M.R.O. 1—30,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT

G.O. No.	1038	Press Mis—
	31-33	
Dated	5 — 4	— 19 1933.

4+3
115+3

Not to be folded or roughly handled

1871

No.

To

J. Pyers of S. Esqre.

Chief Secretary to Govt.

Sir,

I have the honor to acquaint you, for the information of the Government, that according to the Rules in force at the time of Mr Elliot's appointment to Inverell, he has certainly forfeited his claim to full salary for the period allowed for joining - He would have been entitled to full salary payable from the Inverell Judgeship, but the pay of any appointment cannot be drawn till an Officer has taken up that appointment.

Civil Audit Office
18th October 1860.

Inward Dep.

No 1212.

From

W Balmain, Esqre

Offg Civil Auditor.

which in the present case Mr Elliot did not do, and his claim on the full pay has therefore certainly lapsed.

With reference to Para 5 of the letter I would remark that had Mr Elliot joined

for the period of joining to the full pay of his former Office, it was evidently contemplated that it should be a bona fide joining to hold the appointment and though under the letter of the rule an Officer by taking up the new appointment for 24 hours can claim the full pay, yet often as in the present case the letter of the rule and the grant of the indulgence is against the spirit of the rule, it appears to me that the full pay should not be given.

4. The Principal Sudr Ameen was in charge of the Tinnevelly Judgeship from the 7th May to the 19th July & during this period the Salary was not drawn.

joined for even one day he would have been able to claim full salary for the time of joining but in this case the spirit of the rule allowing the claim would have been violated. When Government determined that an Officer appointed to a new post, should be entitled by any order.

5. Some order of Government will be requisite in regard to the interval between 19th of May on which Mr. Elliot made over charge and the 11th of July on

Proceedings of the Madras Government Judicial Department, 5th November 1860.

Read the following papers:—

No. 31. From W. ELLIOT, Esq., Civil and Session Judge of Tinnevelly, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 12th October 1860.

I have the honor to bring to your notice for the purpose of being laid before the Honorable the Governor in Council, the following circumstances connected with my transfer to Tinnevelly from the date of Mr. Frere taking his seat in the Court of Sudr and Faujdári Adálat.

2. I handed over charge of the Court at Cuddapah on the 19th May, so that the limit of my absence from my new appointment, similar in salary and duty to that which I vacated, was the 19th July.

3. In the meantime I became so much affected by the intense heat of Cuddapah, that, I was forced to place myself under Medical treatment, and, from the nature of my malady (as subsequently recorded in my Certificate) the Medical Officer of the Station deemed it dangerous for me at the time to travel.

4. I therefore addressed a letter to the Private Secretary to the Right Honorable the Governor, stating the impracticability of my joining Tinnevelly within the limited period, and that even if I did, it would not be possible for me to stay there. I deemed it improper merely to go through the form of taking charge when the state of my health was such as to render it unadvisable for me to *remain*—a further period must therefore have elapsed before the business of the Civil and Criminal Courts could have been proceeded with or another Officer appointed.

5. Had I joined my new station, gone through the form of assuming charge, and left the place within 24 hours, I am aware that, I should have been entitled *ad interim* to my full salary as Civil and Session Judge, but, I trust that my illness will not be considered any grounds to depriving me of such salary merely because I abstained from going through the form of joining my Station and forthwith quitting it, in conformity with my Medical Certificate.

6. It is possible that according to the strict letter of the Rules, I may not be entitled to the equivalent of my former salary, but there does not appear to be any particular Rule bearing exactly on the case in point.

7. I would further beg respectfully to offer for consideration that it was on the 19th July (the date I should have been at Tinnevelly) that Mr. Goldie, who was appointed to act for me, assumed charge of the Court, so that no portion of the salary as Judge of Tinnevelly was drawn by any other Officer.

8. My indisposition has further obliged me to remain longer in the country than I intended or desired, so that one-third of the period granted has already expired.

9. Under the above mentioned peculiar circumstances, I beg to solicit the kind consideration of Government, with reference to my allowances from 19th May to 19th July 1860.

Forwarded for the report of the Civil Auditor.

FORT SAINT GEORGE,
15th October 1860.

(Signed) T. PYCROFT,
Chief Secretary.

No. 32. From W. BALMAIN, Esq., Officiating Civil Auditor, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 18th October 1860, No. 1,212.

Fixed Department.

I have the honor to report as follows on the case of Mr. W. Elliot, Civil and Session Judge of Tinnevelly.

2. According to the Rules in force, Mr. Elliot, by not joining his appointment at Tinnevelly has certainly forfeited his claim to full salary for the period allowed for joining. He would have been entitled to full salary payable from the Tinnevelly Judgeship, but the pay of any appointment cannot be drawn till an Officer has taken up that appointment, which in the present case Mr. Elliot did not do, and his claim on the full pay has therefore certainly lapsed.

3. With reference to paragraph 5 of the letter, I would remark that had Mr. Elliot joined for even one day he would have been able to claim full salary for the time of joining, but in this case the spirit of the Rule allowing the claim would have been violated. When Government determined that an Officer appointed to a new post, should be entitled for the period of joining to the full pay of his former Office, it was evidently contemplated that it should be a *bona-fide* joining to hold the appointment, and though under the letter of the Rule an Officer by taking up the new appointment for 24 hours can claim the pay, yet when as in the present case the letter of the Rule has not been complied with, and the grant of the indulgence is against the spirit of the Rule, it appears to me that the full pay should not be given.

