

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	433-4	Press Mis.
Dated	2. 8.	1859.

B. no. 16-20

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*Proceedings of the Madras Government, Financial Department,
from 30th July to 5th August 1859.*

Read the following papers :—

No. 16. From H. FRERE, Esq., Civil Judge of Tellicherry; to J. D. BOURDILLON, Esq., Secretary to Government in the Judicial Department, Fort Saint George, dated 2nd July 1859, No. 273.

With reference to Section VII of the Uncovenanted Service Absentee Rules, and to the Government Notification, under date 27th June 1857, published at page 161 of the Gazette for that year, I have the honor to bring to your notice the case of two Gomastahs of this Court, Kypana Krishna Menon, and Ramayen, to whom leave for 30 and 23 days, respectively, was allowed, during the adjournment of the Court, in May last.

2. The Civil Auditor has declined to pass the allowances of these two officers, for the above period, on the ground that they had been absent for a short time in 1858 and had not completed 11 months from the expiration of their former leave of absence, when leave was subsequently granted to them, as above stated, in May of this year.

3. I beg to observe, however, that the latter leave was granted by me, under the impression that the rule requiring the condition of 11 months previous continued service, although to be enforced with reference to privilege leave in general, was not intended to be applicable to leave taken during the adjournment of the Court. Such is, I would submit, an admissible and not unnatural construction of Clause 2nd of the Government Notification above mentioned, taken in connection with the clause preceding. The Notification was interpreted by me as permitting judicial servants to be absent for one month, during the adjournment of the Court, without reference to the condition of 11 months' service noticed in clause 1st, as required in the case of privilege leave in general.

4. In this Court and in others in which the Civil business is equally heavy, the restriction imposed by the Civil Auditor seems to me to be calculated to operate to the disadvantage of the public service, for in many cases the Civil Judge will have only the option of granting leave at an inconvenient time, or of refusing it altogether; although, during the time that the Civil Court is closed, the services of a portion of the subordinate servants might be dispensed with, without any difficulty.

5. I trust that, as respects the instance now in question at least, it will be in the power of the Government to sanction the disbursement of their allowances to these two officers. It was much more for the convenience of the Court than of the individuals themselves, that leave was granted during the adjournment of the Court, rather than at a later period of the year; and it would seem, therefore, to be scarcely consonant with justice that they should suffer the loss of their pay on the occasion. Had I been aware of the interpretation now communicated to me by the Civil Auditor, before they had actually availed themselves of their leave, the latter would have been at once cancelled.

No. 17. From G. L. PRENDERGAST, Esq., Accountant General; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 7th July 1859, No. 97.

Previous to the promulgation of the orders of Government of India published at page 1149 of volume 2 of the Official Gazette of 1858, permitting occasional leave of short duration on account of sickness and private affairs to Uncovenanted Servants without reference to the rules, the absence even of a day on private affairs of an Uncovenanted Servant necessarily came within the operation of the rules, under the notifications of the Government of India of 12th June 1857 and 19th March 1858, published at page 91 of volume 2 of the Gazette for 1857 and page 1069 of volume 1 of Gazette for 1858. The rule established by these notifications was, on appeal, re-

scinded by the orders of Government just referred* to. But while it was in existence, a week's leave was granted to one of the Clerks of my Establishment, in January 1858, under Section VIII on half stoppage, as he was not then eligible to Privilege leave under Section VII. On the 9th May last, I granted this individual six

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months' leave under this same Section, viz. VIII, under the impression that, as the rule which restricted "Casual" leave to cases of sickness only, was cancelled, the short leaves which, while it continued in force, were unavoidably granted under the regular absentee regulations, were not to interfere with a Clerk's right to leave under the regular rules. As Section VIII prescribes that no second leave of its kind is admissible until the expiration of six years from the date of return from the previous leave of a similar nature, the Civil Auditor has refused to pass any salary to this individual during his absence, on the ground that he is not eligible to his present leave, in consequence of his week's absence in 1858, under Section VIII.

† Letter from Civil Auditor, dated 25th June 1858, No. 432, General Department.

2. On a reference to the Civil Auditor he states that he is not vested with discretionary power to annul the first leave, and, therefore, is obliged to enforce the rules as they now exist. I have the honor to request, therefore, that you will be good enough to obtain for me the orders of Government on this point, viz. whether the week's leave under Section VIII, granted under the peculiar circumstances abovementioned, should be held to vitiate the claim to six months' leave under the same section granted in this year, seeing that the rule restricting Casual leave to cases of illness alone, has since been cancelled from its obvious impracticability.

