M.R.O. 1—77,006—8-6-31.

(1) Number of pages _____

(2) Date of repair _____

(3) Initials of the Referencer _____

MADRAS RECORD OFFICE.

Government of Madras.

Financial **DEPARTMENT.**

G.O. No. 1541	Press
67-68	Mis.
Dated 19-11-	1872.

67-68 417

Not to be folded or roughly handled

No. 67. Read the following Proceedings of the Government of India in the Financial Department, dated Simla, 31st October 1872, No. 3950:—

Leave and Allowances.

Read—

Despatch from the Secretary of State for India, No. 482, dated the 20th December 1871, forwarding, for observations, copy of correspondence relative to the leave granted by the Government of Madras in January 1871 to Mr. J. B. Norton, Advocate-General, Madras.

Resolution.—The Honourable the President in Council observes that Section XXX. of the Rules published by the Government of India on the 8th June 1855, "for the grant of leave of absence, for regulating reductions from salaries and deputation allowances, and for limiting the period of service of Civil Servants," defined the conditions on which leave could be granted to certain Government Law Officers, among others to the Advocate-General of Madras.

2. On the 16th December 1864 this Department published revised "Furlough and Absentee Rules" for the "Civil Service," meaning the "*Covenanted Civil Service*," and thus abrogated the rules of the 8th June 1855, so far as they related to the leave of Covenanted Civil Servants.

3. In a despatch to the Government of Madras, No. 70, dated the 31st August 1866, the Secretary of State, in replying to a reference from that Government, observed—"I see no sufficient reason for granting to Government Law Officers privileges in regard to leave with retention of appointment and half salary which cannot, under the rules, be granted to members of the Covenanted Civil Service."

4. The foregoing observation was communicated on the 17th October 1866 to the Home Department and to the several Local Governments and Account Officers, and this communication probably created the impression that the Law Officers referred to in the rules of 1855 were affected by changes in the leave rules of the Covenanted Civil Service, and that they were, therefore, subject from 1866 to the Covenanted Civil Service Furlough and Absentee Rules of December 1864; but, if so, the impression was corrected by a declaration made in this Department on the 22nd January 1869, and repeated on the 31st May following, that the leave admissible to Law Officers must continue until further orders to be regulated by the rules of 1855.

Leave (Abstract) Proceedings, January 1869, No. 51.
Leave Proceedings, June 1869, Nos. 1 and 2.

5. Meanwhile, the Covenanted Civil Service Rules of the 16th December 1864 were superseded by rules published by the Government of India in this Department on the 16th June 1868. These latter were embodied in the "Covenanted Civil Service Leave Code," published on the 8th February 1871, and have been re-produced in another form in the "Civil Leave Code," published on the 14th March 1872 in supersession of the Covenanted Civil Service Leave Code.

6. In January 1871 the Government of Madras granted six months' leave on private affairs to the Hon. J. B. Norton, the Advocate-General in that Presidency. For officers on such leave, the rules of 1855 authorize an absentee

allowance equal to half pay, which in Mr. Norton's case appears to have been Rupees 1,093-12-0 a month; but the Covenanted Civil Service Rules of 1868 to 1871 authorize a maximum absentee allowance of £1,000 a year, or Rupees 833-5-4 a month. The Secretary of State, therefore, asked the Government of Madras in a Financial Despatch, No. 32, dated the 27th April 1871, why Mr. Norton had been allowed leave under the rules of 1855. That Government replied, in a Judicial Despatch, No. 6, dated the 31st May 1871, that Mr. Norton had been allowed leave under the rules of 1855 because the new "Civil Service Leave Rules" had "not been made applicable to Law Officers," and at the same time forwarded to the Secretary of State copy of correspondence which had shortly before taken place between that Government and the Government of India on the question of making the rules for the grant of acting allowances to Covenanted Civil Servants applicable to Government Law Officers.

7. In a subsequent Judicial Despatch, No. 7, dated the 30th June 1871, the Government of Madras asked the Secretary of State to commute Mr. Norton's leave to leave on medical certificate for one year under the Covenanted Civil Service Rules of 1868, because he was not entitled to leave on medical certificate under the rules of 1855, and because, "from the correspondence which has been held with the Supreme Government, it would appear that the extension of the rules of 1868 to Law Officers is under consideration." In a Financial Despatch to the Government of Madras, No. 72, dated the 15th August 1871, the Secretary of State pointed out, in reply to the Madras Government's Judicial Despatch, No. 6, dated the 31st May 1871, that in 1866 the Government had allowed Mr. Norton leave, on medical certificate, under the Covenanted Civil Service Rules of 1864, and, therefore, expressed the opinion that his leave in 1871 should be regulated by the same rules; and added—"I request that you will inform me, as early as practicable, of the result of your re-consideration of this question." In a Judicial Despatch, No. 15, dated the 7th November 1871, the Government of Madras informed the Secretary of State that the grant of leave to Mr. Norton under the rules of 1855 was in accordance with the order of the 22nd January 1869, referred to above.

