

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government {1899} of Madras. FINANCIAL.

Recd.

Regd.

} 1899.

Enclosures

Spare copies

G.O., No. 305, 28th February 1899.

FEBRUARY.

Exchange Compensation Allowance.

Stating, with remark, that certain officers of the Salt, Abkari and Customs Department will be held to be entitled to draw — under the old rules.

GOVERNMENT OF MADRAS.

FINANCIAL DEPARTMENT.

READ—again the following paper:—

G.O., No. 115, Financial, dated 18th January 1899.

ABSTRACT.—Passing orders on letters from the Government of India regarding the claim to exchange compensation allowance of Messrs. C. W. P. St. John, E. R. R. Mainwaring and C. M. Sherman of the Salt, Abkari and Customs Department, Madras.

READ—also the following paper:—

Proceedings of the Board of Revenue (Separate Revenue), Mis. No. 370, dated 27th January 1899.

Read—G.O., No. 115, Financial, dated 18th January 1899.

Resolution—Mis. No. 370, dated 27th January 1899.

With reference to paragraph 2 of the Government order read above, the Board begs to report that Mr. St. John's father retired from the service and settled in England. The following other officers were, like Messrs. Mainwaring and C. M. Sherman, debarred from drawing exchange compensation allowance under the old rules on the ground of their fathers having acquired a technical Indian domicile by coming out in the service of the Honourable East India Company.

1. Mr. Dalrymple-Hay.
2. „ Chamier.
3. „ A. C. Woodhouse.

Mr. Dalrymple-Hay's father came out to India in the Honourable East India Company's service in 1847 and served in the Indian Army till his death in 1881. Mr. Chamier's father, who was a member of the Madras Civil Service, entered the Company's service prior to 1st November 1858. He died in April 1869, while he was on duty as Civil and Sessions Judge, Salem. Mr. Woodhouse was born in India but educated in England. His father, who came out to India on the 11th September 1858 in the Company's service, is stated to have retired in 1890, and to be living in England. Mr. A. C. Woodhouse, who is a permanent Inspector of the Salt, Abkari and Customs Department, has been employed as Probationary Deputy Collector since 16th September 1896. His name was not therefore included in the list in Board's Proceedings, No. 2799, dated 13th July 1898. As a Deputy Collector he is not entitled to the allowance under the new rules (*vide* paragraph 7 of the Government of India Resolution No. 4847-Ex., dated 5th November 1898). If his claim is now admitted under the old rules he may draw arrears of the allowance due to him from 1st July 1894 and continue to draw it till he is confirmed as Deputy Collector (*vide* paragraph 39 of the same resolution). None of these officers are Statutory Natives of India. The claims of Messrs. Dalrymple-Hay and Chamier to the allowance have been admitted under the new rules (*vide* G.O., No. 1150, Financial, dated 2nd December 1898).

2. Messrs. Mainwaring and C. M. Sherman having been declared by the Government of India to be eligible for the exchange compensation allowance under the old rules as well as the new will be permitted to draw the arrears of allowance from 1st July 1894.

(True Extract.)

(Signed)

C. G. TODHUNTER,
Acting Secretary.

To the Secretary to Government, Financial Department.

ORDER—No. 305, Financial, dated 28th February 1899.

The Government considers that the concession granted to Messrs. Mainwaring and Sherman should be extended to Messrs. C. W. P. St. John, Dalrymple-Hay, Chamier and A. C. Woodhouse. These four officers will be held to be entitled to draw exchange compensation allowance under the old rules.

(True Extract.)

G. STOKES,
Chief Secretary.

To the Board of Revenue (Separate Revenue).

„ Accountant-General.
„ Revenue Department.

NOTES CONNECTED WITH G.O., NO. 305, FINANCIAL, DATED
28TH FEBRUARY 1899.

FROM THE BOARD OF REVENUE, MIS. NO. 470, DATED THE 27TH JANUARY 1899.

