M.R.O. 1—30,000—16-10-32.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial **DEPARTMENT.**

G.O. No. 707 Press
-50- ~~Mis.~~

Dated 6.5.1863 ~~19~~ .

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Not to be folded or roughly handled

Proceedings of the Madras Government, Judicial Department,
8th May 1863.

No. 51. Read the following letter from Lieutenant Colonel J. TEMPLE, Acting Assistant Inspector General of M. Police; to A. J. ARBUTHNOT, Esq., Chief Secretary to Government, Fort Saint George, dated Madras, 5th May 1863, No. 1,107.

Account Department.

In the absence of the Inspector General of Police, I have the honor to solicit the sanction of Government to the payment of the accompanying Abstracts of the pay of a 3rd Class Hospital Assistant, Rupees 56-9-8, from 9th September to 3rd December 1862, whose services were emergently obtained on the occasion of a body of Police being sent into the Rumpah Districts from Rajahmundry in September 1862.

2. The charge can be met out of savings under that head in the Budget.

No. 52. ORDER THEREON, 8th May 1863, No. 710.

Sanction granted accordingly—the charge being met from savings under Police.

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

Exd. T, McMootry.

8 May 1863.

No 750 Sanction granted accordingly.

Discharge being sent from Savings under

Police

To the Inspector General of Police
" Auditor & Acct General
" Joint Paymasters

No. 50. To the Secretary to the Government of India, Home Department, dated Fort Saint George, 6th May 1863, No. 707.

With reference to the correspondence noted in the margin and to the remarks made in paragraph 9 of my letter of the 24th February last, regarding the rules in force for granting leave to Judicial Officers, I am directed to submit, for the consideration of the Honorable the President in Council, the annexed copy of the Proceedings of this Government, under date the 14th ultimo, passing orders on a correspondence which had taken place between the High Court and the Officiating Civil Paymaster, with reference to the question whether an Officer taking privilege leave thereby forfeits his right to be absent from his station during the following adjournment of the Court, the intervening period being less than eleven months.

From Government of India,		24th July 1862,	No.	5,022.
From	do.	8th Sept. 1862,	No.	3,159.
To	do.	15th „	„	1,512.
From	do.	26th Jany. 1863,	„	583.

2. The Governor in Council, it will be seen, has decided that the construction which the Civil Paymaster has put upon the order of the Government of India, as conveyed in Mr. Drummond's letter of the 24th July last, is correct; and that a Judicial Officer taking privilege leave, cannot be permitted to absent himself from his Court during the following adjournment. The consequence is that several Judicial Officers who have had privilege leave during the past year, are debarred from leaving their stations during the present adjournment, although their Courts are closed, and, with the exception of the charge of the Jail, they have no duties to perform. Several representations have been made to Government on the subject; but the instructions of the Supreme Government on this point are, in the opinion of the Governor in Council, so decisive, that he has not considered himself at liberty to authorize any departure from them.

3. The effect of these orders, however, and of the decision conveyed in your letter of the 26th January last (Home Department, No. 583), is so anomalous and is liable to be attended with so much practical inconvenience, that His Excellency in Council thinks it desirable to submit the question of leave of Judicial Officers for the further consideration of the Government of India, and to urge the necessity of laying down a special rule to meet the special circumstances of this Department in the matter of leave, owing to the periodical adjournment of the Courts. In your letter above alluded to, referring to the recommendation made by this Government in September last, that in consideration of the periodical adjournment of the Courts, Judicial Officers should in future forfeit their title to privilege leave under the Civil Service Absentee Rules, it is stated that "the leave rules of Covenanted and Uncovenanted Civil Servants are now "under consideration, but that it is not expected that the present proposal can be fitted to the "general rules of the two services, and that His Excellency in Council does not consider it "expedient to put the leave rules of Officers in judicial employ on a different footing from those "of the other Officers in the service."

4. In making this objection to any departure from the general plan of the leave rules in the case or particular Department, the Government of India appear to have overlooked the fact that in regard to one Department of the administration, such a deviation from the general rules has already been sanctioned. In their Proceedings in the Home Department of the 7th November 1861, No. 3,379, a copy of which was furnished to this Government with Mr. Drummond's letter of the 13th September 1862, No. 473G, Financial Department, the Government of India have ruled that "Government Schoolmasters, during the vacation, may go where they "please without asking leave, unless required to remain at their stations on special duty; but "that they are not entitled to privilege leave in addition to the vacations." Here, there is no proviso giving them a title to privilege leave in the event of their remaining at their stations during the vacation; and, in point of fact, the rule regarding privilege leave is abrogated in the case of Masters of Schools. If such an exception can be made in the case of the Educational Department, the Governor in Council is unable to perceive any valid reason why a similar exception should not be made in the case of the Judicial Department; and he would urge that the decision conveyed in your letter of the 26th January last may be reconsidered; and that pending the revision of the Absentee Rules, he may be authorized, in the case of Judicial Officers, as in the case of Masters of Government Schools, to substitute the annual vacations for privilege leave,

Proceedings of the Madras Government, Judicial Department,
6th May 1863.

