

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	743	Press Mis.
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Dated	5-6	1948

Not to be folded or roughly handled

Fort St. George, Judicial Consultation, 8th June 1858.

Read the following papers.

No. 53. From T. D. LUSHINGTON, Esq., Collector of Ganjam; to T. PYCROFT, Esq., Chief Secretary to Government, Fort St. George, dated Chetterpore, 21st April 1858, No. 62.

SIR,

I have the honor to forward to you a copy of a letter with original enclosures, as marginally specified, from 2nd Apothecary Mr. D. Hanson, Medical officer of Ganjam, setting forth the grounds on which he claims to receive his full Civil allowances during the period of his absence from Ganjam. It will be observed that from the correspondence with Mr. Knox and the

Letter from the Acting Collector of Ganjam, dated 21st November 1857.
Copy of do. from the Civil Auditor to the Acting Collector of Ganjam, of the 21st December do.
Do. of Acting Assistant Military Auditor General's letter to the Paymaster Vizagapatam, dated 25th July 1855.
6 Bills for compensation for difference between his Military pay and consolidated Civil salary from 22nd October to 31st March last.

Civil Auditor, he had every reason before starting to feel confident that he would not be in any way the loser in obeying the Divisional Orders by Major General Tulloch, dated 10th October 1857, and that his full Civil allowances would be retained by him with the possible addition of Head Money by the Military Department. Mr. Hanson acted on this and drew emoluments for the support of himself and family proportionate to the salary of his office.

2. On his return to Ganjam, he received an order from the Military Department declaring that his claim for Civil salary amounting to 234 Rs. a month, was inadmissible.

3. His letter speaks for itself. The case seems one of such peculiar hardship, that if the Right Honorable the Governor in Council takes the same view of it, I trust he will be able to arrange that Mr. Hanson should not be deprived of his Civil salary during his expedition to Sumbulpore, where this unfortunate officer lost a considerable amount of property, and barely escaped with his own life from robbers. If the Government, while admitting the hardship of the case are still of opinion that the views of the Military Auditor General are in principle sound, may I hope that this may be viewed as a special case, calling for the exercise of liberality, especially as by far the greater portion of the allowances claimed by Mr. Hanson simply go into the coffers of Government.

From 2nd Apothecary D. HANSON, M. R. C. S. & L. M., Medical Officer, Ganjam; to T. D. LUSHINGTON, Esq., Collector of Ganjam, dated Chutterpore, 12th April 1858.

SIR,

I have the honor to acknowledge the receipt of your letter No. 199 of the 7th Instant with its enclosures and in reference thereto, beg leave to bring the following circumstances under your consideration, and solicit the favor of your submitting them, with your kind support, for the favourable consideration of Government.

On the receipt of the Divisional Order by Major General Tulloch, dated Waltair, 10th October 1857 (copy of which is recorded in your Office) directing me *with the sanction of the Civil authorities* (of Ganjam) to proceed to Cuttack and report myself to the Officer Commanding that station for the purpose of taking medical charge of the Left Wing 40th Regiment N. I. at Sumbulpore. I at the time, enquired of Mr. Knox if the movement would affect my salary and how, his reply was that I could not lose by the temporary removal; but that on the contrary I would be a gainer, in as much, that my Civil salary would be continued to me, independent of whatever head money I would be entitled to for my temporary charge, as this was the practice adopted by Civil Surgeons on such occasions, the only doubt remaining was, as to whether my Civil salary should be drawn in the Civil or Military Department. This was soon cleared up by a reference to the Civil Auditor, whose reply was conveyed to me in Mr. Knox's letter No. 682 herewith forwarded. I also forward for your perusal an authenticated copy of letter No. 203 from the Military Auditor General to the Paymaster of this division and another No. 955 from the Civil Auditor to Mr. Knox, both of whom gave it as their unqualified opinion that as I was only temporarily removed, I was entitled to a continuance of my Civil salary. With the opinions of such high authorities for my guidance I did not entertain a moment's doubt but that I should be able to draw all my back pay so soon as I returned to my station; not being able to do so sooner in consequence of the roads being infested with the rebels, and the communication between Sum-

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bulpore and these parts interrupted. Under these circumstances I did not hesitate drawing money upon Receipt from the treasuries at Sumbulpore, Cuttack, and this station, for my support as well as that of my family, who were left at Madras.

Judge then of my dismay upon rejoining my station, to find that the Military Auditor General had decided in his letter No. 274 dated Fort Saint George 18th March 1858 forwarded to your Office, that I was not entitled to the same indulgence as a Covenanted Medical Officer and that consequently my claim for Civil salary at Rupees 234-5-10 monthly from 22nd October last was inadmissible.