For the Chief Secretary—

In its resolution No. 3624-A, dated 18th August 1893, framing rules for the grant of exchange compensation allowance, G.O., No. 845, Financial, dated 30th August 1893, the Government of India laid down that the allowance was to be granted "to every European and Eurasian officer of Government, Civil or Military, not domiciled in India" and rule 3 of the rules ran as follows: "In case of doubt the Local Government will decide whether any officer is domiciled in India or not so domiciled for the purposes of these rules."

2. In G.O., No. 433, Financial, dated 5th June 1894, it was ordered that the claims to exchange compensation allowance of officers in the Salt and Abkari department should be considered in the light of the ruling in *Wauchope* versus *Wauchope* *. The effect of this ruling was that the "domicile of an officer who entered the service of the late Honourable East India Company prior to the transfer of the Government of India to the Crown is British Indian, and that this domicile is not affected by the transfer of the officer's services to the Crown or by the subsequent passing of Act X of 1865." "Accordingly the domicile of all European officers who entered the service of the Government of India prior to the 1st November 1858 is British Indian, and under section 7 of the Indian Succession Act the sons of such officers born when their fathers still retained such domicile is also British Indian." The proceeding above referred to, however, desired the Board of Revenue to submit to Government the cases of officers on whom the ruling operated hardly.

3. Note 3 to Article 41-A (since superseded) of the Civil Account Code read as follows: "It has been held by the Government of India that the domicile of an officer born and educated in India, who has never left the country, is India, whatever his domicile of origin may have been."

4. Following the two authorities above alluded to, the Board of Revenue (Separate Revenue) debarred the following, among others, of its officers from the allowance under the old rules and submitted a provisional list of 15 officers, including the following, in whose cases the Board thought the ruling operated hardly:—

- | | |
|------------------------------|----------------------------|
| (1) Mr. E. R. R. Mainwaring. | (4) Mr. W. Chamier. |
| (2) " C. M. Sherman. | (5) " C. V. Dalrymple-Hay. |
| (3) " C. W. P. St. John. | (6) " A. C. Woodhouse. |

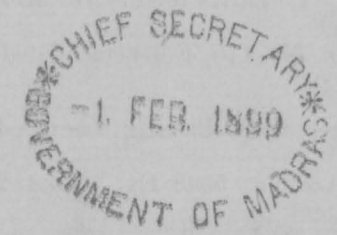
Memorials protesting against their exclusion from the allowance were submitted to the Government of India from some of these officers.

5. In its resolution No. 4847-Ex., dated 5th November 1898, in G.O., No. 1081, Financial, dated 19th November 1898, the Government of India issued orders as to what are the appointments by virtue of holding which an officer, appointed in India, not being a Statutory Native, becomes entitled to the allowance, and in the case of the Salt department it ruled (paragraph 25) that all officers holding appointments not lower in rank than that of Assistant Inspector in Madras shall, if otherwise eligible, obtain exchange compensation allowance.

Financial (1899) Department.

2

CURRENT No. 433



From

The Secretary to the Commissioner
of Salt, Abkari and Separate Revenue,
Madras.

Mis. No. 370.

Dated 27th January 1899.

Received 1. 2. 99

Registered 1. 2. 99

Enclosures

Spare copies

SUBJECT.

Reporting to Government certain particulars
in connection with the claims of certain
officers to Exchange Compensation Allow-
ance under the old rules, and permitting
Messrs Mainwaring and C.M. Sherman, who are
declared by the Government of India to be
eligible for the allowance under the old
rules, to draw the arrears due to them from
a certain date.

C 3838/98

6. In G.O., No. 1150, Financial, dated 2nd December 1898, it was ruled that none of the six officers referred to in paragraph 3 above are Statutory Natives, and all of them were admitted to the allowance under the new rules.

7. In its letter No. 5556-Ex., dated 20th December 1898, the Government of India thought that even under the old rules Messrs. Mainwaring and Sherman could be equitably admitted to the allow-
ance, they having been educated in England and having been debarred by the technical legal domicile their fathers ac-
quired by entering the service of the Honourable East India Company. In
Letter No. 5548-Ex., dated 20th December 1898.

the case of Mr. St. John, the Government of India said that it would be prepared to waive the bar of the legal domicile if his father, Colonel St. John, settled in Europe on retirement from the service.