4. The Principal Sudr Ameen was in charge of the Tinnevelly Judgeship from the 7th May to the 19th July and during this period the salary was not drawn by any one.

5. Some Order of Government will be requisite in regard to the interval between 19th of May, on which Mr. Elliot made over charge, and the 17th of July, on which the Medical leave was granted; at present this period is considered as absence without leave, and should be covered to the extent of 4 weeks by the grant of preparatory leave retrospectively and the remainder by the Medical leave already granted being made retrospective.

No. 33. ORDER THEREON, 5th November 1860, No. 1,438.

Mr. Elliot was transferred from the Zillah Judgeship of Cuddapah to that of Tinnevelly, but never assumed charge of the latter Court. He has, however, solicited Government to grant him the full salary of the Office for the entire period allowed for joining. In the opinion of the Civil Auditor, a copy of whose report will be sent to Mr. Elliot, there are no grounds for acceding to this request.

2. The Civil Auditor points out that the interval between the date on which Mr. Elliot relinquished charge at Cuddapah, and the time from which the Medical leave granted to him takes effect, must be considered as absence without leave. As suggested, therefore, His Honor in Council is pleased to give the leave in question retrospective effect, from the expiring of the preparatory leave for 4 weeks, to which Mr. Elliot is entitled.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

Proceedings of the Madras Govt.
Read the following letters—
From Sr. Elliot, Civil & Sessions Judge of Tinnevelly — Dated 12th Oct. 1860 — No. X
To the Civil Auditor — 13th do. No. 1212.
Order — 5th November 1860. No. 1438.
Mr. Elliot was transferred from the Zillah Judgeship of Cuddapah to that of Tinnevelly, but never assumed charge of the latter Court. He has, however, solicited Govt. to grant him the full salary of the office for the entire period allowed for joining: In the opinion of

Tinnevelly

3. With reference to paragraph 5 of the letter, I would remark that had Mr. E

of the Civil Auditor, a copy of whose report will be sent to Mr. Elliot, there are no grounds for acceding to this request.

2. The Civil Auditor points out that as the interval between the date on which Mr. Elliot relinquished charge at Cuddalore & the time from which the Medical leave granted to him takes effect, must be considered as absence without leave. As suggested, therefore, His Honor in Council is pleased to give the leave in question

Exd. F. Cartledge.

question retrospective effect, & with the exception of the Journatory leave for 4 weeks, to which Mr. Elliot is entitled.

The Civil Auditor.
Mr. W. Elliot Civil & Sessions Judge of Tinnevelly.
Copy of Court's letter dated

Proceedings of the Madras Government, Judicial Dep
5th November 1860.

3. With reference to paragraph 5 of the letter, I would remark that had

Fort St. George
Judl Department
Sham
The Offg Civil Auditor
To
The Chief Secretary to
Government
Dated 18th October 1860
Recd 19th
No 1212
No 1732.
Reports on Mr. Elliots
Claims to full allowances —
while proceeding to Join his —
Appointment at Tinnevelly

Feb 1860

Exd. P. Cartledge.

Letter and Order.

Madras 12th October 1860.

From
W. Elliot Esqre
Civil and Session Judge
Tinnevelly

To
T. Pycroft Esqre
Chief Secretary to Government
Fort Saint George

Sir,

I have the honor to bring to your notice for the purpose of being laid before the Honorable the Governor in Council, the following circumstances connected with my transfer to Tinnevelly from the date of Mr. Trevelyan taking his seat in the Court of Sudr and Foujdari Adalat.

2. I handed over charge of the Court at Coddapak on the 19th May so that the limit of my absence from my new appointment, similar in Salary and duty to that which I vacated, was the 19th July.

3. In the mean time I became so much affected by the intense heat of Cuddapah that, I was forced to place myself under medical treatment — and, from the nature of my malady (as subsequently recorded in my Certificate) the Medical Officer of the Station deemed it dangerous for me at the time to travel.

4. I therefore addressed a letter to the Private Secretary to the Right Honorable the Governor, stating the impracticability of my joining Tinnevelly within the limited period, and that even if I did it would not be possible for me to stay there. I deemed it improper merely to go through the forms of taking charge when the state of my health was such as to render it

unadvisable

inadvisable for me to remain a further period must therefore have elapsed before the business of the Civil and Criminal Courts could have been proceeded with or another Officer appointed.

5 Had I joined my new Station, gone through the form of assuming charge, and left the place within 24 hours, I am aware that I should have been entitled ad interim to my full Salary as Civil and Sessions Judge, but, I trust that my illness will not be considered any grounds to depriving me of such Salary merely because I abstained from going through the form of joining my Station and forthwith quitting it, in conformity with my medical certificates.

6. It is possible that according to the strict letter of the rules, I may not be entitled to the equivalent of my former Salary, but there does not appear to be any particular rule bearing exactly on the case in point.

7 I would further beg respectfully to offer for consideration that it was on the 19th July (the date I should have been at Tinnevelly) that Mr. Goldie, who was appointed to act for me, assumed charge of the Court, so that no portion of the salary as Judge of Tinnevelly was drawn by any other Officer.

8 My indisposition has further obliged me to remain longer in the country than I intended or desired, so that one third of the period granted has already expired.

9 Under the above-mentioned peculiar circumstances, I beg to solicit the kind consideration of Government, with reference to my allowances from 19th May to 19th July 1860.

I have the honor to be,
Sir,
Your most obedient Servant.

W. Elliot
Civil & Sessions Judge of Tinnevelly