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MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

G.O. No.	Press / Mis.
Dated	18

16-17 8/9

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department,
8th 9th August 1865.

Read the following papers:—

No. 16. From E. H. LUSHINGTON, Esq., Secretary to the Government of India; to the Secretary to the Government of Madras, dated Fort William, 28th March 1865, No. 1682.

I am desired to forward to you a copy of the papers noted in the margin, and to request that you will be good enough, with the permission of His Excellency the Governor in Council, to state the rules of practice that obtain at your Presidency on the subject referred by the Government of Bengal.

Letter from Government of Bengal, No. 668, dated the 17th February 1865, and its enclosures.

From S. C. BAYLEY, Esq., Junior Secretary to the Government of Bengal; to the Secretary to the Government of India, Financial Department, dated Fort William, 17th February 1865, No. 668.

Revenue.

I am directed to forward, for the consideration and orders of His Excellency the Governor General in Council, the accompanying copy of a letter from the Secretary to the Board of Revenue, No. 29, dated the 25th ultimo, suggesting that some definite rule be laid down to regulate the allowances of Ministerial and other Officers of Government suspended from office, pending inquiry into their conduct, and eventually restored, and to fix definitely the principle on which any period of such a suspension can be reckoned towards pension.

2. The Lieutenant-Governor, I am to say, recommends the adoption of the Rules proposed by the Board in the 10th and 11th paragraphs of their Secretary's letter.

From R. B. CHAPMAN, Esq., Secretary to the Board of Revenue, Lower Provinces; to the Secretary to the Government of Bengal, No. 29, dated 25th January 1865.

The Board of Revenue desire me to suggest that the Government of India, in the Financial Department, be moved to prescribe, for general observance, some definite rule in regard to the allowances of Ministerial and other Officers of Government suspended from office, pending enquiry into their conduct, and eventually restored, and in regard to reckoning the period of such a suspension towards pension.

2. The present rule is contained in a Despatch from the Court of Directors to the Government of Bengal, No. 18, dated 23rd December 1840, as follows:—

"19. We are of opinion that the rule laid down by you is too general. If an Officer should thoroughly clear his character it is right that he should not suffer any loss of salary, and the amount paid to the officer officiating in his place must be an additional charge to Government, unless there should be sufficient ground for charging it to the authority by whom the officer may have been improperly suspended. But an officer may have been justly suspended from office though it be not thought necessary to visit him with the penalty of dismissal. In such a case the amount paid to the officiating officer should be a charge on the salary of the suspended officer.

"20. If the suspended officer be finally dismissed and the officiating officer be confirmed in the situation, the latter should receive the whole salary of the office, otherwise he should receive the portion which would be paid to him if the suspended officer had been on leave of absence."

3. This rule is only a provincial one; it does not deal with the bearing of the suspension upon service for pension; and it appears to be very little known. It has never been officially communicated to the Board of Revenue.

4. In ignorance, apparently, of its existence, the Board of Revenue issued in 1851 the following order:—

No. 12.

It having been brought to the Board's notice that difficulties have occurred in the Abkaree Department from the want of some definite rule for the payment of officers officiating for others who have been suspended, I am directed to circulate, for general observance in *all* Departments subordinate to the Board of Revenue, Lower Provinces, the following modification of a rule which was furnished to the Salt Chowkey Department on the 10th February 1847.

ii. When the salary of the appointment exceeds Rupees 20, officers appointed to officiate for others under suspension shall be entitled only to receive a moiety of such salary, the other moiety being deposited till the case which led to suspension is finally disposed of. Where the salary is less than Rupees 20, the officiating incumbent shall draw two-thirds, the remaining third only being so held in deposit.

iii. It is however desirable, the Board observe, to avoid the risk of hardship to officers suspended for an omission or offence not ultimately proved by refraining from appointing a substitute, in cases which admit of being soon disposed of, when the business can be conducted without such temporary aid.

By a subsequent Order, No. 20 of 1851, it was explained that these orders applied exclusively to cases of suspension *pending enquiry*, and not to suspension *awarded as a punishment*.

5. The Board probably exceeded their authority in issuing those orders at all, and, at any rate, the orders have no force in the face of the Government order, and must be withdrawn.

6. There is, however, a difference of opinion at the Board in regard to the purport of the orders of the Court of Directors as quoted in my 2nd paragraph, and it is desirable that, when the Board's orders are withdrawn, a carefully considered regulation should be substituted for them.

