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MADRAS RECORD OFFICE.

Government of Madras.

Finance DEPARTMENT.

G.O. No. 695 Press ~~Mis.~~

199-2nd

Dated 17-5- 1873.

10/11

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department,
17th May 1873.

No. 199. Read the following letter from F. LUSHINGTON, Esq., Accountant-General, to the Hon. W. HUDLESTON, Chief Secretary to Government, Fort St. George, dated Fort St. George, 26th April 1873, No. 46:—

Audit Department.

I have the honour to submit the following cases for the orders of His Excellency the Right Honourable the Governor in Council. They relate to allowances drawn by two Officers of His Excellency's Personal Staff.

2. I.—Case of Mr. J. C. Loch, late Private Secretary to His Excellency—

Upon 11th ultimo this gentleman having been appointed, in Gazette of 4th idem, President of the Madras Municipal Commission, submitted, with certificate of having made over charge of the Private Secretary's Office on forenoon of 5th idem, a bill for salary as Private Secretary up to 4th March inclusive. This bill was audited and paid on 11th March.

3. Upon 12th I received the Gazette of the previous evening containing the notification that Mr. Loch had assumed charge of the office of President of the Municipal Commission on forenoon of 3rd March. He was immediately asked to refund the salary which he had drawn as Private Secretary for 3rd and 4th idem, amounting to Rupees 95-12-4. Of this letter, though his attention has since been twice called to it, he has taken no notice.

4. The grounds upon which the retrenchment was issued are that he could not be Private Secretary and President of the Municipal Commission at the same time. Under the late Honourable Court's Despatches of 1843 and 1848, referred to on margin of paragraphs 27 and 28, Chapter VI., Civil Auditor's Manual, and that as he assumed charge of the latter appointment on 3rd March (forenoon), he ceased from that time to be entitled to any allowance as Private Secretary.

5. II.—Case of Lieutenant A. Awdry, R.E., Private Secretary to His Excellency—

I submit, herewith, this gentleman's letter, remonstrating against the retrenchment issued by this office of the sum of Rupees 99-14-5, being the equivalent of the half staff salary which he has drawn in the Military Department for the period during which he did the duties of Military Secretary in addition to those of the Private Secretary to His Excellency the Governor.

Dated 19th April 1873.

6. This retrenchment is based on precisely the same grounds as that in Mr. Loch's case.

7. As Mr. Awdry has stated his *reasons* for considering the retrenchment cannot stand, I would observe that his arguments in favour *of* his being entitled to draw allowances for the two appointments of Private and Military Secretaries for the period during which he did the duties of both appointments are not sound.

8. The wording of the despatches cannot bear the construction he puts upon them, viz., that "*it is not* laid down that one officer cannot do both and draw pay for both so long as he does not hold *other appointments* with them."

9. The despatches distinctly recognise that the appointments are *to be filled* by two officers. No. 10 of 1843 contains the words—

"1. Having lately had under our consideration the offices of Private and Military Secretaries to the Governor of Bombay, we came (to) a decision to fix

consolidated salaries of 1,500 and 1,000 Rupees a-month, respectively, for those officers.

"2. The grounds upon which this decision is based are to provide incomes sufficiently high to enable the Governor to select gentlemen of experience and ability to discharge the duties of those offices," &c., "and to abolish the practice of accumulating allowances of other appointments with them." It would have been beyond dispute had the words "either of" been inserted before "them;" but the whole tenor of the despatch is against the interpretation argued for by Mr. Awdry, as the concluding sentence most plainly shows—It is: "These are to be maximum salaries inclusive of pay and every other allowance of whatsoever kind assigned to officers, Civil or Military, that may be selected by the Governor to fill the appointments of his Private and Military Secretaries."

10. No. 19 of 1848, which decides Colonel Felix's case as a special one, contains the following: "This decision does not in any way affect the orders given in our letter of 5th July 1843, No. 10, for the purpose of restricting our Governors from appointing their Private and Military Secretaries to a plurality of appointments." Plainer words could not have been used, and it is nowhere laid down that either of the appointments in question is to be considered as not constituting a plurality of appointments when held by the same officer.

11. I have, in conclusion, to express the hope that His Excellency in Council will sustain the retrenchments issued by this office. That against Mr. Awdry will be carried into effect on audit of this month's pay-bill, but I have not the power to recover from Mr. Loch, as his salary as President, Municipal Commission, is not drawn from the Government Treasury.

From Captain A. AWDRY, R.E., Private Secretary to His Excellency the Governor of Madras, to the Deputy Accountant-General, dated Guindy Park, 19th April 1873.

I have the honour to inform you, with reference to your No. 161, of the 4th instant, that, on perusing the Order of the Honourable Court (Despatch No. 10 of 5th July 1843), to which you refer, I do not discover justification for your recovering, as you propose to do, the sum of Rupees 99-14-3 from my pay-abstract as Military Secretary to His Excellency the Governor from 5th to 12th March inclusive.

