M.R.O. 1—38,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 217 Press Mis.

78-85

Dated 10.2.1883 19 .

7/8

Not to be folded or roughly handled

Read the following papers:—

No. 78. From J. H. GOLDIE, Esq., Civil and Session Judge of Tinnevelly; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Tinnevelly, 19th January 1863, No. 35.

As the state of my health compels me to apply for leave of absence from my duties, I have the honor to forward enclosed for the consideration of Government the prescribed Certificate respecting it, and to request that the sanction of Government may be obtained permitting me to proceed to Europe for fifteen months under Sections IV, V and VI of the Covenanted Service Absentee Rules, and for one month's leave of absence preparatory thereto to enable me to proceed to Madras for embarkation to Europe.

Forwarded for the Orders of Government.

By Order.

(Signed) C. F. CHAMIER,
Registrar.

26th January 1863.

No. 8.

Eligible under Section VII of the Rules to six months' sick leave and to one month preparatory thereto.

Mr. Goldie having been absent for six months under Section VI of the Rules in 1856 is not entitled to a second leave under that rule—Vide Despatch of the Secretary of State for India, No. 114, dated 16th July 1861, communicated in Orders of the Government of India, No. 11,015, dated 28th August 1861, copy herewith sent.

(Signed) H. A. MANGLES,
Officiating Civil Paymaster.

27th January 1863.

To the Chief Secretary to Government.

Extract from the Proceedings of the Government of India in the Financial Department, dated 28th August 1861, No. 11,015.

Read a Financial Despatch from the Secretary of State, No. 114, dated the 16th July 1861, on the subject of the leave granted to Mr. H. H. Robinson, a Civil Servant on the Bengal Establishment.

Ordered, that a copy of the above Despatch be sent to the Civil Paymaster, Bengal, for information and guidance.

Ordered, also, that an extract, paragraphs 2 and 3, be sent to the Civil Paymasters, Madras Bombay, North-Western Provinces, and Punjab, for information and guidance.

(A true Extract.)

(Signed) C. H. LUSHINGTON,
Secretary to the Government of India.

Extract paragraphs 2 and 3 of a Financial Despatch from the Right Honorable the Secretary, of State for India, No. 114 of 1861, dated the 16th July.

2. Mr. Robinson has forwarded to this office the Certificate granted to him by your Civil Auditor, from which it appears that he has been granted leave for one month and 16 days under Clause II, Section VI of the Civil Absentee Rules, being the balance of the leave for 18 months to which he was admitted in January 1857 under the same Section.

3. The Absentee Rules do not provide for the grant of a second sick leave to a Civilian with an allowance and retention of appointment, unless he be of more than 15 years' standing,

moreover the grant of leave for a period so short as to preclude a return within it is obviously erroneous.

(True Extract.)
(Signed) C. H. LUSHINGTON,
Secretary to the Government of India.

(True Copies.)
(Signed) C. A. VINT,
Ag. Head Asst. to Civil Paymaster.

No. 79. From J. H. GOLDIE, Esq., Civil and Session Judge of Tinnevelly; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Tinnevelly, 19th January 1863, No. 36.

With reference to the application transmitted by me on this date for leave of absence from my duties to proceed to Europe for fifteen months on sick Certificate under Sections IV, V and VI of the Covenanted Service Absentee Rules, and for one month's leave preparatory thereto, I have the honor to request that the sanction of Government may be obtained permitting me to deliver over charge of the Civil and Session Court at this station on the 23rd proximo to the Officiating Principal Sudder Ameen in the event of the Fort Saint Gazette containing my leave not having reached me by the above date.

(True Copy.)
(Signed) C. F. CHAMIER,
Registrar.

The Chief Justice and Judges recommend that the Civil Judge may be authorized to deliver charge of the Court to the Principal Sudder Ameen if any delay should unavoidably occur in the appointment of an Officer to act for Mr. Goldie during his absence.

