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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 190	Press Mis.
27-28	
Dated 18-2-	18 26.

27-28 9/10

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department,
18th May 1866.

No. 27. Read the following letter from M. GOPALA CHARRY, Treasurer, Collectorate of Bellary, to the Secretary to Government, Revenue Department, Fort Saint George; dated Triplicane, 30th April 1866.

With reference to the accompanying Official Memorandum, from the Examiner of Claims, No. 481, of 10th April 1866, I respectfully beg to submit this my appeal for the favorable decision of Government against the presumed interpretation therein conveyed (regarding Section 14 of the Uncovenanted Absentee Rules), which injures my rights for one year's furlough, which I claim under the following grounds :—

1. I am a servant of Government, on receipt of 125 Rupees per mensem, to whom the Absentee Rules do apply, and came down to Madras on sick leave, for treatment in the Eye Infirmary.

2. I beg to say that my sick leave, with the extensions taken, will amount to 2 years to the end of this month; and as the treatment is still going on, Dr. Smith is of opinion that I should further obtain leave, either sick or furlough, for one year.

3. By Clause 2, Section 12, of the Rules, I am fully entitled for one year's furlough, as I had neither private nor furlough leaves during my services of 15 years.

4. The Examiner of Claims infers that Section 14 seems to imply that furlough cannot be in continuation of sick leave, whereas it only speaks of preparatory or additional leaves, inasmuch as to say if furlough were taken in India it has not the indulgence of additional or preparatory leave, and therefore it should commence from the date of availing it. But if such leave is taken beyond India, it has preparatory leave to enable the Officer to embark, and therefore it should commence from the date of sailing of the vessel.

5. The question now at issue is not whether I ask my furlough to enjoy in or beyond India, which subject entirely rests with me and the Medical Officer who recommended my absence from duties is absolutely necessary for the recovery of my health, but is, can it be in continuation of sick leave. The Section 14 is only applicable when preparatory is asked in addition to the furlough. As Section 15 (which only refers to my case) clearly declares that furlough or leave on private affairs *cannot* be in continuation of *privilege* leave, it is destinctly understood that it *can* be in continuation of sick or other leaves *than* privilege, and therefore it can be supposed to be a provision in favor of its being granted in continuation of sick leave; and if Section 14 is laid down by the framers that furlough or private leaves should be by itself, as Mr. Donald appears to presume, there would be no use of Section 15 or the latter part of Section 14 itself; for furlough is given in addition to preparatory when taken beyond India, and Section 15 only *prohibits* of its being in continuation of *privilege* leave; therefore the rules do not in any way prohibit the furlough being in continuation of sick leave.

6. Moreover, furlough or private leaves are given in continuation of sick leave to my brother Officers* of the service, and no Standing Order subsequent to the promulgation of the revised absentee rules are known to exist against this indulgence.

* Vide Fort Saint George Gazette, page 943, of December 1865.

7. Under all these circumstances, I pray that my case will meet the due consideration of Government, to cancel the Memorandum appealed against, so as to enable me to obtain the furlough now applied for.

No. 481.

OFFICIAL MEMORANDUM.

The undersigned has the honor to state that there is no provision for furlough being taken in continuation of sick leave. In fact, Section 14 seems to imply that such cannot be granted, as an Officer's furlough reckons from date of leaving office, which, if absent on sick leave, he must have

done *before* furlough was granted. Further, sick leave cannot be granted for more than two years continuously, except under the orders of the Secretary of State.

(Signed) W. DONALD,
Examiner of Claims.

Office of Examiner of Claims,
Fort Saint George,
10th April 1866.

To M. Gopala Charry, Treasurer, Collectorate of Bellary,
Singaracharry street, No. 44, Triplicane, Madras.

Transferred to the Financial Department, for decision as to whether furlough can be taken by an Uncovenanted Officer, under the new rules, in extension of sick leave, wholly or partially taken.

(Signed) J. D. SIM,
Secretary to Government.

2nd May 1866.

No. 28. To the Secretary to the Government of India, Financial Department, dated Fort Saint George, 18th May 1866, No. 190.

I am directed to submit, for the consideration and orders of His Excellency the Governor General of India in Council, the accompanying papers, relative to an application from an Uncovenanted Civil Servant in this Presidency for the grant of furlough in continuation of sick leave, under the Leave Rules applicable to the Service.