He would also recommend, as there is no possible object in detaining Judicial Officers at their stations when the Courts are closed, that, as a special case, the privilege of leaving their stations during the adjournment of the present year, which in some Districts has already commenced, may be conceded to such Judicial Officers as, under the present rules, are debarred from availing themselves of this privilege, owing to their having had privilege leave within a period of eleven months.

5. I am directed to request that the decision of the Supreme Government on the latter point may be intimated by telegraph.

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

Exd. T. McMootry.

By Steamer "Bengal"
Sep 5

No. 1907- Judicial Department

To the Secretary to the
Govt of India
Home Department

Dated Fort St George 1st May 1863

Sir,

With reference to the correspondence noted in the margin and to the remarks made in paragraph 9 of my letter of the 24th Febry last, regarding the rules in force for granting leave to Judicial Officers; I am directed to submit, for the consideration of the Honorable the President in Council, the annexed copy of the Proceedings of this Government, under date the 14th Ultimo, passing

From Govt of India, 24th July /62 No 502
—do— 8th Sept /62 No 3158
To —do— 15th —— 1512.
From —do— 26th Jany /63 — 583.

passing over on a Correspondence which had taken place between the High Court and the Officiating Civil Paymaster, with reference to the question whether an Officer taking privilege leave thereby forfeits his right to be absent from his station during the following adjournment of the Court, the intervening period being less than four months.

2. The Governor in Council, it will be seen, has decided that the Construction which the Civil Paymaster has put upon the order of the Government of India, as conveyed in Mr. Drummond's letter of the 24th. July last, is correct; and that a Judicial Officer taking privilege leave, cannot be permitted to absent himself from his Court during the following adjournment. The consequence is that several Judicial Officers who have had privilege leave during the past year, are debarred from leaving their stations during the present adjournment, although their Courts are closed, and, with the exception of the charge of the Jail, they have no duties to perform. Several representations have been made to Government on the subject; but the instructions of the Supreme Government on this point are, in the opinion of the Governor in Council, so decisive, that he has not considered himself at liberty to authorize

authorize any departure from them.

3 The effect of these orders, however, and of the decision conveyed in ~~this~~ your letter of the 26th January last (Home Dept. N°583), ~~was to place you in the same position as regards~~ is so anomalous and is liable to be attended with so much practical inconvenience, that His Excellency in Council thinks it desirable to submit the question of leave of judicial officers for the further consideration of the Government of India, and to urge the necessity of laying down a special rule to meet the special circumstances of this Department in the matter of leave, owing to the periodical adjournment of the Courts. In your letter above alluded to, referring to the recommendation made by this Government in September last, that in consideration of the periodical adjournment of the Courts, judicial officers should in future forfeit their title to privilege leave under the Civil Service Absentee rules, it is stated that "the leave "rules of Covenanted and "Uncovenanted Civil Servants "are now under consideration, "but that it is not expected "that the present proposal "can be settled by the General "rules of the two Services,

"and

"And that His Excellency in
"Council does not consider
"it expedient to put the
"leave rules of officers in
"judicial employ on a
"different footing from
"those of the other officers
"in the Services.

4. In making this
objection to any departure
from the general plan
of the leave rules in the
case or particular depart-
ment, the Government of
India appear to have
overlooked the fact that
in regard to one depart-
ment of the administration
such a deviation from the
general rules has already
been sanctioned. In their
Proceedings in the Home
Department of the 7th
Nov.

Nov. 1861, No. 3379, a copy
of which was furnished
to this Government with
Mr. Drummond's letter of
the 13th September 1862,
No. 473, G. Financial Dept.,
the Government of India have
ruled that "Government
"School Masters, during the
"vacation, may go where they
"please without asking
"leave. Rules required to
"remain at their stations for
"special duty; but that
"they are not entitled to
"privilege leave in addition
"to the vacations." Here there
is no proviso giving them
a title to privilege leave in
the event of their remaining
at their stations during the
vacation. And, in point
of fact, the rule regarding
privilege

privilege leave is abrogated in the Case of Masters of Schools. If such an exception can be made in the case of the Educational Department, the Governor in Council is unable to perceive any valid reason why a similar Exception should not be made in the Case of the Judicial Department; and, he would urge that the decision conveyed in your letter of the 26th January last may be reconsidered; and that pending the revision of the absentee rules, he may be authorized, in the Case of Judicial Officers, as in the Case of Masters of Government Schools, to substitute the Annual vacations for privilege leave. He would also recommend, as there is no possible object in detaining Judicial Officers at their stations when the Courts are closed, that, as a special case, the privilege of leaving their stations during the adjournment of the present year, which in some Districts has already Commenced, may be conceded to such Judicial Officers as, under the present rules, are debarred from availing themselves of this privilege, owing to their having had privilege leave within a period of eleven months

5. I am directed to request that the decision of

From Bay.

Judicial 1863 Depatt.

No 707

To The Secy to the Govt of India Home Depatt.

Lt Col H. Grove C. S. 6th May 1863

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Rec'd 16 May 1863.

Re The Supreme Government
vs The Collector of Surat &
Maniklal Nagindas Respts.