M.R.O. 1—33,000—16-10-23.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 598-99 Press ~~Misc.~~

107-109

Dated 14.4.1862 ~~10~~ .

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
14th April 1862.

No. 107. Read the following letter from A. W. PHILLIPS, Esq., Civil and Session Judge of Chingleput; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 27th March 1862, No. 118.

I have the honor to acknowledge the receipt of Proceedings of Government, under date the 14th February, No. 228, declining to authorize the payment of my salary of Civil and Session Judge for the 3 months of last year, during which I was absent on privilege leave.

The Government remark that the salary of an appointment is claimable only from the date of actual assumption of Office, "that so long as I was detained by Order of Government as Acting Zillah Judge of Salem, the rule was in abeyance, but that on my quitting that station, it again became operative." I beg that His Excellency in Council will re-consider this decision, and submit, that on the same principle on which the rule in question was kept in abeyance for the period during which I acted as Zillah Judge of Salem after my permanent appointment to this Court, it ought to be considered inoperative for the period during which I was compelled to be absent on leave, before joining. It was on the ground that the requirements of the Public Service necessitated my remaining at Salem, and on the principle that a public Officer ordered to perform a particular duty, ought not on that account to lose the salary of his proper appointment, that I was permitted to draw the full salary of a Session Judge while acting at Salem. Had I been allowed to take up my permanent appointment on being Gazetted to it, and had I subsequently been compelled to quit my station on leave, I should as a matter of course have drawn pay as a Session Judge for the period of my absence. It was an Order of Government which prevented my taking up my permanent appointment, and it was as the Government are aware, a circumstance entirely beyond my own control, viz., a serious illness that compelled me to quit Salem, and to obtain the leave which the Governor in Council has been since pleased to commute into privilege leave. It was therefore altogether owing to the order which required me to remain at Salem after my appointment to Chingleput that I was brought under the operation of the rule under which the Civil Paymaster has acted, and the same reasons I would submit, which were considered to exempt me from its operation whilst actually employed on duty, should exempt me from its operation for the period which I was *compelled* to pass on leave in consequence of illness contracted in the performance of that duty, the same argument it appears to me would apply if my absence had been caused by any other emergency which the Government had recognized as sufficient to justify my being granted leave. In other words I ought not, in consequence of the requirements of the Public Service having prevented my joining my appointment in the usual course, to be subjected to a loss, which but for this circumstance would not have been entailed on me.

My case I would respectfully observe is a special one, and has been treated as such already by Government up to a certain point and I would submit, that there is no valid reason for bringing it under the operation of the ordinary rules at the point at which the Civil Paymaster has applied them. I feel confident that the Governor in Council will on consideration of all the circumstances see the hardness of my being so heavy a loser, pardon my importunity, and treat the case as one not to be dealt with by the ordinary rules. Should His Excellency however think he would not be justified in granting my prayer, I would respectfully beg that the case be referred to the Secretary of State with any recommendation this Government may see fit to add.

No. 108. ORDER THEREON, 14th April 1862, No. 598.

Resolved that the claim of Mr. A. W. Phillips to the full salary of a Zillah Judge during the period of his privilege leave be submitted for the favorable consideration of the Government of India, in reference to their Proceedings in the Financial Department, dated 2nd February 1860, No. 1,338, and that the following letter be despatched.

(Signed) T. PYCROFT,
Chief Secretary.

Proceedings of the Madras Government, Judicial Department, 14th April 1862.

No. 109. To the Secretary to the Government of India, Financial Department, dated Fort Saint George, 14th April 1862, No. 599.

I am directed by His Excellency the Governor in Council to submit the following case for the favorable consideration of the Government of India in reference to their Proceedings of 2nd February 1860, No. 1,338, Financial Department.

2. Mr. A. W. Phillips, Subordinate Judge of the Zillah of Madura was, whilst acting as Zillah Judge of Salem, promoted to be Zillah Judge of Chingleput, but directed to continue to act as Zillah Judge of Salem until further orders.

