M.R.O. 1—32,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 1385 Press
Mis.

224-226

Dated 26.8.1863. 19

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
26th August 1863.

Read the following papers:—

No. 224 From F. S. CHILD, Esq., Civil Judge of Cuddapah; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Madras, dated Cuddapah, 11th August 1863, No. 307.

I have the honor to forward translation of a petition addressed to me by the late Acting Moonsiff of Vempully, regarding certain balance of pay due to him, which the Civil Auditor refused to pass.

The circumstances of the case are briefly as follows:

W. Nursimmiah was appointed some time back Acting Moonsiff of Vempully in this District, his acting appointment to be converted into a substantive one on his passing the required examination.

In March last, being entitled to privilege leave, he asked for and obtained six weeks' leave.

Some months before this, certain complaints having been made against him, an investigation was made into the charges and the result forwarded to the High Court, and after certain correspondence on the subject, the Honorable the Judges eventually directed his removal.

It so happened that the order for his removal was received while the Acting Moonsiff was on leave, a coincidence that could not possibly have been anticipated either by himself when asking for the leave, or by me when forwarding his application for leave to the High Court; for the investigation was one which necessarily took a long time, and it was impossible to say when a final decision might be arrived at.

The Civil Auditor declines to pass his Bill for pay from the time that his leave commenced till the date of his dismissal, but gives no grounds for so doing, nor does he quote any rule; he merely states in his note, a copy of which is forwarded, that the Governor General had expressed an opinion to the effect that in such cases pay was not to be drawn.

The Moonsiff was entitled to his leave, and I must say I was not aware of any such ruling as that referred to by the Civil Auditor, neither do I see the justice of it; as by it a public servant is deprived of pay due to him while still in the service, on the ground that he was on leave, to which leave he was entitled, and which was granted to him by the rules of the service.

I have therefore to request that the correctness or otherwise of the ruling of the Civil Auditor may be taken into the consideration of His Excellency the Governor in Council.

No. 1,091.

OFFICIAL MEMORANDUM.

Judicial Department.

Your letter No. 248 of the 17th Instant.

The salary of Nursimmiah, late Acting 3rd Class District Moonsiff of Vempully, from 16th March to 15th April last, is inadmissible, with reference to an opinion expressed by the Government of India, that an Officer dismissed while on privilege leave, is not entitled to pay for the period of absence on such leave. Nursimmiah's removal from office amounts to a dismissal.

Enclosed Bill is returned.

FORT SAINT GEORGE,
CIVIL PAYMASTER'S OFFICE,
3rd August 1863.

(Signed) W. J. RAYNOR,
Officiating Civil Paymaster.

(True Copy.)

(Signed) F. S. CHILD,
Civil Judge.

To the Civil Court of Cuddapah.

The humble petition of W. NURSIMMIAH,
Pleader of the Court.

That I had been as Acting Moonsiff of Vempully. The Government Order, dated 22nd February 1856, declares a servant be entitled to privilege leave for services rendered by him previously. It would appear from the letter of 20th February last, addressed by this Court, and by the Fort Saint George Gazette, dated 3rd March, that privilege leave was granted me under

Section VII of the Uncovenanted Civil Service Absentee Rules. It does not also appear from the Civil Paymaster's letter that there is any specific order to exclude my claim to pay during the time I was on leave, I therefore pray that the salary, from 10th March to 15th April last, to which I have strong claim, according to Uncovenanted Civil Service Absentee Rules, may be sent for and paid to me.

(Signed) W. NURSIMMIAH,
Pleader.

6th August 1863.

(True Translation.)
(Signed) F. S. CHILD,
Civil Judge.

Referred to the Civil Paymaster for his remarks.

FORT SAINT GEORGE,
14th August 1863.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

No. 1,083.

No. 225. OFFICIAL MEMORANDUM.

Judicial Department.

With reference to the Chief Secretary's endorsement on the letter from the Civil Judge of Cuddapah, No. 307, dated 11th instant, the Officiating Civil Paymaster has the honor to state that W. Nursimmiah, Acting District Moonsiff of Vempully, was removed from office while absent on six weeks' privilege leave under the circumstances mentioned in the accompanying copy of Proceedings of the High Court.

The Uncovenanted Service Absentee Rules require return to duty from privilege leave, to entitle an Officer to salary for the period of absence on such leave; but as Nursimmiah was unable to resume his duties owing to the decision of the High Court, and as his removal under the circumstances amounted to dismissal from office, he was considered, for the period he was absent on leave, to have no claim to pay, with reference to a letter from the Financial Secretary to the Government of India, quoted in the note to paragraph 285, Uncovenanted Service Vade Mecum.