(By order.)
(Signed) C. F. CHAMIER,
Registrar.

26th January 1863.

No. 80. From J. H. GOLDIE, Esq., Civil and Session Judge of Tinnevelly, to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Judicial Department, Madras, dated Tinnevelly, 1st February 1863, No. 78.

In reply to your memorandum of the 27th ultimo, fowarding a copy of the Civil Paymaster's endorsement on my application for leave, from which it appears that I am only entitled under Section VII of the rules to six months' leave and to one month preparatory thereto, I have the honor to state that the said amount of leave is quite insufficient for the re-establishment of my health, and therefore to request that the sanction of Government may be obtained permitting me to proceed to England on furlough for three years under Section XV of the Absentee Rules with the benefit of the furlough allowance and with one month's preparatory leave thereto, and as all my arrangements have been made for leaving Madras by the first Steamer in March and my health is very indifferent that I may be permitted to deliver over charge of the Court on the 23rd instant to the Officiating Principal Sudder Ameen, and that the consent of the Government to my doing so may be communicated to me by Telegraph, if the orders of Government cannot reach me in time by post.

No. 81. From J. H. GOLDIE, Esq., Civil and Session Judge of Tinnevelly; to C. F. CHAMIER, Esq., Registrar of the High Court of Judicature, Madras, dated Tinnevelly, 2nd February 1863, No. 79.

I have the honor to report for the information of the Chief Justice and the Judges of the High Court of Judicature that I am prevented by severe indisposition from holding the usual Sessions in this month and carrying on the duties of the Court, and that the state of my health will not permit me resuming my duties in the Court before the leave of absence from my duties for which I have applied under the prescribed Medical Certificate appears in the Gazette.

(True copy.)
(Signed) C. F. CHAMIER,
Registrar.

Forwarded for the information of Government..
(Signed) C. F. CHAMIER,
Registrar.

7th February 1863.

No. 82. From J. H. GOLDIE, Esq, Civil and Session Judge of Tinnevelly; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Judicial Department, Fort Saint George, dated Tinnevelly, 3rd February 1863, No. 80.

1. With reference to my application of the 1st instant, to be permitted to proceed to England for three years on furlough, which was made in consequence of the Civil Paymaster having stated that I was not entitled to the leave for fifteen months on sick Certificate for which I had applied, and only entitled under Section VII of the rules to six months' leave, and to one month preparatory thereto, conceiving that the Civil Paymaster has taken an erroneous view of my right to the leave for which I applied, I have the honor to withdraw my application for furlough, and to request that the Civil Paymaster's objections to my obtaining leave for fifteen months may be duly considered by the Government, and that I may be informed whether the Civil Paymaster's ruling in regard to my leave is considered by the Government to be valid or not.

2. I beg to state for the information of His Excellency the Governor in Council, that I have only been absent for six months on sick leave during a period of fourteen years and four months continuous duty, and that I consider that I am clearly entitled to the balance of the leave of eighteen months on sick Certificate as allowed under Section VI of the Absentee Rules.

3. Section VII of the Absentee Rules, which the Civil Paymaster has quoted in his endorsement on my application for fifteen months' sick leave, expressly states that if a Civil Servant of more than fifteen years' standing, after having been absent for eighteen months on the whole, or for fifteen months at one time, at whatever period of his service such sick leave shall have been taken, shall be again compelled by the same cause to apply for leave of absence, he shall be allowed leave of absence for a further period of six months, retaining his office and half his salary.

4. With reference to the above rule, I beg to state that I have never been absent on sick leave for eighteen months on the whole or for fifteen months at a time, and as the said rule evidently grants permission to a Civil Servant to be absent on sick leave for eighteen months on the whole at any time of his service, and I am a servant of more than fifteen years' standing, it appears to me that I am clearly entitled to make up my sick leave to eighteen months on sick Certificate and to be absent on sick leave for a further period of twelve months, and that if my health is not re-established within twelve months I am entitled to obtain six months further leave under Section VII of the rules with retention of office and half salary.

