

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 278

Press
~~Mis~~

178-179

Dated 21. 2. 1865 19

Not to be folded or roughly handled

And

Proceedings of the Madras Government, Judicial Department,

21st February 1865.

No. 178. Read the following Proceedings of Government in the Revenue Department, dated 6th February 1865, No. 230.

Communicating Resolution of the Government of India, regulating the transit pay of Uncovenanted Servants drawing more or less than 100 Rupees. (Vide Proceedings, Revenue Department, dated 6th February 1865, Nos. 107 and 108.)

No. 179. ORDER THEREON, 21st February 1865, No. 278.

To be recorded.

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

Exd J. Tulloch.

No. 43.

No. 2,025.

From

J. D. SIM, Esq.,

Secretary to the Government of Fort Saint George,

To

The Secretary to the Government of India.

SIR,

Miscellaneous.

1. I am directed to request that you will submit, for the consideration of the Right Honorable the Governor General in Council, the ruling of the Madras Civil Paymaster's Office in the following case.

2. The Registrar of the Government Office, Revenue Department, who receives a salary of Rupees 300 per mensem, and was previously a District Moonsiff, was lately appointed Principal Sudr Ameen of Madura. He left Madras on the 1st and reached his station on the 9th September, when he received charge of the Court from the then incumbent.

3. The Pay Office refuses to pass him any salary for the period occupied in his journey, viz., nine days, on the ground that as his office of Registrar was a *Ministerial* one, pay during transit is not allowable under the order of the Supreme Government, dated 17th November 1859, Financial Department, No. 10,088.

4. I am to observe that the Uncovenanted Service Leave Rules now in force draw no distinction between Ministerial and other Officers. They apply equally to all Officers drawing more than 100 Rupees monthly. Under them an Officer when transferred from one appointment to another of equal or higher value is entitled to "draw so much of the salary of his new office as may be equal to that of his former appointment." The old Rules contained a similar provision. Moreover, if a distinction is to be drawn in this respect between "Ministerial" and other Officers, it is not easy to determine where the distinction is to end.

5. The Government have procured a copy of the Order of the Supreme Government on which the Pay Office relies, but cannot see that it justifies the ruling. It would appear that the practice of the Punjab Audit Office was to grant salary during transit if the previous official designation of the Officer was mentioned in the order of appointment, and to withhold the salary if this designation was omitted. The Punjab Civil Paymaster, Mr. Raynor, demurred to this arrangement. Quoting Section XI of the Rules, which allows an Officer newly entering the service of Government to draw the pay of his office only from the date of joining it, and Section XII, which allows an Officer transferred from one appointment to another to draw pay while he is joining his new appointment, Mr. Raynor expressed himself as follows:—

"The former section I understand as referring to newly appointed incumbents not previously in Government employ, and the latter I interpret as applicable to all Officers, *Ministerial or otherwise* already in the service, who may be transferred or nominated by order of Government on public grounds, with or without promotion to other appointments. *Ministerial Officers resigning old appointments of their own accord and obtaining new ones with a view to their own convenience or pecuniary advantage cannot of course claim the benefits of this Rule.*"

Mr. Raynor then pointed out the in-equity and uncertainty of the practice mentioned in paragraph 5.

6. The Punjab Government supported the view of the Civil Paymaster.

7. The Government of India called on the Officiating Civil Auditor of Fort William for a statement of the practice of his Office and he replied as follows:—

"The Rule laid down in the above Sections (XI and XII) has been *correctly interpreted* by the Civil Auditor of the Punjab, but his practice (viz., that mentioned in paragraph 5) differs from that obtaining in this Office." * * *

"The provisions of Section XII are applied to all *Uncovenanted Officers*, whether *Ministerial* or holding their appointments direct from Government, provided they be not in receipt of a salary of less than 100 Rupees, and provided also in the case of *Ministerial Officers* their transfer to better appointments be not at their own request, but owing to the convenience of the public service. A *Ministerial Officer* holding the appointment of a *Head Clerk*, *Daroga* or *Serishtadar* is not allowed to draw any portion of his salary (if he quits such appointment and succeeds in getting a *Deputy Collectorship* or *Extra Assistantship*) during the transit period."