3. The Civil Auditor further states that though the first leave may be annulled, yet the Clerk in question is not entitled to any portion of his salary until his return to duty. I beg to learn whether it is intended by making the "spirit" of the Uncovenanted Service Absentee rules applicable to Servants on less than 100 Rupees pay, that those rules should be enforced to their very letter in the case of such Servants, as the Civil Auditor appears to think he is authorized to do.

No. 18. Report from J. L. LUSHINGTON, Esq., Civil Auditor; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 18th July 1859, No. 498.
General Department.

With reference to the letter of the Civil Judge of Tellicherry, the Civil Auditor has the honor to report, that Privilege leave and leave during adjournment of the Court may not both be taken, and as the two Clerks, Kypana Krishna Menon and Ramayen, returned from privilege on the — May 1858, they were not entitled to leave, during this adjournment of the Court, and as eleven months of uninterrupted service had not been rendered, the allowances of the two officers, referred to by the Civil Judge, were retrenched.

Doubtless the convenience of the Public Service is a matter of great importance, but even this is not sufficient to warrant the Civil Auditor to relax the Rules prescribed by the Honorable Court of Directors.

As regards the special leave for a week granted in January last, by the Accountant General, to a Clerk of his office, under Section VIII, the applicant is debarred by the conditions of the section, from again obtaining a similar indulgence until the lapse of six years; as stated in the report to the Accountant General, the Civil Auditor has no power to admit the Clerk a second time to the benefit of the leave under Section VIII.

Whilst on this point the Civil Auditor would beg to observe, that much time would be saved, if the appealing officers were to annex, in full, the decision of the Civil Auditor in every case of appeal, for Government would then at once have before them the grounds of the decision of the Civil Auditor, and would be able to decide upon the merits of the case without making another reference to him for report.

No. 19. ORDER THEREON, 2nd August 1859, No. 433.

With respect to the first of the two cases above reported on by the Civil Auditor, it does not appear to Government, that it was the intention of the Honorable the Court of Directors, in their orders of 17th April 1857, to make it a condition of the indulgence allowed to officers of the Judicial Department by Clause 2 Section VI of the Uncovenanted Service Absentee Rules, that

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the party to benefit by it should have been eleven months at his station. In such case the object of that clause is not apparent, as the leave referred to in it would not have in any way differed from the ordinary privilege leave.

2. The only stipulation expressed by the Court was that a Judicial servant taking leave during the vacation should not be entitled to privilege leave *in addition* to it, that is, should not take privilege leave *after* vacation leave until again entitled to it in ordinary course.

3. It is clearly for the benefit of the Public Service that Judicial officers should take leave during the closing of the Civil Court, and when their services were not required. The Honorable Court do not seem to have regarded such leave in the light of privilege leave at all; and appear to have left the grant of it to the presiding Judge with no other condition than that of withholding privilege leave *in addition* to it. As pointed out by Mr. Frere, unless this be the correct interpretation of the rule, a Civil Judge will often have only the option of granting leave at an inconvenient time, or of refusing it altogether, although during the time that the Civil Court is closed, the services of a portion of the subordinate servants might be dispensed with without any difficulty.

4. Under these circumstances, the Government direct that the retrenchment against the two Gomastahs, Kypana Krishna Menon and Ramayen, be withdrawn.

5. With respect to the second case, the rule of 12th June 1857, in consequence of which the servant in the Accountant General's office was constrained to take a week's special leave under Section VIII of the Uncovenanted Service Absentee Rules, was cancelled by the Government of India under date 28th September 1858, "after a careful consideration of the difficulties and inconvenience which an attempt to regulate casual leave is apt to produce." The Government cannot think that it was meant that an Uncovenanted Servant who had taken a few days leave, whilst the rule of 12th June 1857 was in force, should, besides suffering the loss of half his pay, to which he would not be subjected under the present rules, be visited with the farther penalty of forfeiting all title to special leave for six years to come. They, therefore, resolve to confirm the leave granted by the Accountant General for six months under Section VIII in May last.

6. With respect to the further point mooted by Mr. Prendergast, viz. whether the rule which debars Uncovenanted Servants taking special leave of absence from drawing their salaries until their return to duty, applies to servants in receipt of salaries below 100 Rupees a month, the Government resolve to request the decision of the Government of India. Meanwhile the Clerk in the Accountant General's office cannot draw his salary during his absence on leave.

