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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	<u>106</u>	Press Mis.
Dated	<u>18-2-</u>	<u>1865.</u>

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10/4

Not to be folded or roughly handled

FROM

A. J. ARBUTHNOT, Esq.,
Chief Secretary to the Government of Fort Saint George,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
 FINANCIAL DEPARTMENT.

SIR,

With the concurrence of the Government of India, Assistant Surgeon H. B. Montgomery, on the vacation of his office of Assistant Assay Master in the Madras Mint by Assistant Surgeon Graham, was appointed to act in the post which was then fully vacant.

To the Government of India, 8th July 1864, No. 358.
 From do. 29th July and 17th August
 1864, Nos. 1636 and 1919.

2. Dr. Montgomery continued in charge of his own office as Secretary and Member of the Sanitary Commission, and his work in the Mint being found to interfere with his proper duties, he was relieved on the 1st September, having held the post from the 6th June. During this period, he drew a deputation allowance of Rupees 175 per mensem, being half the staff allowance for the post.

3. After his vacation of office, the Civil Paymaster took exception to the rate at which deputation allowance had been drawn, and retrenched Dr. Montgomery in the difference between Rupees 175 and Rupees 70, the latter being 20 per cent. of the salary attached to the office, on the strength of the rule laid down in G. O. G. G., No. 5914, of the 28th November 1863, in the Financial Department, quoting extracts from the Despatch, No. 311, of the Secretary of State for India of the 31st August 1863.

4. To this, Dr. Montgomery demurs on varied grounds, which are all fully detailed in his letter, of which a copy is enclosed, and he considers that as he was acting in a full vacancy, the deputation rules should not apply to his case.

5. I am directed to state that the case is one which seems to involve such an authoritative construction of the rules as can only properly be given by the Government of India, and I am to request that orders may be passed upon the case, and on the general question of an officer performing, in addition to his own duties, those of an office of inferior emolument to his own.

I have the honor to be,

Sir,

Your most obedient Servant,

FORT SAINT GEORGE,
 18th February 1865.

Chief Secretary.

From W. DONALD, Esq., Chief Assistant Civil Paymaster in charge, Fort Saint George, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated 30th January 1865, No. 237.

I have the honor, with reference to paragraph 16 of the accompanying letter, No. 439, dated 23rd instant, from the Secretary Sanitary Commission, to forward that letter, for the consideration of His Excellency the Governor in Council, with the following remarks.

2. I beg respectfully to state that I am of opinion that this office could not but adjust Dr. Montgomery's claim to acting allowance, while officiating as Assistant Assay Master, under the spirit of the rule marginally noted, and that,

therefore, I cannot, except under the special sanction of the Government of India, admit his claim to higher deputation allowance than 20 per cent. upon the civil salary of the appointment.

"A Military Officer in Civil employ performing the duties of his substantive appointment, and at the same time officiating in another, is entitled to his substantive salary, and, in addition, to a deputation allowance of 20 and 10 per cent. on the Staff salary of the appointment in which he is officiating, provided the pay of the substantive appointment, with the addition of the deputation allowance, does not exceed the pay of the higher appointment."

3. The fact of the Assistant Assay Mastership at Madras being fully vacant, during the time Dr. Montgomery held the appointment, will require to be certified by the Civil Paymaster, Fort William; but, even should this fact be ascertained, it will rest with the Government of India to sanction the disbursement of the whole civil salary of that appointment to Dr. Montgomery, in addition to the full pay of his permanent office.

4. The case of the present Collector of Madras, mentioned in the accompanying letter, does not appear to be analogous to Dr. Montgomery's, as the former is stated to have drawn the full pay of one—the superior—appointment, whereas Dr. Montgomery wishes to draw the full salary of two.

5. The case of the Assistant Secretary to the Government of Madras, Legislative Department, is similar to Dr. Montgomery's, with this exception; viz, Mr. Mayne is acting in an appointment to which a salary equal to that of his permanent office is attached, whereas Dr. Montgomery acted in one the salary of which is inferior.