8. On a review of all the circumstances of the case, the Honourable the President in Council is of opinion—

First, that the grant to Mr. Norton in 1866 of leave under the Covenanted Civil Service Rules of 1864 was a mistake; and

Secondly, that it would not be expedient to correct the mistake after such a lapse of time; but that it is equitable to deal with his claim to leave in 1871, and with any future application from him for leave, as if his leave in 1866 had been granted under the rules of 1855.

9. The Government of India intend to propose new leave rules for Law Officers, but they do not contemplate the application to the cases of those officers of the Covenanted Civil Service Leave Rules.

10. The leave rules to which Mr. Norton is now subject are the rules of 1855, under which he can neither claim a commutation of his leave to leave on medical certificate, nor an extension of his leave on medical certificate or on private

Proceedings of the Madras Government, Financial Department,
19th November 1872.

affairs. With reference, however, to the precedent created by the decision on the somewhat similar case of the Hon. J. S. White, Advocate-General of Bombay, Mr. Norton may be allowed an extension of leave, without pay, for the period from the date on which his leave on private affairs under the rules of 1855 expired to the date of his return to duty.

Leave Procs.,	January	1870, Nos.	41 and 42.
,,	August	,, ,,	23 to 27.
Leave (Abstract) Procs.,	August	1870, No.	54.
,,	January	1871, ,,	14.
,,	July	,, ,,	3.

ORDER.—Ordered that the foregoing observations be submitted to the Secretary of State, and communicated to the Home Department, the Government of Madras, and the Accountant-General, Madras.

(Signed) D. BARBOUR,
Offg. Under Secy. to the Govt. of India.

No. 68. ORDER THEREON, 19th November 1872, No. 1541.

Communicated to the Advocate-General, Government Pleader, and Government Solicitor.

2. It is observed that Mr. Norton resigned the service of Government some time back.

(True Extract.)

Officiating Chief Secretary.

To the Advocate-General.
,, Government Pleader.
,, Government Solicitor.
,, Registrar of the High Court.

Exd. J. H. Burns.

Govt. of 1872 No. 3950.

FINANCIAL.

To

The ADVOCATE-GENERAL,

&c. &c. &c.

Dated November, 1872.

Read,

G. O. 19th November 1872, No. 1541.

NOVEMBER.
Nos. 67-69.

Communicating Resolution of the Government of India, making certain Observations respecting the leave granted by the Madras Government to Mr. J. B. Norton, Advocate-General.

No. 3950.

GOVERNMENT OF INDIA.

FINANCIAL DEPARTMENT.

LEAVE AND ALLOWANCES.

SIMLA, THE 31ST OCTOBER 1872.

atch from the Secretary of State for India, No. 482, dated the 20th December 1871, forwarding, for observations, copy of correspondence relative to the leave granted by the Government of Madras, in January 1871, to Mr. J. B. Norton, Advocate General, Madras.

OLUTION.—The Hon'ble the President in Council observes that Section f the Rules published by the Government of India, on the 8th June for the grant of leave of absence, for regulating reductions from and deputation allowances, and for limiting the period of service of rvants," defined the conditions on which leave could be granted to Government law officers, among others to the Advocate General of

On the 16th December 1864 this Department published revised "Fur- d Absentee Rules" for the "Civil Service," meaning the "*Covenanted vice*," and thus abrogated the rules of the 8th June 1855, so far as they o the leave of Covenanted Civil Servants.

In a despatch to the Government of Madras, No. 70, dated the 31st 1866, the Secretary of State, in replying to a reference from that Gov- observed—"I see no sufficient reason for granting to Government rs privileges in regard to leave with retention of appointment and ry, which cannot, under the rules, be granted to members of the Cove- ivil Service."

The foregoing observation was communicated on the 17th October 1866 me Department, and to the several Local Governments and Account and this communication probably created the impression that the rs referred to in the rules of 1855 were affected by changes in the es of the Covenanted Civil Service, and that they were, therefore, m 1866 to the Covenanted Civil Service Furlough and Absentee Rules ber 1864; but, if so, the impression was corrected by a declaration made in this Department on the 22nd January 1869, and repeated on the 31st May follow- the leave admissible to law officers must continue until further e regulated by the rules of 1855.

t) Proceedings, January 1869, No. 51.
ngs, June 1869, Nos. 1 and 2.

5. Meanwhile, the Covenanted Civil Service Rules of the 16th December 1864 were superseded by rules published by the Government of India in this Department on the 16th June 1868. These latter were embodied in the "Covenanted Civil Service Leave Code," published on the 8th February 1871, and have been re-produced in another form in the "Civil Leave Code," published on the 14th March 1872 in supersession of the Covenanted Civil Service Leave Code.