7. Two cases have been lately before the Board, in which the Local Officers have advised the grant of full salary to suspended officers for the period of their suspension. In one, the officer was suspended pending proceedings against him upon a criminal charge, of which the Magistrate fully acquitted him. In the other, the officers were suspended pending investigation into certain alleged grave official irregularities, but were restored to office by the Commissioner as free from all blame.

8. In both cases alike, when the question of paying salary to the officers concerned for the period of their suspension came before the Board of Revenue, the majority of the Members felt themselves at liberty to form an independent judgment as to how far the officers had *thoroughly cleared their character*, and came to the conclusion that the circumstances were not such as to justify them in advising the Government to pay the salaries.

9. Mr. Grote was of opinion that, on being fully acquitted by the responsible Local authorities, the officers must be held to have *thoroughly cleared their character* within the meaning of the Despatch. It seemed to Mr. Grote to be scarcely open to the Board, on the financial question offering itself, to consider *afresh* the evidence upon which the Local authorities had come to their recorded conclusions.

10. For the future the Board of Revenue are unanimously of opinion that it should not follow, as a matter of course, that because an officer suspended, pending enquiry into his conduct, is restored to the service he should, therefore, be entitled to salary for the period of his suspension. The question whether salary should be paid should be the subject of special consideration and decision in each case by the authority who orders restoration. Unless that authority specially advise payment of salary it should not be paid; and full discretion should be reserved to the Board and the Government to act upon the recommendation specially made for the payment of salary as they may think right under the circumstances disclosed in each case.

11. When the salary is allowed, the period of suspension should count towards pension; otherwise not. In any case, the acting officer should receive such salary only as he would have received if acting for an officer absent on leave.

Referred to the Board of Revenue for early report.

(Signed) C. G. WALKER,
Under Secretary to Government.

10*th April* 1865.

No. 17. From E. H. LUSHINGTON, Esq., Secretary to the Government of India; to the Secretary to the Government of Madras, dated Simla, 23rd June 1865, No. 962.

I am desired to call your attention to my letter, No. 1682, dated 28th March 1865, and to request that you will, with the permission of His Excellency, furnish the information called for, regarding the allowances paid to Ministerial and other Uncovenanted Officers during the time they are suspended, pending an enquiry into their conduct.

Referred to the Board of Revenue, who will expedite the submission of the report called for in Docket, dated 10th April last.

(Signed) F. BRANDT,
Acting Under Secy. to Govt.

10*th July* 1865.

No. 18. From R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George; dated Madras, 21st July 1865, No. 4233.

With reference to your Under Secretary's Docket, dated 10th April 1865, giving cover to a letter from the Secretary to the Government of India in the Financial Department, in which information is requested as to the practice in this Presidency in regard to the salary of Ministerial and Subordinate Officers under suspension, pending inquiry into their conduct, I am directed by the Board of Revenue to report that no definite rule has been laid down on the subject, but the practice followed has been that recommended in the 10th paragraph of Mr. Chapman's letter.

2. It will be seen from the correspondence noted in the margin that, when directing the restoration of two Officers improperly suspended by the Collector of Nellore, the Board instructed that Officer to disburse to them their full salaries for the period of their suspension, and applied to Government to sanction the payment of batta to the person who had officiated for one of these persons. The Government sanctioned the payment as a special case, but called upon the Board to report the usual practice in such cases, observing that the principle on which the whole salary had been refunded to the suspended officer, without leaving any remuneration for the person who had performed the duties of the suspended officer, was apparently erroneous. The Board remarked, in reply, that when the suspension was justified, the officiating officer, as a general rule, received half the salary of the suspended incumbent, but that when a suspended officer thoroughly cleared his character, the Board considered he ought not to suffer any loss of salary. The Government agreed with the Board in considering that no absolute rule on the subject could be conveniently laid down, and directed that each case should be left to be determined on its own merits.

Board's Proceedings,	3rd March	1862, No.	1437.
,,	26th Nov.	,, ,,	7855.
Government Order,	23rd Dec.	,, ,,	2674.
Board's Proceedings,	13th March	1863, ,,	1523.
Government Order,	20th ,,	,, ,,	555.
,,	17th April	,, ,,	687.