Permit me to state for your information that in appointing me to the Medical charge of the Zillah of Ganjam, the Government have honored me with an appointment hitherto never held by any Medical man in the service below the rank of an Assistant Surgeon and in doing so, granted me the same consolidated salary for my Medical duties as would be enjoyed by an Assistant Surgeon when filling a similar post and I humbly venture an opinion that the Government in so honoring me were influenced by the circumstance of my being a Surgeon by profession: notwithstanding that I belong to the subordinate branch of the Medical Department. Permit me also to draw your attention to that part of the Civil Auditor's letter quoted in the Military Auditor General's letter No. 274, wherein that Officer gives it as his opinion that, though special, he considers my appointment a permanent one. Under all these circumstances, I do not think it probable that the Government contemplated depriving me of my Civil salary when temporarily removed from my post to meet a sudden emergency of the Service. A Service in which the duties are much more arduous than in a Civil Station and, as is already known to Government, it was when going to take the field on this occasion, that I lost all my property; and miraculously escaped with my life.

In anticipation of my Civil salary, due from the 22nd October 1857 to 31st March of the current year amounting to upwards of 1200 Rupees, I was induced from time to time to draw sums of money from the treasuries named in the early part of this letter to the amount of rather more than 1000 Rupees, but if I am not to be allowed my Civil salary for the time I was absent, I shall have to make good that money from my future monthly income, which, I need hardly say, will bear very heavily on me, suffering, as I already am, under my recent heavy losses.

In conclusion I beg to observe that, the head money the Military Auditor General says I am entitled to for the Medical Charge of the 40th Regiment N. I. is a mere trifle, for when I have drawn all that is due to me on that account, I will not have realized more than an average of about 30 Rupees monthly during my absence, whereas the amount of my Civil salary forfeited (for no fault of mine) for the same period, is more than 234 Rupees monthly.

I shall therefore feel extremely obliged if you would kindly bring the above circumstances to the notice of Government, with your recommendation of my case for its favorable consideration

(True Copy.)

(Signed) T. D. LUSHINGTON,

Collector.

From Lieutenant J. W. RIDEOUT, Acting Assistant Military Auditor General; to Captain R. W. H. LEYCESTER, Paymaster at Vizagapatam, dated 25th July 1855, No. 203.

SIR,

In returning the Abstracts as per margin, of Assistant Surgeon F. J. Windus, Civil Surgeon of Ganjam, for compensation for loss of difference between Civil salary and Regimental allowances during the period he was employed under the Agent of the Hill Tracts of Orissa, I have the honor by desire of the Military Auditor General to acquaint you, that Assistant Surgeon F. J. Windus, having been temporarily detached on the above duty without prejudice to his Civil appointment, appears entitled to Civil allowance in continuation during the period he was so detached, according to the provisions of M. of C. 29th August 1848, No. 3616, and para. 1, "Absence," page 431, of the Pay and Audit Regulations.

I am further desired to inform you, that as all charges connected with the Agent in the Hill Tracts of Orissa, are paid in the Civil Department, to which any charge for compensation ad-

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missible for loss of allowances occasioned by temporary employment under the Agent would be debitable, reference on points similar to that under reply should be made to the Civil Auditor.

(A true Copy.)

(Signed) R. W. H. LEYCESTER,

Paymaster.

From F. LUSHINGTON, Esq., Civil Auditor; to W. KNOX, Esq., Acting Collector Ganjam, dated 21st December 1857, No. 955.

SIR,

In reply to your letter of the 10th Instant, with enclosures, enquiring from what department 2nd Apothecary D. Hanson, in Medical charge of the Zillah of Ganjam should draw the difference between his Civil and Military allowances during his absence on temporary duty in the Military Department, I have the honor to state my opinion that it should be drawn in the Military Department from the circumstance of Mr. Hanson being only temporarily removed from his Civil duties, he is entitled to a continuation of his salary or to compensation for it, but as his services have been for the time transferred to the Military Department and another officer placed in charge of his Civil duties who receives the usual allowance on that account, it appears to me that the Civil Department will be subjected to a double charge by Mr. Hanson's allowances being borne by it. It would further be objectionable on the principle according to which Civil Medical officers forfeit their allowances in the Civil Department during absence on any account except the privilege leave. Under these circumstances, Mr. Hanson's allowances should I think, be drawn, from the Military Department.

(True Copy.)

(Signed) W. KNOX,

Acting Collector.

From W. KNOX, Esq., Acting Collector; to Mr. D. HANSON, 2nd Apothecary, M. R. C. S. and L. M., Cuttack, dated Berhampore, 21st November 1857, No. 682.

SIR,

In acknowledging the receipt of your letters of the 26th and 27th Ultimo, I have the honor to enclose as requested a Bill of Exchange, No. 161, for Rs. 223-11-4, being the amount of the bill on account of your salary from 1st to 21st Ultimo, just received from the Civil Auditor. The difference between your Civil and Military pay should be drawn in the Civil Department. A certificate of your departure to Cuttack and a 1st Pay Certificate accompany this.