8. The Government of India considered the practice of the Calcutta Office to be correct.

9. Now considering that the Punjab Civil Auditor held Section XII to be "applicable to all Officers, *Ministerial* or otherwise already in the service," and that the Calcutta Civil Auditor declared that he had "correctly interpreted" the Section, and that it was applied in the Calcutta Office "to all *Uncovenanted Officers* whether *Ministerial* or holding their appointments direct from Government," provided their salaries exceeded 100 Rupees, it is quite clear that the circumstance of an Officer being a ministerial or executive agent does not affect the question at all. The only special disabilities under which, according to the Calcutta practice, *Ministerial Officers* lie, are that they do not reap the advantages of the Section if they are moved at their own request or have resigned their offices. The Civil Auditor, Baboo K. M. Chatterjee's actual words as to the first disability are "provided their transfer to better appointments be not at their own request, but owing to the convenience of the public service;" but as there is nothing criminal in seeking advancement, and promotion is not to be had for the mere asking, his meaning no doubt was that a transfer for the mere private convenience of the transferee, irrespective of public considerations, deprived the individual of claim to pay while he was travelling and doing no work. The rule is fair enough, only it should apply to all and not merely to *Ministerial Officers*. The same principle, moreover, is followed as regards travelling allowances. As to the second disability, the Civil Auditor's words are "a *Ministerial Officer* holding the appointment of a *Head Clerk*, *Daroga* or *Serishtadar* is not allowed to draw any portion of his salary (if he quits such appointment and succeeds in getting a *Deputy Collectorship* or *Extra Assistantship*); as an Officer cannot be transferred or promoted without quitting his old appointment, it is evident that the Civil Auditor, in saying "if he quits" meant if he resigns, and this is further apparent by the expression being followed by the words "and succeeds in getting a *Deputy Collectorship*." This also tallies with the interpretation, declared correct of the Punjab Auditor, viz., "*Ministerial Officers* resigning old appointments of their own accord and obtaining new ones with a view to their own convenience or pecuniary advantage cannot of course claim the benefits of this rule." In such case the appointment is not a transfer at all, and the rule is perfectly just, only it should apply equally to all *Uncovenanted Officers*.

10. The Government regard the ruling of the Madras Pay Office as erroneous and inequitable, and recommend that it be authoritatively laid down that all *Uncovenanted Officers* subject to the new rules are entitled to pay while joining new appointments provided—

- I. That they be in the service of Government at the time of appointment.
- II. That the appointment be made for public reasons.
- III. That they join within the prescribed period.

I have the honor to be,

Sir,

Your most obedient servant,

(Signed) J. D. SIM,

Secretary to Government.

*Proceedings of the Madras Government, Revenue Department,
6th February 1865.*

No. 107. Read the following letter from E. H. LUSHINGTON, Esq., Secretary to the Government of India, (Financial Department), to the Chief Secretary to the Government of Madras, dated Fort William, the 21st December 1864, No. 3,966 :—

SIR,

In reply to your letter No. 2,025, dated the 3rd November 1864, I am desired to inform you that the Governor General in Council considers that the Government of Madras has clearly pointed out the inconsistency in the Calcutta Civil Paymaster's Report, dated 27th October 1859, in respect to his interpretation of the Rule regulating the transit pay of Uncovenanted servants when transferred from one appointment to another; but His Excellency in Council observes that even had the Civil Paymaster's interpretation been correct, the Rule passed in Financial Resolution No. 3,733, dated the 14th August 1863, places beyond doubt the title of public servants, whether receiving more or less than Rupees 100 per mensem, to pay, in transit, for the prescribed period, when transferred from one situation to another, on the public service, and any further orders on the subject from the Government of India are unnecessary.

ORDER THEREON, 6th February 1865, No. 230.

Miscellaneous.

Ordered that the above letter be communicated to the several Departments of the Secretariat, with a copy of the letter to the Government of India, dated 3rd November 1864, No. 2,025, and that the following Notification be published in the Gazette :—

NOTIFICATION.

"It is hereby notified under instructions from the Government of India, that Uncovenanted Civil Servants of all grades, when transferred from one appointment to another, on the public service, are entitled during transit to the pay of the substantive appointment from which they are transferred, provided they join their new appointment, within the prescribed period."
(True Extract.)

E. H. Lushington
Under Secretary to Government.

To the Judicial	Department.
„ the Public	do.
„ the Financial	do.
„ the Financial Railway	do.
„ the Marine	do.
„ the Political	do.
„ the Ecclesiastical	do.
„ the Educational	do.
„ the Public Works	do.

Exd. S. T. Augustin.

*Recd. 11/2/65
No. 311*

~~list of 20th July~~

Levin & Sons Co. Ltd.

Boarding of Goods with
Revenue Officer to 230

Dec 16/3
Dec 8/3

100-511

Commenced at 10⁰⁰
of the Port of Victoria
Regulating the terms of
for your accounts
Account the same were
on the 20th day of
N^o 2298. 21st February 1865.
To be recorded.