2. Gopala Charry, the individual above referred to, who is Cash-keeper in the Bellary Collectorate, on a salary of 125 Rupees a month, has had two years' sick leave, which expired on the 30th ultimo. He now applies for a year's furlough, in continuation of the sick leave; but the Examiner of Claims objects, on the ground that there is no provision in the Rules to meet such a case. On the contrary, he considers that Section 14 of the Leave Rules is against the leave being granted, on the ground that as that Section provides that furlough taken in India "will reckon from the date of leaving office to the date of return thereto," it is to be inferred that furlough cannot be granted to an officer already absent on other leave.

3. Gopala Charry demurs to this view. He contends that the latter part of Section 14 sufficiently explains the meaning of the first part. Furlough taken *beyond India* reckons from the *sailing of the vessel* on which the officer embarks; that taken *in* India, from the date of leaving office; and this distinction, Gopala Charry urges, refers simply to the officer being entitled to preparatory leave in the one case, and not entitled to it in the other.

4. In confirmation of this view, he further refers to the immediately following Section, 15, which prescribes that "Furlough, or leave on private affairs, cannot be taken in continuation of "*Privilege Leave.*" This he argues necessarily implies that furlough can be taken in continuation of *other* leave, and therefore of *sick* leave.

5. The Governor in Council is disposed to think that the view taken by the Examiner of Claims is the correct one, but as the point is one of some importance, I am instructed to refer it for the decision of the Government of India.

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

Exd. J. H. Burns.

No. 481.

Office of Examiner of Claims,
Fort Saint George,
10th April 1866.

OFFICIAL MEMO.

The undersigned has the honor to state that there is no provision for Furlough being taken in continuation of Sick Leave – in fact Section XIV seems to imply that such cannot be granted, as an Officer's Furlough reckons from date of leaving Office which if absent on Sick Leave he must have done before Furlough was granted – Further Sick Leave cannot be granted for more than 2 Years continuously except under the Orders of the Secretary of State.

Examiner of Claims.

To
M. Gopalacharry
Treasurer Collector of Bellary
Singaracharry Street No. 44 Triplicane Madras.

4. The Examiner of Claims refers that Section

To

J. D. Sim Esqre
Secretary to Govt. Revenue Department
Fort Saint George

Sir

With reference to the accompanying official memo. from the Examiner of Claims. No. 481 of 10th April 1866. I respectfully beg to submit this my appeal for the favourable decision of Government against the presumed interpretation therein conveyed (regarding Section 14th of the Uncovenanted Absentee rules) which injures my rights for one years furlon which I claim under the following grounds.

1 — I am a servant of Govert on receipt of 125 Rs per Mensem to whom the absentee rules do apply and came down to Madras on sick leave for treatment in the Eye infirmary.

2 I beg to say that my sick leave with the Extentions taken will amount to 2 years to the end of this month and as the treatment is still going on Dr. Smith is of opinion that I should further obtain leave either sick or furlon' for one years

3 By Clause 2 Section 12 of the rules I am fully entitled for one years furlon' as I had neither private nor furlon' leaves during my services of 15 years.

4. The Examiner of Claims refers that Section

Section 14 seems to imply that furlou' can not be in continuation of sick leave whereas it only ~~states~~ says. preparatory or additional leaves in as much as to say if furlou' were taken in India it has not the indulgence of additional or preparatory leave and therefore it should commence from the date of availing it. But if such leave is taken beyond India it has preparatory leave to enable the officer to embark and therefore it should commence from the date of sailing vessel

5. The Question now at issue is not whether I ask my furlou' leave in or Beyond India which subject entirely rests with me and the medical officer who recommended my absence from duties is absolutely necessary for the recovery of my health but is it can be in continuation of sick leave. The section 14 is only applicable when preparatory is asked in addition to the furlou'. As section 15 (which only refers to my case) clearly declares that furlou' or leave on private affairs can not be in continuation of privilege leave. It is distinctly understood that it can be in continuation of sick or other leaves than privilege and therefore it can be supposed to be a provision in favour of it's being granted in continuation of sick leave

leave. and if Section 14 is laid down by the Games that furlou' or private leaves should be strictly as Mr Dradds appears to presume, there would be no use of Sec: 15 or the latter part of Sec: 14 itself; for furlou' is given in addition to preparatory when taken beyond India and Section 15 only prohibits it's being in continuation of privilege leave. therefore the rules do not in anyway prohibit the furlou' being in continuation of Sick leave

6 Moreover furlou' & private leaves are given in continuation of sick leave to my brother officers of the service and notstanding orders subsequent to the promulgation of the revised absentee rules are known to exist against this indulgence

7 Under all these circumstances I pray that my case will meet the due consideration of Government to cancel the memo appealed against so as to enable me to obtain the furlou' now applied for.