8. In the current read above, the Board of Revenue reports that Colonel St. John did settle in England after his retirement. It is submitted that Mr. St. John is therefore entitled to arrears of the allowance withheld under the old rules.

9. Regarding Messrs. Dalrymple-Hay and Chamier, their fathers, the Board reports, died in service in India. Both these officers were educated in Europe, and it is for orders whether the same equitable treatment which India speaks of in the case of Messrs. Mainwaring and Sherman may not be accorded to these two officers. The only difference between the two sets of cases is that the fathers of Messrs. Mainwaring and Sherman recovered, by retiring to England, their English domicile, while the fathers of Messrs. Dalrymple-Hay and Chamier died in service in India. The technical domicile of the sons is the same in both sets of cases. The only remaining officer is Mr. Woodhouse. He is at present a probationary Deputy Collector, and till he is confirmed will continue to draw exchange compensation allowance under the new rules. This officer was educated in England, and his father is stated to have retired from service in 1890 and to be living in England. It is submitted that he too may now be permitted to draw the arrears of exchange compensation allowance withheld under the old rules.

He died in England.

(Intld.) C.M.S.

arrears of exchange compensation allowance withheld under the old rules.

(Intld.) M.R.
21-2-99.

(Intld.) C.M.S.
21-2-99.

(Intld.) G.S.F.[ORRES].
23-2-99.

Order

BACK PAPERS.

G.O.	No.	Department.	Date.
115	18-1-88	SC	
1150	2-12-88	"	
1081	19-11-88	"	

FURTHER PAPERS.

G.O.	No.	Department.	Date.

press show proof please
Notes connected with G.O. no. 305

G.O. no. 545^E dated 30-8-93
(Please see file)

Subpara 1 of 505 of 1911

Indian Law Reports
Cal. Vol. II pp 106 & 107

Financial Department
G.O. no. 433 dated 27-2-99

note

In its Resolution No. 3624A dated 18-8-93 framing rules for the grant of exchange compensation allowance, the Govt of India laid down that the allowance was to be granted to every European and Eurasian officer of Govt, Civil or Military, not domiciled in India and rule 3 of the rules ran as follows: "In case of doubt the Local Govt. will decide whether any officer is domiciled in India or not for the purpose of these rules."

In G.O. no. 433 dated 27-2-99 it was ordered that the ^{and alkari} Salt Dept. should be considered in the light of the ruling in Wanchope versus Wanchope under

The effect of this ruling was ~~that the~~ domicile of an officer who entered the service of the late Honorable East India Company prior to the transfer of the Govt. of India to the Crown is British Indian, and that this domicile is not affected by the transfer of the officer's services to the Crown or by the subsequent passing of Act II of 1858. Accordingly the domicile of all European officers who entered the service of the Govt. of India prior to the 15th Nov. 1858 is British Indian, and under Section 7 of the Indian Succession Act the sons of such officers born when their fathers still retained such domicile is also British Indian. The G.O. above referred to, however, desired the Board of Revenue to submit to Govt. the cases of officers ^{on whom} ~~in which~~ the ruling operated hardly.

3. Note 3 to art 41 A (since superseded) of the Civil Account Code.

A. G's letter no 3422 in fo. 16-16-93
no 1254 9-12-93 Final. G.

no 433 Final F
5-6-94

B. P. no 4122 in fo. no 868 Final
24-9-94 11-10-94

B. P. no 5373 in fo. no 2728 Final
7-12-94 12-1-95

Code read as follows: "It has been held by the Govt. of India that the domicile of an officer born and educated in India, who has never left the country, is India, whatever his domicile of origin may have been."

