

MADRAS RECORD OFFICE.

Government of Madras.

Juridical DEPARTMENT.

G.O. No.	536	Press Mis.
Dated	11-4.	19 1866

Not to be folded or roughly handled

*Proceedings of the Madras Government, Judicial Department,
11th April 1866.*

Read the following papers :—

No. 94. From J. G. THOMPSON, Esq., Civil and Session Judge of Cuddapah, to the Chief Secretary to Government, Fort Saint George; dated Cuddapah, 16th February 1866, No. 81.

The Accountant General having refused to pass any pay at all to me for part of last December, I am obliged to trouble the Government on the subject.

2. Under ordinary circumstances, I ought to have taken charge of my Court here on December 8th. I did not take charge of it till December 14th. The Accountant General has refused me pay from December 8th to 13th, in consequence.

3. Meanwhile, I had drawn it, on the grounds set forth in the following letter —

“ CUDDAPAH, 22nd January 1866.

“ To the Examiner of Claims,
Madras.

SIR,

* On January 17th.

“ In my salary bill for last month,
“ I have* drawn full pay for some days
“ on which I was not in charge of any
“ Court. I now write to explain this.”

“ I had made all my arrangements to leave Madras on the morning of December 7th, so as to take charge of this Court within the time allowed me, when I learned that the trains between Madras and Cuddapah had ceased to run. This was a matter for which I am not responsible. I have, therefore, drawn the pay I should have drawn if the accident had not occurred. From Madras to Puttoor, and from Tripetty to Cuddapah, trains began to run again Sunday, December 10th, and I left Madras the next morning, not knowing how I was to get through the fifteen miles between Puttoor and Tripetty.”

“ My account for December is as follows :—

Sub-Collector's pay.		
December 1st to 7th, at Madras.		Time allowed me for travelling from Chingleput to Cuddapah.
Session Judge's pay		
8th to 9th,	do.	} Detained by the closing of the line.
10th	do. Sunday.	
11th to 13th.	Time allowed for the journey from Madras to Cuddapah, thus: Madras to Puttoor, 69 miles, by rail; Puttoor to Tripetty, 15 miles by road; Tripetty to Cuddapah, 77 miles by rail.	

14th to 31st. At Cuddapah, in charge of the Court.”

4. That letter was answered by the Accountant General himself as follows :—
“ POST AUDIT DEPARTMENT.

No. 4630, dated 31st January 1866.

“ From the Accountant General, to the Civil and Session Judge of Cuddapah.

SIR,

“ In reply to your letter, dated 22nd instant, I have the honor to observe that,
“ as you made over charge of your office at Chingleput on the 25th November, and

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"had seven days to prepare for your journey thence to Cuddapah, you should have left the former station not later than the 4th ultimo (the 3rd being a Sunday), and proceeded via Conjeveram (the shorter route), instead of via Madras. You would not in this case have been detained by the closing of the Railway line on the 8th and 9th ultimo, but would have reached your destination on or before the former date, i. e., within the time allowed for joining your appointment."

"As it appears, however, you did not arrive at Cuddapah till the 14th ultimo, I regret that I am precluded from passing any portion of your pay from the 8th idem to that date."

"The calculation of the joining time is as follows:—

	Miles.	Days.
Chingleput to Conjeveram, by land.....	20	2
Conjeveram to Arconum, and Arconum to Cuddapah, by Rail.....	138	2
Preparation, and one Sunday.....		8
		12

I have, &c.,

(Signed) F. LUSHINGTON,

Accountant General.

5. The Accountant General here admits that the time allowed me for joining did not expire till December 8th. But he assumes that it was not till December 8th that the trains ceased to run—an assumption which is not warranted by my letter, and which is contrary to fact, as the Government well know.

6. He admits that I was not bound to leave Chingleput till December 4th, nor Conjeveram till December 6th. But before the latter date, the trains had ceased to run. The news reached me, at Madras, on the evening of December 5th.

7. Hence, it was clearly out of my power to reach Cuddapah in time. I was prevented by an accident on a line over which the Government have control, but I have not; and I respectfully submit that I am entitled to the pay I should have drawn if the accident had not occurred.

8. I have further to appeal against the refusal of the Examiner of Claims to pass my pay as Session Judge from the time I gave over charge of the Court at Chingleput till the time I was due here. I have kept this back till now, because I seemed likely that I should have to refer to Government about the stoppage of the trains, and I thought it better to trouble them but once.

