M.R.O. 1—77,000—3-6-37.

(1) Number of pages 22

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(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 464	Press / Mis.
211 A-211F	211-A-211F
Dated 24-3-	1874.

11/12

Not to be folded or roughly handled

No. 211-A. Read the following letter from J. C. LOCH, Esq., President of the Municipal Commission, Madras, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated Madras, 21st March, 1874, No. 451 :—

I have the honour to request, that you will be good enough to move the Right Honourable the Governor in Council to grant me three months' privilege leave of absence from the 1st April next.

No. 211-B. MINUTE by the Hon. J. D. SIM, C.S.I., dated 25th March 1874.

Mr. Loch's application is, in my opinion, quite inadmissible.

If he were in the employ of Government as a Covenanted or Uncovenanted Civilian, he would only be entitled to one month's leave after every eleven months' work, the leave being allowed to accumulate up to three months after thirty-three months' work. I forget, and the papers circulated do not show, when he was appointed President, but he cannot possibly have earned two months' leave, while he asks for three.

Again, in their Order of the 19th August 1868, the Government decided that even two months' privilege leave could not conveniently be given to Officers of the Municipality, and the application of the then President, Colonel Denison, for sixty days' leave was declined, and only six weeks' leave was granted.

The Government, on the same occasion, ruled that it was inexpedient to allow such Officers to accumulate privilege leave up to three months after thirty-three months' work, and to compensate for this restriction consented to give six weeks in each year. This order is still in force; no proposition to alter it is before Government; and I submit that, in the face of it, we cannot give Mr. Loch three months' privilege leave for less than twenty-two weeks' work.

I consider that we are bound to look after the interests, pecuniary and other, of the Municipality even more closely than after our own; and that we are not justified in giving a Municipal Officer more, at the expense of the Municipality, than we would give to a Government Officer similarly circumstanced at the expense of the State. Moreover, the precedent will be an embarrassing one, for we cannot refuse others what we grant to Mr. Loch.

I observe nothing said as to arrangements for the conduct of business during Mr. Loch's absence. As he will take the full pay of the office with him, there will be no funds wherewith to remunerate his successor, and I do not think it fitting that the onerous and responsible duties of the President should be left for three months to friendly and gratuitous assistance. The rate-payers will assuredly have cause to complain of their interests being thus cavalierly treated. Mr. Loch should, I think, be allowed six weeks' privilege leave. If he needs more, he must send in a sick certificate, and submit to such reduction of his allowances as will admit of a suitably paid *locum tenens* being appointed.

J. D. SIM.

No. 211-C. MINUTE by the Hon. W. ROBINSON, dated 25th March 1874.

I am constrained with regret to object to the grant of three (3) months' leave to Mr. Loch, President of the Municipal Commission, on the conditions and under the

private arrangement proposed. He practically seeks three months' leave on full pay on special grounds—an indulgence to which he is not entitled on any consideration of length of service or otherwise—Mr. Coleman executing the duties of the office without pay.

2. The application is for privilege leave. Mr. Loch has not, I believe, served for even one year's privilege leave, viz., six weeks. He is certainly entitled to no more; and I think that, when dealing with Municipal servant, the same strictness is incumbent on Government as if they were dealing with a servant of the State.

3. Under any circumstances the President of the Municipal Commission is not entitled to accumulative privilege leave. This is the special condition under which the period of privilege leave for each year was extended to six weeks instead of one month. No circumstances can justify summarily setting aside this rule, and giving accumulative leave for two years—partly in advance. The application contravenes every rule and condition of both Government and special service, and I think that the Municipality will have cause for complaint.

4. The thing is sought to be justified on the ground that Mr. Coleman will do Mr. Loch's work for nothing in the interim. To this sort of private arrangement there is the gravest objection. Mr. Coleman is probably a good enough representative. But the gratuitous service places Mr. Loch under obligation to one of the Commissioners, and must seriously embarrass, if it does not commit the Government to a certain course, should the appointment become vacant.

W. ROBINSON.

No. 211-D. MINUTE by the Right Hon. the PRESIDENT, dated 1st April 1874.

There appears to be no law or regulation, imperial or local, under which this leave cannot be granted to the President of the Municipal Commission. If he were a Government officer, we should be bound by the rules applicable to such officers. As it is, we are bound only to consider the question with reference to the equity of the case as regards Mr. Loch himself, and to the interests of the Municipality. Now upon this I may remark, that so far from its being the fact (as supposed by the Honourable Mr. Sim) that Mr. Loch, "if he were an Uncovenanted Civilian," would not be entitled to this leave, it is the fact that Mr. Loch, who *is* an Uncovenanted Civilian, has served *for three years* without leave; and, therefore, by my honourable colleague's own showing, he would be entitled, as such, to the three months' privilege leave now applied for.