3. In regard to the running suspension of Tahsildars by Collectors pending inquiry, the Board have issued a Circular Order, directing that the officer who is temporarily placed in charge of the Taluq shall not be considered entitled to salary, unless his nomination be approved by the Board. Provision is thus made for the case of a Tahsildar suspended only for a few days, and afterwards restored, but when the inquiry into his conduct is prolonged, as it frequently is, to weeks, it is but just that the officer performing the duties of the vacant office should receive some extra remuneration for doing so. In such cases, it is usual to disburse to the officiating officer half the salary of the suspended officer, and the Board are unable to recommend any improvement on this arrangement.

4. As observed by Government in one of the Orders referred to above, it by no means follows because a suspended officer is, at the close of the inquiry, restored to office, that therefore he is entitled to the full salary of his office during the period of his suspension. At the same time, the Board concur with the Calcutta Board in thinking that the controlling authority by whom the restoration is ordered should be empowered to declare a suspended officer entitled to the whole of his salary, and in such cases Government should be empowered to order the salary to be refunded, and to make a special grant of funds for the purpose of remunerating the officiating substitute. The Board are further of opinion that whenever an officer who has been suspended, pending inquiry into his conduct, is restored to office, his period of suspension should be permitted to count as service for pension, unless suspension should form a part of the punishment awarded him.

Proceedings of the Madras Government, Financial Department,
9th August 1865.

No. 19. To the Secretary to the Government of India, Financial Department, dated Fort Saint George, 9th August 1865, No. 377.

In acknowledging the receipt of your letter of the 28th March last, requesting information as to the practice obtaining in this Presidency in regard to the payment of salary to Ministerial and Subordinate officers who have been placed under suspension, pending inquiry into their conduct, I am directed to submit, for the consideration of His Excellency the Governor General in Council, the annexed copy of a letter from the Acting Secretary to the Board of Revenue, stating that the practice observed in the Revenue Department in this Presidency is that recommended by the Board of Revenue at Calcutta, in the 10th paragraph of Mr. Chapman's letter, of the 25th January last.

21st July 1865, No. 4233.

2. The Governor in Council considers that the question, whether the whole or a portion, or none of the salary of an officer placed under suspension, and subsequently restored to the Service, should be paid to him, is one which should be determined by the local Government with reference to the circumstances of each case.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. J. Tulloch.

No. 1682

To

The Secretary to the
Government of Madras

Fin.l Depart.t Sir,

I am desired to forward to you a copy of the papers noted in the margin and to request, that you will be good enough with the permission of His Excellency the Governor in Council to state the rules of practice that obtain at your Presidency on the subject referred by the Government of Bengal.

Letter from Govt. of Bengal No. 668 dated the 17th February 1865 and 5 enclosures

I have the honor to be,
Sir,
Your most Obt. Servant,

Fort William
The 28th March
1865

Ed. H. Lushington
Secretary to the Govt. of India.

No. 4,233.

From R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue,
To the Honorable A. J. ARBUTHNOT, Chief Secretary to Government.

SIR,

With reference to your Under Secretary's Docket, dated 10th April 1865, giving cover to a letter from the Secretary to the Government of India in the Financial Department, in which information is requested as to the practice in this Presidency in regard to the salary of Ministerial and Subordinate Officers under suspension pending inquiry into their conduct, I am directed by the Board of Revenue to report that no definite rule has been laid down on the subject, but the practice followed has been that recommended in the 10th paragraph of Mr. Chapman's letter.

2. It will be seen from the correspondence noted in the margin that, when directing the restoration of two Officers improperly suspended by the Collector of Nellore, the Board instructed that Officer to disburse to them their full salaries for the period of their suspension, and applied to Government to sanction the payment of batta to the person who had officiated for one of these persons. The Government sanctioned the payment as a special case, but called upon the Board to report the usual practice in such cases, observing that the principle on which the whole salary had been refunded to the suspended officer, without leaving any remuneration for the person who had performed the duties of the suspended officer, was apparently erroneous. The Board remarked in reply that when the suspension was justified, the officiating officer, as a general rule, received half the salary of the suspended incumbent, but that when a suspended officer thoroughly cleared his character, the Board considered he ought not to suffer any loss of salary. The Government agreed with the Board in considering that no absolute rule on the subject could be conveniently laid down, and directed that each case should be left to be determined on its own merits.

Board's Proceedings	3rd March 1862,	No.	1,437.
,,	28th Nov. ,,	,,	7,855.
Government Order	23rd Dec. ,,	,,	2,674.
Board's Procs.	13th March 1863,	,,	1,523.
Government Order	20th ,,	,,	555.
,, ,,	17th April ,,	,,	682.