3. Following the two authorities above alluded to the Board of Rev (Sep Rev) determined the following among others, of its officers ^{under the old rules} the allowance and ruled a provisional list of 15 officers including the following, in whose cases the Board thought the ruling operated hardly:-

- (1) Mr. E. R. R. Mainwaring
- (2) " C. M. Sherman
- (3) " C. W. P. St John
- (4) " W. Chanier
- (5) " C. V. Oslough Hay
- (6) " A. C. Woodhouse

Memorials protesting against their exclusion from the allowance were submitted. The Govt. of India from some of these ^{Board} ~~Board~~

4. ~~Joint Resolution~~ ~~in~~ ~~the~~ ~~Board~~

K.
C.O. no 491 find
24.6.97
(In file)

B. in file

(in file)

So. no 1150 7th B.
2-12-98

So re 115 find A
18-1-99.

Letter No 5548 Ex A
20.12.95

6. In its letter no 5586 Ex 8, 20
12. 98, the Govt of India thought
that even under the old rules
Messrs. Macintyre and Sherman
could be equitably admitted
to the allowance, they having been
educated in England and having
been debanded by the Technical
Regal to make their father an
equivalent by entering the service of
the Honorable East India Company.
In the case of Mr St John, the
Govt of India said that it
would be prepared to waive
the loss of the legal domicile
of his father, Col St John,
settled in Europe on retirement
from the service.

7- In the current read above
the Board of Gen reports that Col
St. John did settle in England
after his retirement. It is sub-
mitted that ^{Mr. St. John} ~~he~~ is therefore
entitled to arrears of the
allowance

7
Mauwame withheld under
old rules. ~~and~~ ~~and~~
regarding Messrs Dalrymple
Hay and Chamier, their fathers,
in Board reports, died in Ser-
vice in India. Both these officers
were educated in Europe and
it is for order whether the same
equitable treatment which
India speaks of in the case of
Messrs. Macintyre & Sherman
may not be extended to these
two officers. The only ~~two~~ dif-
ference between the two sets
of cases is that ~~on~~ the fa-
thers of Messrs Macintyre
& Sherman returned, by re-
tiring to England, their ~~residence~~ English
domicile while the fathers
of Messrs Dalrymple Hay and
Chamier died in service in
India. The only remaining
officer is Mr Woodhouse. He is
at present a probationary
By Collator and till he is
confirmed will continue to
draw exchange compensa-
tion allowance under the
new

8
It is quite fair to assume that
they had the animus re-
-vertendi and the case of
their sons w^d
be then on the
same footing as
that of St John

^{of the sons}
The technical domicile is the
same in both ~~cases~~ sets of cases
and

He died in England
and

8
rules. His officer was edu-
ed in England and his father
is stated to have retired from
service in 1890 and to be living
in England. It is submitted
that he too may now be per-
mitted to draw the annuity of
exchange compensation allow-
ance withheld under the old
rules.

Sub
24.2.99
Cmbr
21.2.99

St John

Read again G.O. No. 115. Int 718. 2. 28. (R)

Q. No. 433 From the Board of Rev (Sep. Rev), No. 370, dated 27. 1. 1899/AM

Order. no 305 of 28-2-88

The Govt. considers that

The concession granted to Messrs
Manning & Sherman ~~may~~^{should}
be ~~equally~~ extended to Messrs
C. W. P. St. John, Dalrymple, Hay,
Chamier & A. C. Woodhouse. These
five officers will be ^{held to be} entitled to draw
exchange compensation allmanen
under the old rules.

См. 24

Boat/River (Sep Riv)

Accr Fund

Rev. Sept.

despò

4-3-29

Ref Copy to Ex. Comm. File

The first condition that
the concession granted to them
concerning admission to
~~be~~ admitted to service
C. W. F. St John Telegraph. May,
Pharmaceutical A.C. Institute. This
first officer will be entitled to have
exchange information obtained
under the old rules.

4/3/11
Financial (1899) Department.

ORDINARY PRINTED.

G.O., No. 315

DATED 28-2-89

INDEXED.

10/10

[Despatch Abstract.]

Exchange Compensation allowance

Stating, with remark,
that certain officers of the Salt Affairs
& Customs Dept will be held to be
entitled to draw — under the old rules.

[$\frac{9}{179}$]

The Notes
in these Proceedings have been printed.

7
20/2/89