2. The despatch in question is alluding throughout to the two appointments of Private and Military Secretary, and says that the consolidated salaries are "to abolish the practice of accumulating allowances of *other* appointments with *them*;" but it is not laid down that one officer cannot do both, and draw pay for both, so long as he does not hold *other* appointments with them.

3. As I performed the duties of both offices for these days, I have, therefore, the honour to request that you will abstain from making the recovery you propose, at any rate until you have consulted higher authority.

4. The despatch in question was written evidently referring to the same officer holding a large number of appointments permanently, and not for a few days only on an emergency like this was.

No. 200. ORDER THEREON, 17th May 1873, No. 695.

The Governor in Council is of opinion that in Mr. Loch's case the retrenchment must be upheld. The intention of the despatch of the Honourable Court of Directors cited by the Accountant-General was evidently to prevent the Private

Proceedings of the Madras Government, Financial Department,
17th May 1873.

and Military Secretaries to the Governor from drawing pay on account of other offices.

2. In Captain Awdry's case the Governor in Council is of opinion that the decision must be in accordance with Sections 23 and 24 of the Acting Allowance Code. Under the former section he could not draw more than the full pay of the highest paid of the two appointments, the duties of which he was performing, and it is assumed that from 5th March he drew full pay as Private Secretary.

3. Under the latter section no deputation allowance can be drawn by an officer discharging the duties of more than one appointment on the same establishment, and the illustration is of one Under-Secretary to Government discharging the duties of a fellow-Under-Secretary in addition to his own.

4. The Government consider that the case of the Private Secretary to His Excellency the Governor discharging the duties of the Military Secretary in addition to his own is a parallel one. The Governor in Council is, however, of opinion that Captain Awdry should draw pay as Private Secretary from the date on which Mr. Loch ceased to draw pay as such under this ruling.

(True Extract.)

Acting Under Secretary,
for *Chief Secretary.*

To the Private Secretary to the Right Honourable the Governor.
To J. C. Loch, Esq.
,, the Accountant-General.

Exd. J. Wright.

Government House,
Guiana, 19th April 1843.

Sir,

Captain C. C. Lucky
Private Secretary to H.E. the Governor

&

The Deputy Accountant
General - Colonial Office
Downing Street
London

I have the honor to inform
you with reference to your
letter of the 10th ult. that
on perusing the Order of the
Honorable Court (dispatch
No. 10 of 5th July 1843) which
you refer, I do not discover
justification for your reco-
vering, or your having to pay
the sum of Dupees 99-14-0 from
my Pay Abstract as Private
Secretary to His Excellency the
Governor from 9th to 12th March
inclusive.

2. The Despatch in question is alluding throughout to the two appointments of Private and Military Secretary and says, that the Consolidated Salaries are "to abolish the "practice of accumulating "allowances of other appoint- "ments with them," but it is not laid down, that one officer cannot do both and draw pay for both, so long as he does not hold other appointments with them.

3. The Lt Governor therefore trusts that both Offices for these days, have therefore the honor to request, that you will obtain from making the Recovery you proposed, at any rate until you have Consulted higher

Comptroller.

4. The Despatch in question was written irrelevantly regarding to the same Officer holding a large number of appointments permanently, and not for a few days only on an Emergency like this was.-

(I have the honor &c)

Sir,

Your most Obt Servant

C. Cridge

Private Secretary to

His Excellency the Governor &c

&c &c

Accountant General's Office
Recd 21 4 1873
Answd 26

Audit Department

Fort Saint George
Accountant General's Office
26th April 1873

No. 46

From
F. Lushington Esqre
Accountant General

To
The Chief Secretary
to Government
Revenue & Departments
&c &c &c

Sir,

I have the honor to submit the following Cases for the Orders of His Excellency the Right Honorable the Governor in Council. They relate to Allowances drawn by two Officers of His Excellency's personal Staff.

2. 1 Case of Mr. J. S. Cobb late Private Secretary to His Excellency

Upon 11th ultimo this Gentleman having been appointed in Gazette of 4th idem President of the Madras Municipal Commission submitted with Certificate of having made over charge of the Private Secretary's Office on forenoon of 5th idem, a Bill for Salary as Private Secretary up to 4th March inclusive. This Bill was audited and paid on 11th March.

3. Upon 12th I received the Gazette of the previous Evening containing the Notification that Lieut Pole had assumed charge of the Office of President of the Municipal Commission on forenoon of 23d March. He was immediately waited on to resume the salary which he has drawn as Private Secretary for 3 & 4 ths ended respectively 15th & 95-12-4 & the latter though his attention has since been twice called to it he has taken no notice.