3. After he had continued to act for some further time at Salem, Mr. Phillips fell ill, and proceeded on three months privilege leave to the Neilgherry Hills for the benefit of his health. On the expiration of his leave he joined his proper appointment at Chingleput.

NOTE.—Whilst so acting Mr. Phillips drew the full pay of a Zillah Judge.

Extract from the Proceedings of the Government of India in the Financial Department, dated 27th June 1859, No. 6,306.

4. Mr. Phillips' salary during this absence has been passed to him at that of a Subordinate Judge, or Rupees 1,400 per mensem, on the ground that he had not joined his Station at Chingleput. Against this decision Mr. Phillips has however appealed and represented that the illness which obliged him to take his 3 months leave was contracted at Salem, and in consequence of his detention there under the Orders of Government, and that had he, on his promotion, been allowed to join his appointment at Chingleput which is a more healthy station and a lighter Court than Salem, he would not have been compelled to take the leave at all; or had he done so, would have drawn his full Judge's salary.

5. It seems to Government that this plea is well founded, and that Mr. Phillips should not be subjected to disadvantage in consequence of his having been prevented from at once taking up his new appointment from the exigencies of the public service. I am therefore to ask the sanction of the Supreme Government for paying to Mr. Phillips his full salary as Zillah Judge for the period of three months that intervened between his giving over charge of the Salem, and receiving that of the Chingleput Court.

6. I have further to request that to obviate the necessity for such references in future, this Government may be permitted discretionary authority to pass the full salaries, in any similar instances, in which the circumstances under which the parties were prevented from joining their appointments on promotion may seem to them to constitute a fair claim to the allowance.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. T. O'Connor.

Judicial Dept.

Proceedings of the Madras Govt.

Read the following letter from Mr A.W. Phillips Civil & Sessions Judge of Chingleput

(M.G. 27 March 1862 - No 118)

Order thereon. 14th April 1862. No 598.

Resolved that the claim of Mr A.W. Phillips to the full salary of a Zillah Judge during the period of his privilege leave be submitted for the favorable consideration of the Govt of India, in reference to their Proceedings in the Financial Department dated 2d February 1860 No 1338 - and that the following letter be despatched.

To the Secy to the Govt of India. Fin. Dept. (M.G. April 1862 No)

on the expiration of his leave he joined his proper appointment at Chingleput.

4. Mr Phillips' salary during this absence has been passed to him at that of a Subordinate Judge, or Rs. 1400 per mensem on the ground that he had not joined his station at Chingleput. Against this decision Mr Phillips has however appealed and represented that the illness which obliged him to take his 3 months leave was contracted at Salem, and in consequence of his detention there under the orders of Govt. and that had he, on his promotion, been allowed to join his appointment at Chingleput which is a more healthy station and a lighter Court than Salem, he would not have been compelled to take the leave at all, or had he done so, would have drawn his full Judge's salary. H

5. It seems to Govt that this plea is well founded, and that Mr Phillips should not be subjected to disadvantage in consequence of his having been prevented from at once taking up his new appointment from the exigencies of the public service. I am therefore to ask the sanction of the Supreme Govt for paying to Mr Phillips his full salary as Zillah Judge for the period of three months that intervened between his giving over charge of the Salem, and receiving that of the Chingleput Court.

6. I have further to request that to obviate the necessity for ~~similar~~ such references in future, this Govt may be permitted discretionary authority to pass the full allowances, in any ~~such~~ instances Islands in which the circumstances

H

under which the parties are prevented from proving of the case may seem to them to warrant it.

I have &c.

J P

Their appointment as or promotion being seen & taken to constitute a fair claim to the allowance. ~~contemplated~~.

Fort St George,
14th April 1862.

Civil Appeal

Sub. 1862 Sept.
Proc. of Govt.
No. 599.

To The Secy. to the
Govt. of India.
Civil Dept.

No. 1093-62-16 June 928/1043
Dated the 4th April 1862.

Submitting for the favorable consideration of the Government of India Mr. A. W. Phillips's claim to the full salary of a Zillah Judge for the period of his privilege leave.

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