5. I beg to observe that if the Civil Paymaster's ruling is to be upheld, it would appear that a Civilian having taken leave for one month only on sick Certificate under Sections IV, V and VI of the rules at any time of his service would be debarred from taking any further leave again under the same rules; this surely cannot be a proper interpretation of the rules.

6. With regard to the Despatch of the Secretary of State for India, No. 114 of 1861, dated the 16th July, to which the Civil Paymaster refers in his endorsement on my application for sick leave, it appears to me to refer to an Officer having taken all the leave on sick Certificate to which he was entitled under Sections IV, V and VI of the Absentee Rules, or if not, having taken the full amount of leave, that so small a portion of leave has been left him to avail himself of under those rules, that he could not return to his duties within the prescribed period.

7. I have now therefore to request that the sanction of Government may be obtained permitting me to proceed to England for twelve months on sick Certificate under Sections IV, V and VI of the Absentee Rules, with one months' leave preparatory thereto, and that in the event of the Government being of opinion that I am not entitled to any leave under Section VI of the Absentee Rules, my application for furlough to England for three years under Section XV of the Absentee Rules, with one months' leave preparatory thereto may stand, and that I may be favored with a copy of the Orders of Government refusing my application for sick leave under Section VI of the above rules.

Proceedings of the Madras Government, Judicial Department,
10th February 1863.

Referred to the Civil Paymaster for early report.

(Signed) P. P. HUTCHINS,
Deputy Secretary to Government.

FORT SAINT GEORGE,
9th February 1863.

No. 83. From H. A. MANGLES, Esq., Officiating Civil Paymaster; to P. P. HUTCHINS, Esq, Acting Deputy Secretary to Government, Fort Saint George, dated 9th February 1863, No. 46.

General Department.

I have the honor to acknowledge receipt of your docket dated this day, forwarding for report a letter from Mr. Goldie regarding his application for sick leave under Section VI of the Rules.

2. In paragraph 3 of his letter, Mr. Goldie quotes Section VII which rules that a Civil Servant of more than 15 years' service after having been absent for 18 months on the whole or for 15 months at any one time, can only be allowed leave of absence for a further period of six months.

3. Mr. Goldie then observes that never having been absent on sick leave for 18 months in the whole or for 15 months at any one time he is entitled to take a *second leave* to make up the full period of 18 months in addition to the 6 months granted under Section VII.

4. In paragraph 3 of the Extract from the Despatch from the Secretary of State for India, without referring to Mr. Robinson's case in particular, it is observed, "the Absentee Rules do not provide for the grant of a *second sick* leave to a Civilian with an allowance and retention of office, unless he be of more than 15 years' standing." This latter proviso plainly refers to Section VII of the Rules, which limits such leave to 6 months.

5. With the above opinion fully quoted to him in my Memorandum, I am at a loss to understand how Mr. Goldie can consider that he is "clearly entitled to *make up* his sick leave to 18 months."

6. Mr. Goldie is eligible to 3 years furlough under Section XV and a month's preparatory leave.

No. 84. Telegram from Mr. GOLDIE, Palamcottah, through Tuticorin; to the Chief Secretary to Government, Madras, dated Palamcottah, 5th February 1863, No. 241.

Beg to withdraw application for furlough, pending reference to Government. 5th, 13-19.

No. 85. ORDER THEREON, 10th February 1863, No. 217.

The report made by the Officiating Civil Paymaster, under date the 9th instant, will be communicated to Mr. Goldie. The Officiating Civil Paymaster's construction of the Absentee Rules as applicable to Mr. Goldie's case, is, it is observed, in accordance with the rule laid down in the Secretary of State's Despatch of the 1st June 1859, to the effect that a second leave granted to a Civil Servant under Section VII of the rules must be limited to six months.