6. I do not forward the enclosures of Dr. Montgomery's letter, as they consist entirely of Proceedings of Government, and they have been returned to him, in accordance with his request.

From Assistant Surgeon H. B. MONTGOMERY, M. D., Secretary, Sanitary Commission, Madras, to the Civil Paymaster, Madras; dated 23rd January 1865, No. 439.

ENCLOSURES.
P. M. G., Military Department, No. 1370, 23rd April 1864.

P. M. G., Financial Department, No. 296, 31st May 1864.

P. M. G., Financial Department, No. 452, 3rd September 1864. (with one enclosure).

P. M. G., Financial Department, No. 421, 17th August 1864. (To be returned).

I have the honor to solicit that you will be so kind as to reconsider the propriety of the following retrenchment made against me in your office, and upon which a deduction of Rupees 297 8-0 was made from my pay, during my recent absence from Madras.

No. 112, 5th November 1864.

"States that the Acting allowance which Dr. Montgomery was entitled to, as Acting Assistant Assay Master, should have been regulated under the Orders of the Government of India, No. 5914, dated 28th November 1863, and 2nd June 1864, No. 682, instead of under the former rules, and that thus regulated, Dr. Montgomery was entitled to deputation allowance, at Rupees 70 per mensem, instead of at Rupees 175, at which it has been drawn from 6th June to 31st August 1864, and requests that the difference, at Rupees 105 per mensem, for the period in question, amounting to Rupees 297-8-0, may be re-paid into the Bank of Madras, and a receipt for the amount sent to this office."

2. Against this retrenchment I beg respectfully to appeal, on the following grounds.

3. There is no rule that I am aware of, in the G. O. G. G., alluded to by you (vide *Fort Saint George Gazette*, dated 8th December 1863, page 999) which refers to a Military Officer, acting in Civil appointment less paid than his substantive appointment. The whole tenor of the conditions laid down implies that the deputation allowance is part of a salary greater than the full staff pay of his permanent appointment.

4. But the paragraph regarding Military Officers holding substantive appointments in civil employ, and discharging the duties of another appointment, goes even further; for it implies that 20 or 10 per cent. of the pay of the temporary appointment may in certain instances raise the pay of the Military Officer in Civil employ "above the pay of the higher paid of the two appointments."

5. As this result must follow, if the acting appointment is worse paid than the other, it would seem to be intended solely for cases where two appointments very differently paid are contemporaneously held by one Military Officer in Civil employ. It surely could not be strained to such a point as that any Military Officer in Civil employ could be made to perform additional duties for nothing, if the substantive pay of such new appointment was less than that of his permanent one.

6. If this rule were to be rigidly carried out, I was not entitled to any pay for acting in the Mint; for my Staff pay, as Secretary of this Commission, is 500 Rupees, and this, and the allowance granted by you of 70 Rupees, "exceed the pay of the higher appointment."

7. The application, however, to me, of the rule in question, is, I think, an error; for I do not consider myself to be a "Military Officer in Civil employ" at all. I am a Medical Officer in Military employ (vide appended * Proceedings of Government, Military Department), as the Sanitary Commission is paid in the Military Department.

8. But even setting aside this objection, I must bring to your notice that I was appointed during a full vacancy which still exists. Dr. Downes, Assay Master at Calcutta, embarked at that port on 23rd May 1864, and arrived in Madras on 27th idem (vide *Fort Saint George Gazette*, May 31st 1864, page 1086). Dr. Downes, under the N. F. regulations, vacated his appointment from date of embarkation, and the Assay Mastership and the appointment of Deputy in the Calcutta Mint were vacant from 24th May (vide *Gazette of India*, August 6th, 1864, page 627). My appointment was made on 31st idem by the Government of Fort Saint George, and ultimately confirmed by the Government of India (vide Proceedings of Madras Government, 31st May 1864, Order No. 296, and P. M. G., 3rd September 1864, Order No. 452). Under such circumstances the question of deputation allowance does not apply to me as acting in a full vacancy.