No. 54.

C.

Memorandum.

In returning the 11 documents received with a Memo: from the Deputy Secretary to Government, Judicial Department, dated 8th Instant, the Deputy Military Auditor General has the honor to annex, herewith, the rules quoted in the enclosures that accompanied the letter from the Collector of Ganjam, No. 62, of the 21st Ultimo.

Fort Saint George, }
14th May 1858. }

(Signed) J. STEWART, Major,

Deputy Military Auditor General.

To the Deputy Secretary to Government, Judicial Department.

Extract from the Minutes of Consultation, 29th August 1848, No. 3616, Military Department.

Para. 3. Resolved that Civil Surgeons when detached from their appointments on public duty be considered as coming under the regulations applicable to Staff Officers under similar circumstances.

Pay and Audit Regulations, Section 21, page 431.

Para. 1. A Staff Officer, during absence, from his Department, Corps, or Station, on any duty (except to join his Regiment on service, vide para: 3) ceases to have claim to all office al-

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lowances, including Horse Allowance (except in the cases provided for in para: 6, "Horse Allowance") but continues entitled to full personal Staff salary, as while present; unless, for the performance of the duty which caused his absence, he receives a higher Staff allowance than that annexed to his permanent appointment in which case, he is to draw the former allowance only, while proceeding to, and returning from, duty for which separate and superior remuneration is claimable, as above stated, a Staff Officer is restricted to the Regimental pay and allowances of his rank.

Vide para: 7 of the Despatch from the Honorable the Court of Directors, published in the Fort Saint George Gazette, 12th May 1857, page 764.

(True Extracts.)

(Signed) J. STEWART, Major,
Deputy Military Auditor General.

No. 55.

B.

Memorandum.

With reference to the Memo: from the Deputy Secretary to Government, Judicial Department, dated 15th Instant, No. 157; the Deputy Military Auditor General has the honor to observe that, Mr. Hanson's case does not come under the rules appended to his Memo. of 14th Instant (C); which are solely applicable to Commissioned Officers.

2. Mr. Hanson was authorized by Government in M. of C. Judicial Department, 29th May 1857, No. 631, to draw the consolidated Civil salary of a Commissioned Officer on account of the Civil Medical duties of the Zillah of Ganjam, namely, Rupees 360-10-10, less the subsistence of his rank. Medical Warrant Officers, or subordinates, not being allowed under any circumstances by regulation, to draw the allowances of Medical Superiors, it follows that the case of Mr. Hanson has been withdrawn from the rules which govern ordinary appointments of Medical Subordinates, and his claim to compensation consequent on being detached on duty to Sumbulpore, can therefore, apparently, only be considered with reference to the same special grounds which led to his appointment.

3. According to rule, Mr. Hanson appears entitled, whilst detached on duty at Sumbulpore, simply to the pay and allowances (including full batta) of his rank, namely, Rupees 126-5 per mensem.

Fort Saint George, }
25th May 1858. }

(Signed) J. STEWART, Major,
Deputy Military Auditor General.

To the Secretary to Government, Judicial Department.

No. 56.

ORDER THEREON, No. 743; dated 5th June 1858.

1. With the first of the above papers, the Collector of Ganjam submits a communication from Mr. 2nd Apothecary D. Hanson, the Medical Officer of Ganjam, preferring a claim to his full Civil allowances during the period he was absent from Ganjam on field service at Sumbulpore.

2. It is observed that the Civil Auditor gave it as his opinion, on a reference being made to him by the Collector, that as Mr. Hanson was only temporarily removed from his charge, he was entitled to a continuance of his Civil salary or to compensation for it, and that as another Officer was placed in charge of the duties during his absence, the amount should be drawn in the Military Department. To this, as stated in the correspondence submitted by the Collector, the Military Auditor General objected on the ground that Mr. Hanson was not entitled to the same indulgence as a Covenanted Medical Officer and that consequently his claim to Civil salary was inadmissible.

3. The Collector states that Mr. Hanson proceeded to Sumbulpore on an emergency and with good reason for confidence that he would be allowed to retain his Civil emoluments with the possible addition of head money; and if he were now deprived of these allowances, his case would be one of peculiar hardship, especially as during his expedition he had lost a considerable amount of property from robbers, barely escaping with his own life. Mr. T. D. Lushington urges that

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if Government are disposed to admit the principle on which the Military Auditor General objects to pass Mr. Hanson's Civil allowances, his case may be regarded a special one and be permitted to draw the amount claimed.

