6. Should India be addressed?

H.D.T.
25—1-05.

H.M.

Yes please
h
26/1/05

Draft

27/1/05

The draft placed below is submitted for approval.

By
30/1/05

Sec 4

Mr Nelson applies for ~~leave~~ furlough next July. I understand that we are to draft recommending this and saying that Mr. Nelson will be eligible for it if the Secretary of State will kindly rule that Mr. Nelson comes under European and not Indian leave rules.

2. The Accountant-General is prepared to reckon Mr Nelson's service, qualifying for leave, from April 2. 1896. Under European leave rules furlough would be admissible after April 2. 1904, subject however to the condition that Mr Nelson has done three years'

continuous service. Now Mr Nelson won't have three years continuous service in July 1905. Therfore we cannot say he will be eligible for furlough in July 1905 under the European leave rules. — Mr Nelson came back from a period of leave which, whether it was leave on medical certificate or extraordinary leave constitutes a break of continuous service because it exceeded three months, (C. S. R. 22) in Nov. 1902. If he is to be treated like other people he must wait till Nov. 1905. — I presume there is no intention of treating him better than other people, ~~than~~ and make special cases for him. I understand it was only as a concession that he was placed under the C. S. R. at all in regard to pension and that it is now proposed to place him under the C. S. R. in regard to leave with allowances, leave with allowances not being provided for in his contracts.

2. Consequently it appears to me that his application for furlough in July next cannot be supported.

3. Submitted that (1) the Acct. Genl's endorsement be communicated to Mr. Nel

(2). he be informed that [illegible]

for

Yes. I regret that I overlooked the point. I was under the impression that the previous leave was taken from an earlier date. HDS.

(3) he be further informed that if he memorialises the Secretary of State claiming the benefit of the European Code rules his memorial will be supported by the Madras Govt. — He may as well state his own case. If we try and state it for him here without consulting him, we may leave out something he would like mentioned or omit to ask for some concession to which he may consider himself entitled.

G 1.2.05

D. The above view seems correct. Mr Nelson would not in any case be entitled to the leave applied for till 26th Nov 05.

He was absent for a month on ordinary leave without pay in continuation of vacation last year - but this will not affect the case. As Mr Nelson enjoys vacations, he does not earn privilege leave and so could not claim combined privilege leave and furlough from any previous date. I regret that I overlooked the date of Mr Nelson's last return from leave when submitting the file on 25-1-05.

ADJ

The suggestions of the 2.2.05

Asst Sol. might
upon it
Hdy.

Hdy.

the draft placed below is submitted for approval.

2. As the one months leave without allowances taken by Mr. Nelson will not be included in the three years continuous service under article 22 of the C.S.R should not "November 1905" in clause (2) of the draft be "December 1905"?

PH 4/2/5 The case should be fully set out. Type as altered — urgent.

HG 6.2.5

Typed.

PH 6/2/5. Submitted to Secy

HG 6.2.05

Approved. may issue

HG
7.2.05

[E. 12]

1,000—24-9-04.

EDUCATIONAL DEPARTMENT.

12

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

" " " " " " 190 .

READ ALSO:—

C. No. 9 , From the A.G. , No A.D.H. 382 , dated 4 - 1 1905.

" " " " " " 190 .

" " " " " " 190 .

ORDER

this

No. 67 , dated 7 · 2 · 1905.

The Endorsement of the Accountant General read above will be communicated to Mr. Nelson. Mr. Nelson will see that the Accountant General holds the Indian Services and not the European Services Leave Rules to apply to his case. The Officers to whom the European Services Leave Rules apply are mentioned in Article 297 of the C.S.R. and Mr. Nelson is not one of those officers. He is not a member of the Imperial Branch of the Educational Department, nor was he ever an officer on the old graded list of the Educational Department, nor does he hold any of the appointments enumerated

enumerated in Article 297(e) of the C.S.R. In the absence of orders under which Mr. Nelson can be brought under the European Services Rules his case has been dealt with by the Accountant General as that of an officer under the Indian Services Leave Rules.

2. If under these circumstances Mr. Nelson wishes to memorialize the Secretary of State claiming the benefit of the European Leave Rules the Govt. will be prepared to support his memorial. But it will be pointed out to Mr.Nelson that even if the European Services Leave Rules were to be applied to his case furlough would not be admissible to him till December 1905 since till then he would not have rendered three years continuous service since his return from furlough lasting for more than three months - vide articles 308 & 22 of the C.S.R.

6.2.05

7.3.05

R.A. Nelson Esq:
thro' the D.P.I.
The D.P.I.
" A.G.

The Finl. Secy.
Dept
7/2/5

given for copying ——
copied ——
examined ——
signed ——
} 190 .

AGAIN G.O , No. , DATED
190 .

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A	
LETTER OF GOVERNMENT.								
STATEMENT WITH DITTO.								
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH IN ORIGINAL.								

N.B.—

A = Copy in full.
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