I beg to remain
Sir
your most obedient humble
Servt

G Chanderi

† Vide Bom Govt Gazette Page 943 of December 15-

Surgeon
Simla Chan SK
Dood No 44.
30th April 66.

Treasurer.
Collectorate
Bellary

From N.C. Gopalacharr cashkeeper in the Collectorate of Bellary, residing in Triplicane Madras Dated 30 April 1866
received with one enclosure

Appeals against the misinterpretation made by the examiner of Claims in his official memo addressed to him, which injured his Rights for one years Furlough.

States that Sec. XIV only speaks of preparatory or additional Leave disallowed when Furlough taken in India but granted when taken beyond India but does not prohibit it to be in continuation of Sick Leave and that this Sec. has no reference to his case as the question at issue is not for preparatory leave but is whether Furlough can be in continuation of Sick Leave. Further States that the Sec. which can be refered to, is only Sec. XV which does not at all condemn the Furlough to be in continuation of Sick Leave but with privalege leave and shows an instance in which Furlough was given in continuation of Sick Leave. Prays that the interpretation of the examiner of Claims be cancelled so as to enable him to obtain his Furlough to which is fully entitled.

Gazette 5th May 64 - P. 864

Pol. 1866. Departt.
Finl. No. 1261.

From
M. Gópoola Charry
Treasurer Collectorate
of Bellary

Dated 30th Apl. 1866.
Received 1st May.
Recd. 5th

No. 138. Pol.

Submitting a memo: to his address from the Sheristadar of Cuddapah stating that furlough cannot be granted in continuation of sick leave and requesting for reasons stated, that a year's furlough may be granted to him.

27.

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Financial Department.

No. 190

To

The Secretary to the Government
of India,
Financial Department.

Sir,

I am directed to submit for the consideration and orders of H. E. the Governor General of India in Council, the accompanying papers, relative to an application from an uncovenanted Civil Servant in this Presidency, for the grant of furlough in continuation of sick leave under the Leave Rules applicable to the Service.

2. Gopala Charry, the individual above referred to, who is Cash Keeper in the Bellary Collectorate

Collectorate on a salary of 125 Rs a month, has had 2 years' sick leave, which expired on the 30th ultimo. He now applies for a year's furlough in continuation of the sick leave; but the Examiner of Claims objects on the ground that there is no provision in the Rules to meet such a case. In his opinion, however, Sec 14 of the Leave Rules is against the leave being granted; for that Section provides that furlough taken in India "will reckon from the date "of leaving office to the date "of return thereto", it necessarily implies that furlough cannot be granted to an officer already absent on other leave.

Gopala

3. Gopala Charry demurs to this view. He contends that the latter part of Section 14 sufficiently explains the meaning of the first part. Furlough taken beyond India reckons from the sailing of the Vessel on which the Officer embarks; that taken in India from the date of this distinction leaving office; and Gopala Charry urges, refers simply to the officer being entitled to preparatory leave in the one case, and not entitled to it in the other.

4. In confirmation of this view, he further refers to the immediately following Section 15, which prescribes that "Furlough "or leave on private affairs "cannot

"cannot be taken in con-
"tinuation of Privilege leave."
This, I imagine, necessarily
implies that it can be
taken in continuation of
other leave, and therefore
of sick leave.

5. My Lord in Council is
of opinion that the rule to be
observed by the Examiner of Claims
in the account case,
stated, and as the point
is one of some importance,
I am instructed to solicit
the decision of the Govern-
ment of India, as to whether
Furlough can be taken
by an Uncovenanted Officer
under the new Rules, in
extension of sick leave,
wholly or partially taken.

I have &c.

Fort Saint George,
18th May 1866.

190

11-8-13

Financial 1866 Separate

No 190.

To

The Secy to the Govt
of India

Fd 16 Aug

Dated 18th May 1866.

Cancelled

(28)

27-28.