2. The Governor in Council is therefore unable to comply with Mr. Goldie's application for 15 months' leave on Medical Certificate. Being of opinion, however, that the rules as contained in the Despatch above referred to bear very hardly upon such a case as that of Mr. Goldie, and in a manner which would scarcely have been contemplated when the rules were framed, the Government resolve to grant six months' leave to Mr. Goldie under Section VII of the Absentee Rules and to recommend to the Right Honorable the Secretary of State that the ruling above referred to be reconsidered and that Mr. Goldie's leave be extended under the Medical Certificate which he has furnished to 15 months; and that should the Secretary of State decline to accede to this recommendation, the leave now granted to Mr. Goldie be commuted to furlough for 3 years.

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

Exd. T. McMootry.

Duplicate

I Josiah Dashwood Gillies M.D.
Gillah Surgeon of Trincomalee do hereby certify
that John Henry Goldie Esqr Civil &
Sessions Judge of Trincomalee is in a bad
State of health & I solemnly & sincerely
declare that according to the best of my
judgement a change of air to Europe
is essentially necessary to his recovery &
that the circumstances of his case are
such as to render leave of absence for the
period of Fifteen months absolutely
necessary

Josiah Dashwood Gillies
Gillah Surgeon
Trincomalee

Palaiveddah
9th January 1863

I do hereby certify that the above
statement by Josiah Dashwood Gillies
Esqr Principal Medical Officer
Gillah is correct & that Mr Goldie
requires the benefit of a change
to Europe for a period of 15 months
for the restoration of his health

15th Jan 1863

16 5

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following Papers

From the Civil & Sessions Judge Tinnevelly with Report of the Offg Civil Paymaster — Here enter 19th Jany 1843 No 25

from — do — 19th — 26

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from — do — 2nd — 79

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from the Offg Civil Payr — 9th — 46

Telegram from the Civil & Sessions Judge Tinnevelly's — 5th —

Order thereon 10th February 1843 No 217

The report made by the Offg Civil Paymaster under date the 9th instant will be communicated to Mr Goldie. The Offg Civil Paymaster's construction of the absentee rules as applicable to Mr Goldie's case, is, it is observed, in accordance with the

the rule laid down in the Secretary of State's despatch of the 1st June 1859 to the effect that a second leave granted to a Civil Servant under section XII of the rules must be limited to 12 months

is therefore unable to comply with his present application for 15 months leave on medical certificate. Basis of opinion known to the writer as contained in which he acted in his former despatch above referred to being duty as reported in his letter only hereby upon such to the Registrar of the High a case in Court of his Court under date the 2nd Instant

2. The Governor in Council permits Mr Golder to proceed to England on furlough for 3 years with preparatory leave of absence for one month the latter to take effect from the date

which medical certificate have been considered, the Governor in Council hereby grants unto the said Mr Golder furlough for 15 months

To the Civil Secretary Judge Commissioner

Assistant Paymaster

Section VII of the above rules and Regulations for the Ceylon Service

of such leave upon medical certificate shall be limited to 12 months; and that such furlough shall not be taken by such officer except under the circumstances and conditions specified in this section. Leave may be granted on medical certificate for 15 months, but the officer must be recommitted to duty for 3 years.

G/K

8 Oct 1859

Mr J. H. Golder Supt. Immigrants dispd 10th
Asst Paymaster 3 dispd 14

Jud. Letter 27th
February 28 of 1863
Rept. to Govt. 31 of 1863

Pro. Feby.

Judicial 1863. Department.

No. 217

PROCEEDINGS OF GOVERNMENT,

Dated 28th Feby 1863.

Mr. Goldie informed that according to Section VII of the Absentee Rules a second leave of 6 months only can now be granted to him & that a recommendation will be made to the Secy of State to extend it to 15 months but in case the same ~~not~~ be not acceded to, to Commute it to furlough

for 3 years.

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