9. I would next direct attention to the fact that I was appointed to act in the Mint, in consequence of a special qualification, to attain which I had undergone considerable expense, and that, so far from soliciting the acting appointment, it was conferred on me, without my knowledge, and when I was extremely unwilling to accept it.

10. In point of fact, I drafted and submitted to the Assay Master at Madras a request to be relieved, as the work was exceedingly arduous, undertaken as it was in the month of June, and continued to end of August, in addition to my own duties.

11. From the letter, No. 358, of the Secretary to the Madras Government (vide Proceedings of same date) it is apparent that I was retained to suit the convenience of Government, and in consequence of the expected return to India of another Medical Officer, who stood higher than I did on the list of persons duly qualified to act as Assayers.

My letter to Dr. G. J. Shaw was withdrawn, solely in consequence of my having been informed that I must wait to be relieved; and that I would simply put Government to inconvenience by making any difficulty about the matter.

12. It will be seen that I was only relieved from the Mint in consequence of my services being required up-country, and that, at considerable inconvenience, I continued to act for nearly three months in an appointment that was really distasteful to me.

I respectfully solicit that these circumstances may be taken into account, in connection with the paragraph 16 of this letter, and, that it may be similarly remembered that in order to do the work of the Mint office, I was frequently down there at 7 A. M., returning at 11 o'clock, and from that time to 6 P. M., engaged in my own proper duties. The tenure of the acting appointment was so uncertain, and its pay so small (Rupees 175), that I was obliged to hire horses to take me to the Mint for nearly three months. Every visit to the Mint involved a drive of 6½ miles, the last half of which were at 10 to 11 A. M., in June, July, and August, with the Thermometer from 87 to 98 degrees.

13. My pay was passed on 1st July at 175 per mensem, and so from month to month, and, being drawn on competent authority, cannot, I think, be retrenched. It is hard that I should suffer for want of accuracy in the Finance Department; for, had I been told at once that I was only to get 70 Rupees per mensem, I would have at once applied to be relieved. I believe I was rather a loser than a gainer by the Mint appointment, if only allowed this trifling remuneration.

14. The present Collector of Madras, while officiating in an appointment (fully vacant) superior to his own, has been allowed the full salary of the former, and the Assistant Secretary, Legislative Council, was permitted by both the Local and Supreme Governments to draw full pay in two Civil appointments. Both these instances are no doubt exceptional cases, but I trust they will be found sufficient to justify you in recommending to Government that I may, under the peculiar circumstances of my case, not only be relieved from the recent retrenchment, but that I may also be allowed to draw the full allowance of Assistant Assay Master, as acting in a full vacancy.

15. Government gained for three months the Military pay and allowances of any Medical Officer who might have been appointed to this vacancy, and these would have amounted to Rupees 631-6-0 for an Assistant Surgeon, or 1059-14-6 for a Surgeon, even if I am allowed the full rate of staff pay.

16. I solicit that the application, that I may be permitted to do so, may be laid before the Government of Madras.

17. I desire to explain that my absence from Madras, and the difficulty of ascertaining the date of Dr. Downes' departure from Calcutta, have caused some delay in the submission of this letter.

Exd. J. H. Burns.



N. 439

Office of Sanitary Commission
Madras 23rd January 1865.

From

Surgeon H. B. Montgomery M.D.
Secretary, Sanitary Commission
Madras
The Civil Paymaster
Madras.

Sir,

Enclosures

P. M. L. Military Department
No 1370. 23rd April 1864.
P. M. L. Financial Department
No 296. 31st May 1864.
P. M. L. Financial Department
No 452. 3rd Sept. 1864.
with one enclosure.
P. M. L. Financial Department
No 421. 17th Augt 1864.

I have the honor to solicit that you will be so kind as to reconsider the propriety of the following retrenchment made against me in your office and upon which a deduction of Rupees 297-8- was made from my pay during my recent absence from Madras.
No 142 - 5th November 1864.

