

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	1297	Press
		~~Mis.~~
2.3		
Dated	17	10 - 19/85

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 13th October 1857.

No. 2. Read the following Extract from the Proceedings of the Right Honorable the Governor General of India in Council, in the Financial Department, under date the 21st August 1857, No. 3666.

Read an endorsement No. 1297, dated the 28th Ultimo, from the Home Department, forwarding for consideration and orders, a letter from the Acting Chief Secretary to the Government of Fort Saint George, submitting for decision a case involving the proper interpretation to be put on the "Deputation" clauses in the Covenanted Civil Absentee Rules, and having reference to the claim of Mr. Cook to Deputation allowance while moving from one officiating appointment to another.

Read the Bengal Civil Auditor's Report on the above subject, No. 1728, dated the 10th Instant.

RESOLUTION.—In October 1855, Mr. Cook, Subordinate Judge of Calicut and Acting Civil Judge of Salem, was appointed (while acting at Salem) to officiate as Civil Judge of Madura. He accordingly joined his new post at Madura, and after acting in it for a few months, was ordered to act as Civil Judge at Calicut. Deputation allowance is claimed by him, both while joining Madura from Salem, and Calicut from Madura.

The Madras Civil Auditor takes exception to the claim on the ground that under Section *Qy. 27. 25* of the Rules, Deputation allowance is payable only from the date on which an Officer enters on the performance of his acting duties and that it ceases on his relinquishment of those duties.

Mr. Cook on the other hand argues that, that Rule can apply only to Officers moved from a post of less emolument to one of a higher; that the changes in his case were of *location* only, he being transferred from one acting appointment to another of equal salary; and that under Section 23, he was fully entitled to draw out of the salary of the Office he was about to join, a sum equal to that of his previous situation.

The Government of Madras thinks that Mr. Cook's claim is well founded, and urges that when a servant holds a substantive appointment, and his services are required by Government in a similar office in another place, he does not lose his permanent salary during the time which is occupied in joining his new station. This principle ought in the opinion of the Madras Government to apply equally to acting appointments, as Government is occasionally obliged to make such changes, as in Mr. Cook's case, to provide for the due performance of public business, and it would be unjust that an Officer thus deputed on public duty to a new station should lose his allowances, while incurring the expense of the move.

The Right Honorable the Governor General in Council, however, observes that it is not usual to grant Deputation allowance to an Officer for the period occupied in moving from one officiating appointment to another, because if such allowance were granted to an Officer so circumstanced and at the same time to the Officer who is actually performing the duties of the office vacated *pro tempore*, it would involve a double charge to the State. The practice of not granting Deputation allowance until an Officer has joined his appointment has moreover the advantage of hastening Officers to their officiating appointments; and as the expenses of moving are covered by a travelling allowance, and as Section 23 is, in the opinion of His Lordship in Council, applicable only to the salary of an Officer moving from one permanent to another permanent one of higher emolument and does not bear upon the case of an Officer proceeding to join his *officiating* appointment, His Lordship in Council considers that Mr. Cook's claim has been justly disallowed by the Madras Civil Auditor.

ORDER.—Ordered, that a copy of the foregoing Resolution be sent to the Home Department for communication to the Government of Fort Saint George, and that a transcript of the same be transmitted to the Civil Auditor Fort William.

(A true Extract.)

(Signed) C. HUGH LUSHINGTON,
Secretary to the Government of India.

Fort St. George, Judicial Consultation, 13th October 1857.

No. 1530.

Forwarded to the Government of Fort Saint George, with reference to Mr. Acting Chief Secretary E. Maltby's letter, No. 766, dated the 3rd July last.

By Order.

HOME DEPARTMENT,
The 14th September 1857. }

(Signed) R. B. CHAPMAN,
Officiating Under Secretary.

No. 3. ORDER THEREON, No. 1297; dated 7th October 1857.

Resolved that a copy of the foregoing communication be furnished to the Civil Auditor and Mr. H. D. Cook, with reference to Extract Minutes Consultation, 3rd July 1857, No. 765 and that it be published in the Fort Saint George Gazette.

(Signed) E. MALTBY,
Acting Chief Secretary.

No. 1297

Resolved that a copy of the foregoing communication be furnished to the Civil Auditor and Mr. H. D. Cook with reference to E. M. C. 3d July 1857 No. 765; and that it be published in the Fort St. George Gazette.

*Fort St. George, }
7 October 1857. }*

*Copy to Civil Auditor }
" Mr. H. D. Cook. }
" Lieut. Govt. Secy. }*

Diary 10th

Secretary to the Govt. of India.

Comptroller

John