3. In regard to the running suspension of Tahsildars by Collectors pending inquiry, the Board have issued a Circular order directing that the officer who is temporarily placed in charge of the Taluk shall not be considered entitled to salary, unless his nomination be approved by the Board. Provision is thus made for the case of a Tahsildar suspended only for a few days, and afterwards restored, but when the inquiry into his conduct is prolonged, as it frequently is, to weeks, it is but just that the officer performing the duties of the vacant office should receive some extra remuneration for doing so. In such cases it is usual to disburse to the officiating officer half the salary of the suspended officer, and the Board are unable to recommend any improvement on this arrangement.

4. As observed by Government in one of the Orders referred to above, it by no means follows because a suspended officer is, at the close of the inquiry, restored to office, that therefore he is entitled to the full salary of his office during the period of his suspension. At the same time the Board concur with the Calcutta Board in thinking that the controlling authority by whom the restoration is ordered should be empowered to declare a suspended officer entitled to the whole of his salary, and in such cases Government should be empowered to order the salary to be refunded, and to make a special grant of funds for the purpose of remunerating the officiating substitute. The Board are further of opinion that whenever an officer who has been suspended pending inquiry into his conduct is restored to office, his period of suspension should be permitted to count as service for pension, unless suspension should form a part of the punishment awarded him.

I have the honor to be,
Sir,
Your most obedient servant,

Acting Secretary.

REVENUE BOARD OFFICE,
Madras,
21st July 1865.

Exd. J. Wright.

Disp'd: 4/0

To

19

Financial Department.

No. 377

The Secretary to the Government
of India.

Financial Department.

Sir,

In acknowledging the receipt of your letter of the 20th March last, requesting information as to the practice obtaining in this Presidency in regard to the payment of salary to ministerial and subordinate officers who have been placed under suspension pending enquiry into their conduct, I am directed to submit for the consideration of His Excellency the Governor General in Council, the annexed copy of

P 1st July 1865
3/5 4/65

Financial Department 1865.

No. 57

No.

From The Acting Secretary to the Board of Revenue,

To The Chief Secretary to Government.

Dated 21st July 1865.

Rec'd 25th
Rec'd 28th

No. 4,233.

Fin'l 484.

Reporting practice followed in Madras Presidency in regard to salary of Ministerial and Subordinate Officers under suspension pending inquiry into their conduct.

Cal. Sup. 28th Sept. 19

of a letter from the Acting Secretary to the Board of Revenue, stating that the practice observed in the Revenue department in this Presidency is that recommended by the Board of Revenue at Calcutta in the 10th para of Mr. Chapman's letter of the

21st July, 1865 – No. 1233

2. The Governor in Council considers that the question whether the whole, or a portion, or none of the salary of an officer placed under suspension and subsequently restored to the service should be paid to him, is one which should be determined by the local Government with

11

with reference to the circumstances of each case.

Fort St. George
8th August 1865

No. 1233 to follow
126

Practice in regard to salaries of Sub: officers under Suspension, & subsequently restored

1865.

Financial 1865. Despatch from Govt of Madras

To

The Secretary to the Govt of India

Dated 1865.

No. 962

13

To,
The Secretary to the
Government of
Madras.

Financial Dept.

Sir,

I am desired to call your attention to my letter, No. 1682, dated 28th March 1865, and to request that you will, with the permission of His Excellency furnish the information called for, regarding the allowances paid to Ministerial and other Uncovenanted Officers during the time they are suspended pending an enquiry into their conduct. –

I have the honor to be,
Sir
Your most obed.t Servant

Simla
The 23d June
1865.

E. C. Bernard
Sec.y to the Govt of India.

R. D. 246

54 Acts
18..

R. P. 170

Fin. & 1865 Deptt.

From
The Secy to the Govt of India
Fin. Deptt. No. 962.

Dd 23 June
Rd 7 July 1865

Fin. 1865

No. 315

Requests to be furnished with the information called for, regarding the allowances paid to Ministerial & other Uncovt. Officers during the time they are suspended, pending an Enquiry into their conduct.

Note Docket

Referred to the Board of Revenue, who will expedite the submission of the report called for in Docket dated 10th April last.

10th July 1865.

H. Brandt.
Sy. Under Secretary to Government

Received 13th July 1865.
Entd & Rets 13

W. Muir
Acting Secretary.

Depth 11th July 1865.