" States that the Acting Allowance which Dr. Montgomery was entitled to as Acting Assistant Deputy Master should have been regulated under the orders of the Government of India No 5914 dated 28th November 63 and 2nd Dec 64 No 682 instead of under the former Rules, and that thus regulated Dr. Montgomery was entitled to Deputation Allowance of Rupees 70 per mensem instead of at Rupees 175 at which it has been drawn from 6th June to 31st August 1864, and requests that the difference at Rupees 105 per mensem for the period in question amounting to Rupees 297-8- may be repaid into the Bank of Madras and a receipt for the amount sent to this office.

Against

2. Against this retrenchment I beg respectfully to appeal on the following grounds.

3. There is no rule that I am aware of in the G.O.G.G. alluded to by you (vide Fort Saint George Gazette dated 8th December 1863 page 999) which refers to a Military Officer acting in Civil appointment less than his substantive appointment. The whole of the Conditions laid down implies that the Deputation Allowance is part of a salary greater than the full Staff pay of his permanent appointment.

4. But, the paragraph regarding Military Officers holding substantive appointments in Civil employ and discharging the duties of another appointment goes even further, for it implies that 20 or 10 per cent of the pay of the temporary appointments may in certain instances raise the pay of the Military Officer in Civil employ, "above the pay of the higher paid of the two appointments."

5. As this result must follow if the acting appointment is worse paid than the other, it would seem to be intended solely for cases where two appointments very differently paid are contemporaneously held by one Military Officer in Civil Employ. It surely could not be strained to such a point as that any Military Officer in Civil Employ could be made to perform additional duties for nothing if the substantive pay of such new appointments was less than that of his permanent one.

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* No 1370 dated 23rd April/64

6. If this rule were to be rigidly carried out I was not entitled to any pay for acting in the Mint for my Staff pay as Secretary of this Commission is 500 Rupees and this and the allowance granted by you of 70 Rupees "exceed the pay of the higher appointment."

7. The application, however to me, of the rule in question, is, I think, an error, for I do not consider myself to be a "Military Officer in Civil employ" at all. I am a Medical Officer in Military employ (vide appended Proceedings of Government Military Department) as the Sanitary Commission is paid in the Military Department.

8. But even setting aside this objection I must bring to your notice that I was appointed during a full vacancy which still exists. Dr. Downes, Aspay Master at Calcutta embarked at that port on 23rd May 1864 and arrived in Madras on 27th idem (vide Fort Saint George Gazette May 31st 1864 page 1086). Dr. Downes under the A.S. regulations vacated his appointment from date of embarkation and the Aspay Mastership and the appointment of Deputy in the Calcutta Mint were vacant from 24th May. (Vide Gazette of India August 6th 1864 page 637) My appointment was made on 31st idem by the Government of Fort Saint George and ultimately confirmed by the Government of India (vide Proceedings of Madras Government 31st May 1864 Order

No 296 and P. M. G 3rd September 1864 Order No 452.)
Under such circumstances the question of Reputation
allowance does not apply to me as acting in a full
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of a special qualification to attain which I had undergone
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to accept it.

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to the Mysore Master at Madras a request to be
relieved as the work was exceedingly arduous and undertaken
as it was in the month of June and continued to
end of August in addition to my own duties.

11. From the letter No 358 of the Secretary to
the Madras Government (vide Proceedings of same date)
it is apparent that I was retained to suit the
convenience of Government and in consequence of
the expected return to India of another Medical
Officer who stood higher than I did on the list of persons
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in my own proper duties. The tenure of the acting appoint-
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that I was obliged to hire horses to take me to the
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volved a drive of 6½ miles, the last half of which,
were at 10 to 11 Am., in June, July and August with
the Thermometer from 87° to 98° degrees.

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of

Have the honor to be
Sir
Your Most Obedient Servant
Hannah Montague
M.C.
Secretary, Sanitary Commission

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No. 237.