As regards the interests of the Municipality, they are certainly in no way prejudiced by the proposed arrangement. No additional expense is imposed upon it: no want of provision for the efficient discharge of the duties of the office, during Mr. Loch's short absence, will result. Mr. Coleman, by all admission perfectly qualified to undertake the work, has agreed to do so *without pay* during the whole three months. Even in the Government service, if we could suppose an analogous case occurring, it seems doubtful whether it would be desirable to enforce the letter of our rule, the intention of which was simply to prevent undue additional expense being thrown upon the Government. In this case there is no such expense thrown upon the Municipality, and no reason therefore for applying a rule which no law or regulation obliges us to apply. The G. O. of

1868, referred to by Mr. Sim, cannot possibly be considered as precluding the Government from dealing with each such question as it arises, and upon its own merits.

I submit that, in the interest of the Municipality itself, it would not be desirable to deal thus harshly and inequitably with its most valuable, deserving, and hard-working member.

I can hardly think that the Honourable Mr. Robinson's argument, that the arrangement would place Mr. Loch under an obligation to one of the Commissioners, would be seriously maintained. It would be a reason for never allowing any member of any official body to act for a superior member of it without additional pay.

"Committing the Government to a certain course," in case the appointment should become vacant, seems also an untenable objection. I believe the nomination rests exclusively with the Governor; and, for my own part, I can only say that I recognize no such claim as that which is implied.

HOBART.

No. 211-E. MINUTE by His Excellency the COMMANDER-IN-CHIEF, dated 11th April 1874.

I fully concur in the views expressed by His Excellency the President.

FRED. P. HAINES.

No. 211-F. ORDER THEREON, 24th March 1874, No. 494.

Leave granted.

(True Extract.)

D. F. CARMICHAEL,
Acting Chief Secretary.

Original

Financial Dept.

No 494 dt 24-3-74

From

Hardinh Lee
Executive Engineer
Municipality

To,

John C Lach Esqre
President Municipal Commissr
Madras-

Sir,

I have the honour to reques that you will be so good as to obtain for me 2 years' furlough, under Section 7 of the Civil Leave Codes. My health has, as you are aware, been for a long time past very indifferent, and I wish to procure it by rest and change of climate-

The register of my services as under:-

		Yrs	M	Ds
Dept. Public Works.	From 8th June/55 to 28 Febry/63 =	7.	7.	20
Educational Dept. Madras	From 1st March/63 to 28th Febry/65 =	2	—	—
Educational Dept. Govt. of India (Mysore)	" 1st March/65 to 28th Febry/67 =	2	—	—
		11	7	20
Madras Municipality	" 1st March/67 to date =	7	8	27
	Total	19	4	17

I have not had leave on
Private affairs nor furlough
during the whole period of my
service as aforesaid.

I shall not avail my
self of this leave until early in
next year, at such time as you
can conveniently spare my
services.

I have the honour to be,
Sir
Your most Obedient Servt,
Signed/ Standish Lee.

Marion
27th November 1811.

/ True Copy /
Mus. Hoch.
President
Mus. Commission

G.M.C. 414. Municipal Commissioners' Office
Madras 7th December 1874

From,
John Lach,
President Municipal
Commissioners

To,
The Honourable D. F. Carmichael
Acting Chief Secretary
to Government,
Madras.

Sir,

I have the honour to forward herewith copy of a letter from Mr. Standish Lee, Executive Engineer of the Municipality applying for two years furlough under Section 7 of the Civil Leave Code which I trust may meet with the favourable consideration of Government.

2. Mr. Lee informs me that it is not his intention to avail himself of the leave, if granted before the month of February next, but he has thought it best to send in his application at once in order that there may be ample time to verify the

Correctness

1874

From
Mr. S. Lee Executive
Municipality

To
The President
Mun. Commissioners
Madras

Chief Clerk 2
years furlough
under Section 7
Civil Leave Code

Rec'd 7th 25/4/74

Correctness of his statement as
to the period of his Service under
the Government of India.

I have the honor to be,
Sir,
Your most Ob.t Servant;
J. Mul. Clerk.
President
Municipal Commissioners

Gentlemen

I am constrained to object to the Grant of these (3) months leave to Mr Cock Municipal Commissioner. He practically asks 3 months leave on full pay on Special grounds an indulgence denied to all and all tables on any one else in any of Service or Mercies.