4. In his Memo. recorded above, the Deputy Military Auditor General states that the rule laid down in Extract Minutes Consultation 29th August 1848, whereby Civil Surgeons are allowed to retain their Civil allowances when detached from their appointments on public duty, is solely applicable to Commissioned Officers; and that according to rule, Mr. Hanson appears entitled, whilst on duty at Sumbulpore, simply to the pay and allowances of his rank including full batta. Mr. Hanson's case, he however observes, has been withdrawn from the rules which govern ordinary appointments of Medical Subordinates, and his claim to compensation consequent on being detached on duty to Sumbulpore, can therefore apparently be considered only with reference to the same special ground which led to his appointment.

5. The Right Honorable the Governor in Council concurs in the view taken by the Military Auditor General, and as a special case in reference to the circumstances under which Mr. Hanson was originally appointed as Civil Surgeon at Ganjam and to the peculiar incidents connected with his employment in Sumbulpore, he is pleased to sanction the payment to that Officer as compensation, of the difference between the amount of his Military pay and field allowances and his consolidated Civil salary as Medical Officer of Ganjam, during his absence from that station on field service, the same being drawn from the Military Department.

(Signed) T. PYCROFT,
Chief Secretary.

By the Comd^g & C^o Lt Col
 Lt Col 1858 D^o of War
 No 743.
 Extract
 Dated 5th June 1858

Judicial Department

No 743

Extract from the Minutes of Consultation
 dated 5th June 1858

Read the following papers

Letter from the Collector of Bangalore
 (Here enter 21st April 1858 No 62)

Memo from the Dep^y Military
 Auditor General

(Here enter 25th May 1858)

1. With the first of the above

papers the Collector of Bangalore
 submits a communication from
 Mr D^r Apothecary J. Hanson, the
 Medical Officer of Bangalore, re-
 ferring a claim to his full civil
 allowances during the period
 he was absent from Bangalore
 on field service at Secunderpore.

2. It is observed that the
 Civil Auditor gave it as his opi-
 nion, on a reference being made
 to him by the Collector, that as
 Mr Hanson was only temporarily

removed

from his charge, he was entitled
to a continuance of his civil salary
or to compensation for it; and that
as another officer was placed in
charge of the duties during his
absence, the amount should be
drawn in the Military Dep't. To
this, as stated in the correspondence
submitted by the Collector, the
Military Auditor General objected
on the ground that Mr Hanson
was not entitled to the same
indulgence as a commanding
medical officer & that consequently
his claim to civil salary was
inadmissible.

3. The Collector states that
Mr Hanson proceeded to Simbul-
pore on an emergency and with
good reason for confidence that
he would be allowed to retain
his civil emoluments with the
possible addition of extra money;
and if he were now deprived of the
allowances, his case would be
one of peculiar hardship, especially
as during his expedition he lost

a considerable amount of property
from robbers, barely escaping with
his own life. Mr Lushington
urges that if Govt. are disposed
to admit the principle on which
the Military Auditor General
objects to pay Mr Hanson's civil
allowances, his case may be
regarded as a special one & he per-
mitted to draw the amount
claimed.

4. In his Memo recorded
above, the Dep't. Military Auditor
General states that the rule laid
down in G.O. No. 29 Aug.
'48 whereby Civil Surgeons are
allowed to retain their civil
allowances when detached from
their appointments on public
duty, is solely applicable to com-
missioned officers; and that
according to rule, Mr Hanson
appears entitled, whilst ^{on duty} ~~at~~
at Simbulpore, simply to the
pay and allowances of his
rank including full batta.
Mr Hanson's case, he however

consolidated civil salary as medical
officer of Sargaim during his
absence from that station on
field service, - the same being
drawn from the Military Dept.

J.P.

Copy to Coler of Sargaim and to
" Civil Auditor
" Mil. and. Genl.
" Acct General

Dispd 10th
Gues - without further

observes has been withdrawn from
the rules which govern ordinary
appointments of medical subordi-
nates, and his claim to compensa-
tion consequent on being detai-
ned on duty at Sumbulpoor, can
therefore apparently be considered
only with reference to the same
special ground which led to
his appointment.

5. The Right Honble the
Governor in Council concurs
in the view taken by the Military
auditor General, and as a special
case in reference to the circum-
stances under which ^{Mr Hanson} ~~he~~ was
originally appointed as Civil
Surgeon at Sargaim, and to the
peculiar incidents connected
with his employment in
Sumbulpoor, - he is pleased
to sanction the payment to
that officer, as compensation,
of the difference between the
amount of his Military pay
and field allowances and his

Order to be sent to the
7th of the 13th of 1854.
P. 30

Order to be sent to the
7th of the 13th of 1854.
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No. 7/123

Extract Mins. Cons.

Dated 5th June 1854

27-5-54
J. S. S.

53 @ 50.