4. The grounds upon which the retrenchment was issued and that he could not be Private Secretary and President of the Municipal Commission at the same time under the late Honorable Court's Despatches of 1843 & 1848 referred to in Paragraph 27 & 28 Chapter VI Civil Auditors Manual, and that as he assumed charge of the latter appointment on 23d March forenoon he ceased from that time to be entitled to any allowance as Private Secretary.

5. A Case of Fees to A. Newbery P.E. Private Secretary to His Excellency.

I submit herewith His Gentleman's letter remonstrating against the retrenchment issued by this Office of the sum of £99-14-5 being the equivalent of the half staff salary for the three drawn

dated 19th April 1873.

in the Military Department for the period during which he did the duties of Military Secretary in addition to those of Private Secretary to His Excellency the Governor).

6. His retrenchment is based on precisely the same grounds as that in Mr Pole's case.

7. By the Recording law abolishing fees for conveyancing the retrenchment cannot stand. I observe that his remonstrance is in favor of his being allowed to draw allowances for the two appointments of Private & Military Secretaries for the period during which he did the duties of both appointments are not known.

8. The wording of the Despatches cannot bear the construction he puts upon them viz: that "it is not laid down that "one Officer cannot do both and draw "Pay for both so long as he does not hold "other appointments under them."

9. The Despatches distinctly recognize that the appointments are to be filled by two Officers. No. 10 of 1843 contains the words

"I Having lately had occasion to consider "when the Offices of Private and Military "Secretaries to the Governor of Bermuda are

"me cause (6) a decision to fix consolidated
"Salaries of 1500 and 1000 Rupees a month
"respectively for those Officers;

2 The grounds upon which this
"decision is based and to provide incomes
"sufficiently high to enable the Governor
"to select Gentlemen of experience and
"ability to discharge the duties of those
"Offices" &c. &c. "and to abolish the practice
"of accumulating allowances of other
"Appointments with them". It would
have been beyond dispute had the words
"Either of" been inserted before "them"; but
the whole tenor of the Despatch is against
the interpretation argued for by Mr Bradley
on the concluding Sentence most plainly
shews. It is "those are to be Maximum
"Salaries inclusive of pay and every other
"allowance of whatsoever kind assigned
"to Officers Civil or Military that may be
"selected by the Governor to fill the appointments
of his Private and Military Secretaries.

10. No 19 of 1848 which decides
Colonel Tolly's case was a special one
Containing the following "This decision
does not in any way affect the orders given
in our Letter of 5th July 1843 No 10 for the
purpose of restricting our Governors
from appointing their Private & Military
Secretaries

Secretaries to a plurality of Appointments
Planier words could not have been
used, and it is nowhere laid down
that either of the Appointments in question
is to be considered as not constituting a
plurality of Appointments when held
by the same Officer.

11. I have no conclusion to express
the hope that His Excellency in Council
will sanction the Retrenchments to issue
by this Office. That organized Militia
will be carried into effect on and
of this present Pay Bill but I have
not the power to recover from Mr Jeeh
as his Salary as President Municipal
Commissioners is not drawn from
the Government Treasury

I have the honor to be
Sir
Your most obed Servt
H Ruthven
Accountant General

Comm Off.

13

Africa on the 3d he can
not in any direction be
allowed to draw the pay
of Private Leef after that
date. The Law does not per-
mit him to hold two offices.

Capt Andrew in his letter
to Sole says as Private Leef
from the 5th inst if - on Leave
Possible, he did the work of
Private Leef on the 3d 4th & 5th
not formally installed, he
might let, I think, have them
2 days pay etc to him L 0 5

Finance 1873 Departt.

From
The Accountant Genl.
Fort Saint George
To
The Chief Secretary
to Government
Financial Depte.

D/26 } April
R/28. }

No. 46.

Submits for the orders of Government the cases relating to the allowances drawn by Mr. J. C. Loch & Captn. A. Awdry as Private Secretary to H. E. The Governor for the respective periods referred to.

With ad[illegible]

C 7/5
[illegible]

J. O. S.

1 Br 16
[illegible] [ ]

Ootacamund 17 May 1873. No. 695

The Spl. is of opinion that in Mr. Loch's case the extr[illegible] must be upheld [~~[illegible]~~] The intention of the Depart. of the Hon. [illegible] of [illegible] cited by the [illegible] was evidently to prevent the [illegible] [illegible] [illegible] from drawing pay on account of other offices.

In Captn. Awdry's case the Spl. is of opinion that the decision must be in accordance with [illegible] 23 [illegible] of the [illegible] Code. Under the former rule, he could not draw more than the full pay of the highest

Govt. of India 1873 Madras.

Financial

To
The Honble Secy. to the Right Hon.ble the Gov.r
Fort

Dated Bang. 17
Read.
G. O. 14 May 1873. No. 695.

Nos. 199. 200.

Applicating the retrenchment of Rs. 20 per allowed as Private Secy. for the 3d. of March &
Considering Capt.n Airdon entitled to draw the allow.ce of the appointment from the 3d. idem.