NOTE.—The Government of India in their letter to Civil Paymaster, dated 6th October 1862, No. 2003, Financial, observe, that in a general view, it seems clear that an Officer who may be on privilege leave when sentence of dismissal is passed upon him, is entitled to no pay for the period of his privilege leave before dismissal.

(Signed) W. J. RAYNOR,
Officiating Civil Paymaster.

CIVIL PAYMASTER'S OFFICE,
FORT SAINT GEORGE,
19th August 1863.

To the Chief Secretary to Government.

Proceedings of the High Court of Judicature at Madras, dated 11th April 1863.

Read again letter dated 24th February 1863, from the Civil Judge of Cuddapah, reporting upon certain complaints made against the District Moonsiff of Vempully.

Read also reply of the Civil Judge, dated 31st ultimo, to the Proceedings of the High Court, dated 6th March, requiring the Civil Judge to submit a clear statement of the charges on which the Acting District Moonsiff has been arraigned and the evidence by which they are supported.

The Civil Judge states, that the charges against the Acting District Moonsiff are, that he is guilty of great partiality; that his decisions are such as to destroy all confidence in his honesty, and that he is arbitrary and illegal in his conduct towards parties resorting to his Court.

2. The Civil Judge considers these charges to be fully established, and recommends that Nursimmiah, the Acting District Moonsiff of Vempully, be suspended for one year, and not allowed to resume his duties as a District Moonsiff, until he shall have passed the prescribed examination test.

3. It is clear to the High Court from the circumstances brought to notice by the Civil Judge, that Nursimmiah is not a person whose conduct is calculated to accredit the administration of justice, that he has either been knowingly guilty of palpable impropriety, or is so ignorant of the mode in which his duties should be conducted as to render his confirmation in his

present situation most inadvisable. With these facts before them, and with the recorded opinion of the Civil Judge, that the conduct of the Moonsiff gives great and just dissatisfaction to the people, the Judges feel bound to remove him, and direct the Civil Judge to submit for their approval a fresh nomination.

(True Extract.)
(Signed) THOMAS WILKINS,
Deputy Registrar.

(True Copy.)
(Signed) C. A. VINT,
Acting Chief Assistant to Civil Paymaster.

No. 226. ORDER THEREON, 26th August 1863, No. 1,385.

It having been ruled by the Government of India that "an Officer who may be on privilege "leave when a sentence of dismissal is passed upon him, is entitled to no pay for the period of his "privilege leave before dismissal;" the Governor in Council cannot comply with the Civil Judge's recommendation that W. Nursimmiah, late Acting District Moonsiff of Vempully, should be granted pay for the period of his absence previous to his dismissal under the orders of the High Court.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. T. O'Conner.

Supplemental Indent.

Her Majesty's Government of India — Dr.

To The Cay of the District Accountant of Vempally.

Name.	Office	Salary per Month.	Deduction on account of Income Stoppage &c.	Balance	Deduction on account of the Income tax to be made on the amt in the Balance Column. at 3 per cent	at 1 per cent	
N. Narsaraniah from 10th to 31st March 1863	Ag. 3rd class District Accountant of Vempally	200 " " " " "		141 15 -	4 4	1 5	The absentee left the station on the 10th March and was removed from his post on the 16th April 1863.
Do from 1st to 15th April 1863	Do	200 " "	100 " "	100 " "	3 "	1 "	
	Total Rupees	400 " "	100 " "	241 15 -	7 4	1 5	

Cuddapah Civil Court 17th July 1863

Asst Civil Judge

CIVIL PAYMASTER'S OFFICE JY 20 1863

ACCOUNTANT GENERAL'S OFFICE AUG 5 1863

Judicial Department

Proceedings of the Madras Government

Read the following letter from the Civil Judge of Cuddapah.

Dated 5th October 1863 No 307

Read also the following Memo from the Officiating Civil Engineer.

(Dated 5th October 19th August 1863 No 1083)

Order thereon 28th August 1863 No 1385.

It having been ruled by the Government of India that "an Officer who may "be on privilege leave when "a sentence of dismissal "is passed upon him, is "entitled to no pay for "the period of his privilege "leave before dismissal" the Governor in Council cannot comply with the Civil Judge's recommendation that Mr Kurrimmiah, late

Enclosure No 3 to Con. Dept. from the Civil Engineer Cuddapah dated 19th August 1863 No 1083 forwarding the Civil Judge's letter of 5th October 1863 No 307 with enclosure

Order No 1385 dated 28th August 1863.

Received 4th November 1863

Read 11th November 1863