

MADRAS RECORD OFFICE.

Government of Madras.

Journal DEPARTMENT.

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Dated 28. 2.	19 1887

Not to be folded or roughly handled

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Fort St. George, Judicial Consultation, 25th February 1859.

No. 69. Read the following letter from T. W. GOODWYN, Esq., Civil and Sessions Judge of Salem; to T. PYCROFT, Esq., Chief Secretary, dated 24th February 1859.

SIR,

I have the honor to acknowledge the receipt of a Memo. from the Officiating Civil Auditor, dated 23rd February, stating that, I am only entitled to six months' leave on £1,000 a year, and not to 9 months and 7 days, as I applied for.

The new rules as first framed granted 2 years' sick leave with retention of office, in three periods during the whole length of service, viz., 18 months in two periods, provided more than 15 months were not taken on any occasion, and 6 months under Section VII. The object evidently being to induce Civilians to take no longer sick leave on any occasion than was absolutely necessary for their recovery.

This rule was however shortly modified, and the Home or Indian Governments allowed to grant extensions to two years, thus permitting two years' sick certificate to be taken in one period; vide para. 156, Civil Auditor's Manual.

During above 28 years' service I have only had sick leave to the amount of 1 year, 2 months and 25 days, (viz., from 1st March 1855 to 25th May 1856,) and I therefore think that I am entitled to 3 months and 7 days (the balance due to make up 18 months) under Section VI and an extension of 6 months under Section VII. The latter extension can be granted by the Indian Government as it must be applied for at least three months prior to the expiration of my leave of 3 months and 7 days under Section VI.

The Officiating Civil Auditor in effect states, as Mr. Goodwyn took only 1 year, 2 months and 25 days' sick leave and returned to his duty as speedily as he could, he ought to be punished for so doing, and lose his balance of sick certificate under Section VI (viz. the 3 months and 7 days difference between 1 year, 2 months and 25 days and 18 months.) But, if Mr. Goodwyn had, in 1855-6 taken 18 months' sick certificate, he would now be entitled to exactly the same period, viz., 6 months under VII, on £1,000 per annum, and 12 months under VIII on £500.

I have the best reason for stating that the Civil Auditor Mr. F. Lushington was of opinion that it was competent to the local Government to grant me 9 months and 7 days' leave under Sections VI and VII.

In case Government have any doubt whether my construction of the rules is correct, I should feel extremely obliged if the 9 months and 7 days' leave under Sections VI and VII, on £1,000 a year could be granted me subject to the approbation of the Home Government.

I may add that Civilians who have had 6 or 7 years' sick certificate under the old rules on $\frac{1}{2}$ or $\frac{2}{3}$ of their Indian pay, are permitted under the new rules to take 2 years' sick certificate on £1,000, and 1 year on £500; I cannot therefore imagine that a Government thus liberal towards those who have taken as much sick leave as they could possibly get, intend to construe the rules so unfavorably in the case of a Civilian who, in above 28 years' service has only taken the shortest amount of sick leave that was absolutely necessary, viz., 1 year, 2 months and 25 days, and deprive him of a portion of his 2 years' sick certificate on £1,000,

Referred to the Civil Auditor.

(Signed) T. PYCROFT,
Chief Secretary.

General Department.

No. 95.

REPORT OF THE CIVIL AUDITOR.

With reference to the letter from Mr. T. W. Goodwyn, Civil and Session Judge of Salem, to the address of the Chief Secretary to Government, dated 24th Instant, the Acting Civil Auditor has the honor to observe.—

Fort St. George, Judicial Consultation, 25th February 1859.

I. That all former rules being superseded by those published in the Gazette of the 27th June 1855, No. 2921, their existence must be ignored.

II. That Clause II, Section VI of the Covenanted Service Rules provides for the grant of sick leave once to the extent of 15 or 18 months with retention of Office and moiety of salary; on sufficient cause being shewn this leave may under Clause V of the same Section be extended to two years on the like conditions.

III. That an Officer who has returned to his duties after having been once absent for 15 months at any one time if again compelled to obtain sick leave at any period of his service after 15 years is allowed under Section VII on special grounds, leave of absence for a further period not exceeding 6 months, during which the absentee may retain his Office and half salary under the limits enjoined.

This Section appears exactly to meet Mr. Goodwyn's case, he has obtained leave once for 14 months and 25 days or by the spirit and intention of the rule for 15 months, he is again compelled to obtain a second leave of absence and it can only be granted under Section VII. It is to be observed that Mr. Goodwyn requires not an extension of leave but a second leave.

The leave under Section VII may be extended under Section VIII, but the absentee forfeits both appointment and salary, but may at the discretion of Government be granted an absentee allowance of £500 ^{per} annum.

In conclusion the Acting Civil Auditor begs to observe that he can find no rule or Section except Section VII authorising to a Civil Servant who has once been absent for 15 months the indulgence of further leave of absence with retention of appointment and moiety of salary.

Fort St. George, Civil Auditor's Office,
25th February 1859.

(Signed) J. L. LUSHINGTON,
Acting Civil Auditor.

To the Chief Secretary to Government.

No. 70.

ORDER THEREON, No. 255; dated 25th February 1859.

The Right Honorable the Governor in Council grants Mr. T. W. Goodwyn, Civil and Sessions Judge of Salem, leave of absence on Medical Certificate for 18 months--of which 9

months and 7 days will be under Section VI, Clause 5 of the Absentee Rules*—and the remainder under Clause 6 of the same Section.† The leave will however be subject to the decision of the Home Government on the question which has been raised, whether Mr. Goodwyn be entitled to leave under Section VI, Clauses 5 and 6, or to leave under Sections VII and VIII.

(Signed) T. PYCROFT,
Chief Secretary.

* On £1,000 per annum.
† On £500 per annum.

(2)

I do hereby certify that according to the best of my professional judgment after careful personal examination of his case I consider the state of health of T. W. Goodwyn requires to the end as to render leave of absence for a period of 18 months highly desirable for his recovery.

*Office of District Surgeon
Fort St. George
21st February 1859.*

*Andrew M. M. M. M.
District Surgeon
Fort St. George*

Mineral de p.

No 255.

Extract - Minors of Honor.

Dated 25 Feb 1859

Read letter from Mr W. J. Goddard dated 24 Feb 1859 - with the Civil Service Report

The R.H. & C. presents Mr W. J. Goddard

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see also the annual report of the House of Commons

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 VII. & VIII.

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In Cons. 25 February.

Judicial 1859 Sept^r

J^r L. to Eng^r 12th March
249 of 1859.

N^o 255

Extract Miss Cons.

Dated 25 February 1859.

Granting Mr. J. W.
Goodwyn, Civil and Sessions Judge
of status leave of absence on
Medical Certificate for 18 months

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