MR. O. 1—30,000—16-10-99.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 949 Press ~~Mis~~

77-78

Dated 4 — 8 — 19 /907

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 4th August 1857.

No. 77. Read the following letter from F. LUSHINGTON, Esq., Civil Auditor; to E. MALTBY, Esq., Acting Chief Secretary to Government, dated 6th July 1857, No. 137.

SIR,

I have the honor to acknowledge the receipt of Extract from the Minutes of Consultation, No. 652, in the Judicial Department, dated the 3rd June 1857, requiring me to report, with reference to a letter to Government, from the Court of Sudr Udalut, dated the 25th May last, whether the rules referred to by the Court of Sudr Udalut, respecting occasional absence for five days from the station of their Court of certain Judicial officers, have not been superseded by the Absentee Rules for Uncovenanted Servants, dated the 7th March 1856.

2. In reply, I beg to state that, I am not aware of any orders of Government which speak directly to this point, nor do I see reason indeed to infer, that the rules designed generally for the body of officers not in the Covenanted Service were intended to supersede any long existing rule under which a special privilege, like the one above mentioned, had been secured to any distinct class of servants : and indeed, the fact of the rule, which provides for the occasional absence of a Judge for not more than five days from his station, without loss of salary, having been framed subsequently to the date of the old Absentee Rules of the Covenanted Service of 29th January 1840,* and while the latter *were in operation*, is evidence that it was intended to be irrespective of the provisions of those rules ; and as far as I am aware, has hitherto been regarded accordingly : for the provisions of the succeeding rules of 17th May 1843, 25th August 1854, and 8th June 1855, for the Covenanted Service in respect of privilege leave, not differing materially from those of 29th January 1840, have not been considered to affect the additional rule of 16th November 1841, which provides for the occasional absence of Covenanted Judicial officers for a period not exceeding five days.

*Viz., 16th November 1841.

3. This rule was subsequently extended by the order of Government, No. 553, Judicial Department, dated the 12th September 1842, to Principal Sudr Ameens and Sudr Ameens, and Law Officers, attached to the Courts in the Provinces ; and eventually by the order of Government, dated 15th September 1845, to District Moonsiffs.

† No. 683, Judicial Department.

4. At the above mentioned dates, there were no regular rules for servants not in the Covenanted Service of the Honorable Company, and though such rules have since been framed, dated the 7th March 1856, under which, a month's privilege leave may be granted to such officers generally, yet as in the case of the Covenanted Judicial servants, the General Absentee Rules have not been considered to affect the rule of the 16th February 1841 ; so, by a parity of reasoning, it appears to me, that the orders of Government before quoted, which extend the advantages of that rule to Uncovenanted Judicial officers, should in like manner, not be affected by the General Absentee Rules for Uncovenanted Servants.

(Signed) F. LUSHINGTON,
Civil Auditor.

No. 78. ORDER THEREON, No. 949; dated 4th August 1857.

From Register, 25th May 1857, No. 55

6th November 1841
12th September 1842, No. 553.
and
15th September 1845, No 683.

The Court of Sudr Udalut having requested the Government to extend to the Sheristadars of Civil Courts the provisions of the Rules marginally noted, which permit the absence from their stations of Civil and Subordinate Judges, Principal Sudr Ameens, Sudr Ameens and District Moonsiffs, for a period of not more than five (5) days, when no impediment is caused to public business by such absence, the question was referred for the opinion of the Civil Auditor, who was called upon to state whether the rules referred to, so far as they related to Uncovenanted Officers, have not been superceded by the rules of the 22nd February 1856.

2. The Civil Auditor is of opinion that they have not been so cancelled, and in this view of the case the Government concur. The Civil Auditor shews that this five days' leave is a special pri-

vilege, accorded to certain Judicial Officers, that, through all the changes made in the rules for leave to the Covenanted service, it has never been disturbed, and by a parity of treatment—now that the Uncovenanted service have rules of their own—it cannot be disturbed in the case of Judicial servants of that class.

3. This point being disposed of, it remains to decide whether the class to whom it is now desired to extend the privilege are to be admitted to it. Hitherto the privilege has been limited to Officers performing Judicial functions, but the Government consider that it may be advantageously extended to Sheristadars. The duties of these Officers are arduous, and tie them down so much to the station of their Court, that it is advisable to facilitate their means of obtaining a short leave of absence on urgent occasions. Government therefore accede to the recommendation of the Judges of the Sudr Udalut, and trust to their supervision for preventing the privilege being unduly used.

(Signed) E. MALTBY,
Acting Chief Secretary.

Exd. F. Cartledge.

— For orders —

— The orders of Govt. are requested on the proposal of the Sudr that Civil Judges be allowed to give 5 days leave to the Sheristadars of their Courts on their own responsibility

— Hitherto the privilege of 5 days leave has been limited to the higher judicial officers or those employed in administering the Law, & not to ministerial servants — But if Govt. sees fit to extend the privi-lege to Sheristadars, at the discretion of the Local Judges, there seems no impediment to doing so, & the arrangement would have advantages by relieving the Sudr from petty applications, & enabling Sheristadars, who are tied down to one spot by their duties, to get away occasionally for a day or two.

I approve

11/8

Judicial Deptt.

No. 949

Extract from the Minutes of Consultation
Dated 4th August 1857

Read the following letter from the Civil Auditor

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Here enter 6 July /57 No. 137

From Registrar 25 May /57 No. 55

The Court of Sudr Udalut having requested the Government to extend to the Sheristadars of Civil Courts the provisions of the Rules marginally noted which permit the absence from their stations of Civil and Subordinate Judges, Principal Sudr Ameens, Sudder Ameens and District Moonsiffs for a period of not more than five (5) days, when no

6th November /41
12th September /42 No. 553
and
15 September /48 No. 683

no impediment is caused to public business by such absence, the question was referred for the opinion of the Civil Auditor, who was called upon to state whether the rules referred to, so far as they related to Uncovenanted Officers, have not been superseded by the Rules of the 22d February 1856.

2 The Civil Auditor is of opinion that they have not been so cancelled and in this view of the case the Government concur. The Civil Auditor shows that this five days' leave is a special privilege, accorded to certain judicial Officers that, through all the

changes

changes made in the Rules for Leave to the Covenanted Service, it has never been disturbed, and by a parity of treatment now that the Uncovenanted Service have rules of their own — it cannot be disturbed in the case of Judicial Servants of that Class.

3. This point being disposed of it remains to decide whether the Class to whom it is now desired to extend the privilege are to be admitted to it. Hitherto the privilege has been limited to Officers performing judicial functions but the Government consider that it may

be

be advantageously extended to Sheristadars. The duties of these officers are arduous, and tie them down so much to the station of their Court, that it is advisable to facilitate their means of obtaining a short leave of absence on urgent occasions. Govt. therefore accede to the recommendation of the Judges of the Sudr Adlt and trust to their supervision for preventing the privilege being ~~improperly~~ unduly used.

To the Judges of the C. of S. Adalut
" Civil Auditor — } Desp. d. 10th

31 July
23 Aug

Allowed

In Com: 4 Septemb

Judicial 1857 Depart.

No. 949

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Extract Mins of Cons

D/ 4 August 1857.

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