(Signed) T. PYCROFT,
Chief Secretary.

No. 20. To THE SECRETARY TO THE GOVERNMENT OF INDIA, dated 2nd August 1859, No. 434.

With reference to an Extract from the Proceedings of the Government of India, Financial Department, 3rd June 1859, No. 4879, I am directed to enquire whether the orders which prohibit Uncovenanted Servants drawing their allowances during absence on privilege or private affairs leave, apply to servants in receipt of salaries under 100 Rupees per mensem, as well as to those whose pay is above that standard.

2. In the opinion of this Government, the application of the rule to servants in receipt of less than 100 Rupees a month, will be productive of much hardship.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. J. Wright.

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Financial Department.

Proceedings of the Madras Government.

Read the following
papers:

From the Civil Judge of Tellicherry (Dated 2^d July 1859 N^o 273.)
From the Accountant General (Dated 7th July 1859 N^o 97)
Report of the Civil Auditor (Dated 18th July 1859 N^o 498.)

Order thereon. 2^d August 1859 - N^o 433.

With respect to the
first of the two cases above
reported on by the Civil
Auditor, it does not
appear to Government
that it was the intention
of the Honorable the Court
of Directors in their Order
of 17th April 1857 to make
it a condition of the in-
-dulgence allowed to offi-
-cers of the Judicial
Department by clause 2
Section


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Section VI of the Uncon-
-nanted Service Absence
Rules, that the party to
benefit by it should
have been eleven months
at his station. In such
case the object of that
clause is not apparent, as
the leave referred to in it
would not have in any
way differed from the
ordinary privilege leave.

2. The only stipulation
expressed by the Court
was that a Judicial Ser-
-vant taking leave during
the vacation should not be
entitled to privilege leave
in addition to it - that is,
should not take privilege
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until again entitled to it
in ordinary course ~~by eleven~~
~~months~~

~~should not be entitled to privilege leave.~~

3. It is clearly for the
benefit of the public service
that Judicial officers
should take leave during
the closing of the civil court,
and when their services
were not required. The
Honorable Court do not
seem to have regarded
such leave in the light
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the grant of it to the presi-
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As pointed out by Mr.
Freere, unless this be the
correct interpretation
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or of refusing it altogether,
although during the time
that the civil Court is
closed, the services of a
portion of the subordinate
servants might be dis-
-pensed with without any
difficulty.

4. Under these circum-
-stances, the Government
direct that the resenche-
-ment against the two
Gomastahs, Kizpana
Krishna Menon and
Ramayen, be withdrawn.

5. With respect to the
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of which the servant in
the Accountant General's
Office was constrained to
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5h
under Section VIII of
the Uncovenanted Service
Absentee Rules, was can-
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September 1858, after a
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-culties and inconvenience
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cannot think that it was
meant that an Uncovenanted
Servant who had taken
a few days leave, whilst
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was in force, should,
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of half his pay, to which
he would not be subjected
under the present rules,
be visited with the farther
penalty of forfeiting all
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six

six years to come. They
 therefore resolve to confirm
 the leave granted by the
 Accountant General
 for 6 months under
 Section VIII in May last.

6. With respect to the further point mooted by Mr. Prendergast, viz, whether the rule which debar uncovenanted servants taking special leave of absence from drawing their salaries until their return to duty, applies to servants in receipt of salaries below 100 Rupees a month, the Government resolve to request the decision of the Government of India. Meanwhile the

clerk

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Lt. Asst. General.
 Civil Judge of Tellicherry.
 Civil Auditor. } Trip 8.

Disptd 8th

The
Financial Department.

N^o 434

To

The Secretary to the Govt of India.

Sir,

With reference to an
Extract from the Pro-
ceedings of the Govt of
India - Financial De-
partment - 3rd June 1859



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on privilege or private
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N^o 433

Proceeding of Govt

27th August 1859

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per mensem, as well as
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that standard.

2. In the opinion of
this Govt., the application
of the rule to servants in
receipt of less than 100
Rupees a month will be
productive of much
hardship.

Fort St. George,
2^d August 1859.

I have v^o

12th Col
J. P.

Part of Govt's Cash
Financial Dept. Secy

No. 434

To
The Secy to the Govt of
India

22 August 59.

Recd. 22 September 59
No. 466

Enquire whether
the order which prohibits
an accompanied servants
during absence on journey
or private affairs be
in receipt of salaries under
100 Rs per month ^{or more} do those
whose pay is above that
standard.