The application is for Privilege Leave. He is not entitled to any. He has not taken Furlough for even one years privilege leave — or 6 months. He is certainly entitled to no more and I think that when dealing with Municipal servants the Council of Greater Durbanites is an employer of Labour if dealing with their own servants. Under any circumstances the Municipal Commissioner is not entitled to accumulative privilege leave. This is the Special condition under which the period of privilege leave of each year was given

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The application is for Privilege Leave. He is not entitled to any. He has not taken Furlough for even one years privilege leave — or 6 months. He is certainly entitled to no more and I think that when dealing with Municipal servants the Council of Greater Durbanites is an employer of Labour if dealing with their own servants. Under any circumstances the Municipal Commissioner is not entitled to accumulative privilege leave. This is the Special condition under which the period of privilege leave of each year was given

Durban 2/69, Nos 139-140
14 Feb 1920, Nos 70-71
28 Feb 1920, Nos 37-38
1 Mch 1920, Nos 1-8
Pmb. 11 Feb 1921, Nos 39-40

Pietermaritzburg 16/4 Feb 1920

From John C Cock, Esq
Resident Magistrate
Commissioner, Dundee

To The Hon the Under Secretary for Native Affairs
Pietermaritzburg

Sir,

I have the honour to request that I may be granted three months leave on full pay on account of ill health.

I have the honour to be, Sir,
Your obedient servant,
John C Cock
Resident Magistrate

S.O. No 2151.

Dundee 7th December 1920

Sir,

I have the honour to request that I may be granted three months leave on full pay on account of ill health.

I have the honour to be, Sir,
Your obedient servant,
John C Cock
Resident Magistrate

The Hon the Under Secretary for Native Affairs
Pietermaritzburg

S.O. No 2151.

Dundee 7th December 1920

Sir,

I have the honour to request that I may be granted three months leave on full pay on account of ill health.

I have the honour to be, Sir,
Your obedient servant,
John C Cock
Resident Magistrate

The Hon the Under Secretary for Native Affairs
Pietermaritzburg

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~~1 month~~ 6 weeks instead of one month. No conceivable circumstances can justify Selby's absence from duty and any accumulation of leave for two years in advance. The application contravenes every rule & condition of the Government & Special Service — and I think that the Municipality than the grounds for complaint.

The Magistrate sought the assistance on the ground that Mr. Coleman could do Mr. Locke's work for a day or two in the interim — & this sort of private arrangement there is the ground ~~for~~ of objection — Mr. Coleman is probably a good enough representative of the gratuitous service plan but I am under obligations to one of the Commissioners & must serious embarrass — yet does not commit the Govt to a certain course. If the appointment be come vacant —

March 25/74

15

Minute

There appears to be no law or regulation, prohibiting a head, under which the leave cannot be granted by the President of the Municipal Council or Mayor. If he were a Govt Officer, we should be bound by the Rules applicable to such Officers. As it is, we are bound only to consider the position with reference to the ~~Municipality~~ Govt of the case as regards Mr Locke himself, and to the interests of the Municipality. I have upon this grounds

(as supposed by Lt Col Thackeray Asst Adjt Genl)

Must so far pass to being the part
that he took. "if he were an 'Honorary
Civilian'", would not be entitled to
this Leave, it is the part that he did
who is an Honorary Civilian,
has served for 3 years without
Leave: and therefore that, if my hon
colleague's own showing, he would be
entitled, as such, to the 3 months
privilege Leave now applied for. Under
the Regulations [illegible]
[illegible] Records of the
Municipal Commissioners of

March 28/74 Vacant

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to expend the interests of the Municipality
they are certainly in no way provided
by the proposed arrangement. Such extra
expense is imposed upon him: no want
of provision for the efficient discharge of
the duties of the office, during his bodily
absence, will result. He [illegible]
by all advantages perfectly qualified for
to undertake the work, has
agreed to do so without pay during the
whole three months. Even in the
Govt. service, if we could suppose an

I submit that, in the interests of the Municipality itself, it would not be desirable to deal thus harshly and inequitably with its most valuable, deserving, and hard-working members.

I can hardly think that the learned Mr Robinson's argument that the arrangement would place Mr Cook under an obligation to one of the Commissioners would be seriously maintained. It would be a reason for never allowing any member of any Board body to act for a deserving member

and supposing a case occurring, it seems very doubtful whether it would be desirable to enforce the letter of the rule, the intention of which was merely to prevent undue additional expense being thrown upon the Port. In fact can there be any such expense thrown upon the Municipality, and no reason therefore for applying a rule which would have a repudiation obligation to apply.

The F.O. of 1868, referred to by the learned counsel, cannot possibly be considered as precluding the Port from dealing with such matter, as it arises, and upon its own merits.

of it without additional pay.

"Committing the Post to a certain course," in case the appointment should become vacant, seems also exceptionable objection - I believe the nomination appointment rests exclusively with the Governor: and for my own part I can only say that I recognize no such claim as that which is implied.

Robert

Apr 1/74

I fully concur in the views expressed by His Excellency the President

Thos. F. Bayard

11-4-74