FORT SAINT GEORGE,
CIVIL PAYMASTER'S OFFICE.
January 1865

From *Chief Assistant*
THE CIVIL PAYMASTER, in charge
Fort Saint George.

To *Chief*
THE SECRETARY TO THE GOVERNMENT OF

Fort Saint George

SIR,

I have the honor with reference to Government Order No. 439 dated 23rd June 1864

from the Secretary Sanitary Commission to forward that letter for the consideration of His Excellency the Governor in Council with the following remarks.

2. They respectfully to state that I am of opinion that this Office could not but adjust D^r Montgomery's claim to acting allowance, while officiating as Assistant Survey

"A Military Officer in civil employ performing the duties of his substantive appointment & at the same time officiating in another, is entitled to his substantive salary & in addition to a Deputation allowance of 20 & 10 per cent on the Staff salary of the appointment in which he is offg, provided the pay of the substantive appointment, with the addition of the Deputation allowance, does not exceed the pay of the higher appointment."

master, under the spirit of the rule marginally noted, and that therefore I cannot, except under the special sanction of the Government of India, admit his claims to higher Deputation allowance than 20

per cent upon the civil salary of the appointment.

3 The fact of the Assistant Survey Master's ship at Madras being fully vacant during the time D^r Montgomery held the appointment will require to be certified by the Civil Paymaster, Fort William, but even should this fact be ascertained, it will rest with the Government of India to sanction the disbursement of the whole civil salary of that app^t.

Form

James M. Montgomery
Deputy Secretary
Sanitary Commission
D^r

Wm. Smith
Chief Clerk
D^r

Date 23rd
January 1865

No. 1539

Office records & books as the property of the Government to be made in account of Deputation allowance as being added to paymaster's salary to have been over drawn. Request that this Deputation may be refunded and that application be submitted to Govt for permission to draw the full rate of staff pay & to be paid by the Government of India to the Assistant Survey Master.

Wm. Smith
20-62

appointment to Dr. Montgomery in addition to the full Pay of his permanent office.

4. The Case of the present Collector of Madras mentioned in the accompanying letter does not appear to be analogous to Dr. Montgomery, as the former is stated to have drawn the full pay of one - the superior appointment, - whereas Dr. Montgomery wishes to draw the full salary of two.

5. The case of the Assistant Secretary to the Govt. of Madras, Legislative Department, is similar to Dr. Montgomery's with this exception viz., Mr. Mayne is acting in an appointment to which a salary equal to that of his permanent office is attached, whereas Dr. Montgomery acted in one the salary of which is inferior.

6. I do not forward the enclosures of Dr. Montgomery's letter as they consist entirely of Proceedings of Govt. and ^{they} have been returned to him in accordance with his request.

I have the honor to be,

Sir,

Your most obedient Servant,

W. Donald
Civil Assistant
in charge

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The Secretary to the Government
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Financial Department,

Sir,

To Govt. of India, 8th July, 1864. No. 358.
From — do — 29 July & 17th Augt. 1864
No. 1636 & 1919.

With the concurrence
of the Government of India,
Assistant Surgeon H. B.
Montgomery, on the vacation
of his office of Assistant
Spear Master in the
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appointed to act in the post
which was then fully
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2. Dr. Montgomery continued in charge of his own office as Secretary and Member of the Sanitary Commission, and his work in the Mint being found to interfere with his proper duties.

Jan: 31st May 64 88-87
 3rd Sept 64 1-2
 1st Aug 64 - 42-43
 2nd May 64 - 5-52 P.S.
 Jan: 24th July 60 - 58-57
 20 Sept 53 O.R. 405
 31st May 64 - 293-
 28 June 64 280-281 } P.S.
 8 June 64 - 90 ÷ 91

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Fort Saint George
18th February 1863

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L. 1863 to 1864

Insurance 1865. Department

1865

For
the Secretary to the first
of Insured

1865

1865

Dr. Montgomery's claim
to a moiety of the insurance
attached to the Office of
the Secretary, Master of the
the vessel in the port,
submitted to the Supreme
Court