6. In January 1871 the Government of Madras granted six months' leave on private affairs to the Hon'ble J. B. Norton, the Advocate General in that Presidency. For officers on such leave, the rules of 1855 authorise an absentee allowance equal to half pay, which, in Mr. Norton's case, appears to have been Rs. 1,093-12 a month; but the Covenanted Civil Service Rules of 1868 to 1871 authorise a maximum absentee allowance of £1,000 a year, or Rs. 833-5-4 a month. The Secretary of State, therefore, asked the Government of Madras in a financial despatch No. 32, dated the 27th April 1871, why Mr. Norton had been allowed leave under the rules of 1855. That Government replied in a judicial despatch No. 6, dated the 31st May 1871, that Mr. Norton had been allowed leave under the rules of 1855, because the "new Civil Service Leave Rules" had "not been made applicable to law officers," and at the same time forwarded to the Secretary of State copy of correspondence which had shortly before taken place between that Government and the Government of India on the question of making the rules for the grant of acting allowances to Covenanted Civil Servants applicable to Government law officers.

7. In a subsequent judicial despatch No. 7, dated the 30th June 1871, the Government of Madras asked the Secretary of State to commute Mr. Norton's leave to leave on medical certificate for one year under the Covenanted Civil Service Rules of 1868, because he was not entitled to leave on medical certificate under the rules of 1855, and because "from the correspondence which has been held with the Supreme Government, it would appear that the extension of the rules of 1868 to law officers is under consideration." In a financial despatch to the Government of Madras, No. 72, dated the 15th August 1871, the Secretary of State pointed out, in reply to the Madras Government's judicial despatch No. 6, dated the 31st May 1871, that in 1866 the Government had allowed Mr. Norton leave, on medical certificate, under the Covenanted Civil Service Rules of 1864, and, therefore, expressed the opinion that his leave in 1871 should be regulated by the same rules; and added—"I request that you will inform me, as early as practicable, of the result of your re-consideration of this question." In a judicial despatch No. 15, dated the 7th November 1871, the Government of Madras informed the Secretary of State that the grant of leave to Mr. Norton, under the rules of 1855, was in accordance with the order of the 22nd January 1869, referred to above.

8. On a review of all the circumstances of the case, the Hon'ble the President in Council is of opinion—

First, that the grant to Mr. Norton in 1866 of leave under the Covenanted Civil Service Rules of 1864, was a mistake; and

Secondly, that it would not be expedient to correct the mistake after such a lapse of time; but that it is equitable to deal with his claim to leave in 1871, and with any future application from him for leave, as if his leave in 1866 had been granted under the rules of 1855.

9. The Government of India intend to propose new leave rules for law officers, but they do not contemplate the application to the cases of those officers of the Covenanted Civil Service Leave Rules.

10. The leave rules to which Mr. Norton is now subject are the rules of 1855, under which he can neither claim a commutation of his leave to leave on medical certificate, nor an extension of his leave on medical certificate, or on private affairs. With reference, however, to the precedent created by the decision on the somewhat similar case of the Hon'ble J. S. White, Advocate General of Bombay, Mr. Norton may be allowed an extension of leave, without pay, for the period from the date on which his leave on private affairs, under the rules of 1855, expired, to the date of his return to duty.

Leave Proceedings, January 1870, Nos. 41 and 42.
" August " " 23 to 27.
Leave (Abstract) Proceedings, August 1870, No. 54.
" January 1871 " 14.
" July " " 3.

ORDER.—Ordered, that the foregoing observations be submitted to the Secretary of State, and communicated to the Home Department, the Government of Madras, and the Accountant General, Madras.

D. BARBOUR,
Offg. Under Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

FINANCIAL DEPARTMENT.

LEAVE AND ALLOWANCES.

To

No. 3950

Dated Simla, 31st October 1872.

Received

Financial 1872 Nov. 15

From
The Govt. of India
Financial Dept.
No. 3950.

Dated 31st October 1872
Rec'd 14th Nov. "
35

Copy: Rules and Orders
Certain observations re-
specting the leave granted
by the Madras Govt. in
Letters to the Govt. of
Fort St. George, Public
Dept.

Mad. Govt. Public Dept.
Mad. Govt. Legislative Dept.

Financial 1872 Nov. 15

Sort. of 1872; Madras.

Financial

The Advocate General.

Dated 19 Nov. 72
Read. Rec.

G. O. 19 Nov. 1872. No. 1541.

Nos. 67. 68.

Comm. Res. of the Govt. of India
making certain observations
respecting the leave granted
by the Madras Govt. in
Letter 9/1871 to the Hon. J. B.
Norton Advocate Genl.

19 November 1872 No. 1541

Comm. to the Advocate
General. Govt. Pleader.
& Govt. Solicitor.

Observe that
Mr. Norton resigned the Law
Dept. Emoluments back.

The Advocate Genl.
Govt. Pleader &c.
Govt. Solicitor.

Dec. 1872

To the Advocate