9. I had drawn pay as Session Judge of Cuddapah, from about the middle of September; and the Examiner bases his refusal upon the following paragraph (4) in the Civil Auditor's Manual, Chapter 2:—

"44. A Civilian detained by an Order of Government for the convenience

"the Public Service, in a situation of

G. I., 15th June 1841, Financial, paragraph 4.

"inferior emolument, after he has been

"promoted, is entitled to the high

"salary of his new appointment during the period of his being so detained."

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"45. In such case, the Civilian is not entitled to the full salary of his new appointment during the time occupied in

G. I., 2nd January 1842, No. 2, Revenue.

"travelling, or from the date of making

"over charge of his late appointment to

"the date of his receiving charge of his new appointment."

10. The Manual was published about 1856, I think; and so much of it has now been altered that it is almost useless as a guide. I did not know of the existence of this rule. I knew that I was allowed a certain time for joining my new Court, but I did not know that the privilege allowed was that of drawing the pay of an inferior appointment which I had long ceased to hold! The rule may have been necessary when it was passed, in 1842; but it can scarcely be necessary to maintain it now, the joining time being scarcely enough. I submit that it is hard, and ought to be altered.

11. It presses more hardly than usual in the present case, because it was nothing but a sense of duty which kept me at Madras. My natural course was to come straight to Cuddapah, and see what I should want; and then supply my wants during the Christmas holidays. And this course, I should have taken, under ordinary circumstances. But it so happened that I was due here just when the Governor and a large party from Madras were to be here; and I felt bound, as Judge, to make my house available for them, even if I could not get here myself. I knew that the Judge's house was empty, and that there was nothing to be got at Cuddapah, so I went to Madras to send up things, and begged my *locum tenens* to move into the house, and make it as useful as he could, in case of my not getting here in time.

Hoping to get away soon from Cuddapah, I should not have furnished the whole house, but for the *fete*, and if I had known that it was to cost not only what it seemed to cost, but also half my pay, it would have been another thing. Not drawing the pay of Session Judge, I should not have felt bound to spend as one.

12. Under these circumstances, I hope the Government will see fit to pass my full pay as Session Judge, for the time for which it has been refused, i. e., from the day I gave over charge of the Court at Chingleput, till the day on which I took charge here.

Referred to the Accountant General, for his remarks.

FORT SAINT GEORGE,

27th February 1866.

(Signed) A. J. ARBUTHNOT,

Chief Secretary.

No. 95. From the Accountant General, Madras, to the Chief Secretary to Government, Fort Saint George; dated 27th March 1866, No. 342.

Post Audit Department.

With reference to your Endorsement, dated 27th ultimo, forwarding, for my report, the accompanying appeal from Mr. J. G. Thompson, Judge of Cuddapah, against two retrenchments made from his salary, one for joining time exceeded, and the other for pay over-drawn for the transit period, I have the honor to offer the following remarks:—

1st.—In proceeding from Chingleput to Cuddapah, Mr. Thompson should have taken the shortest route *via* Conjeveram, and not *via* Madras. Allowing for the stop-

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page of the trains between Puttoor and Tripatty, which, it was inferred from his letter, dated 22nd January last, occurred on the 8th and 9th December, but which I have since ascertained continued from the 5th to the 15th idem, Mr. Thompson, according to the following calculation, should have reached Cuddapah on the 11th December; his departure from Chingleput being reckoned from the 4th December, as explained in my letter to his address, dated 31st January:—

	DAYS.
Chingleput to Conjeveram, by road, 20 miles.....	2
Conjeveram to Puttoor, by rail, 45 miles.....	1
Puttoor to Tripatty, by road, 15 miles.....	2 as stated in Mr. Thompson's letter.
Tripatty to Cuddapah, by rail, 78 miles.....	1
Sunday the 10th December.....	1
Total.....	7

As Mr. Thompson did not join his appointment at Cuddapah till the 14th December, he is liable to forfeiture of three days pay or from 11th to 13th idem.

2ndly.—Under the rules of 1841 and 1842, quoted by the Examiner of Claims (which, though of old date, are still in force) Mr. Thompson is not entitled to the pay of his new appointment until he actually assumed charge of it, and it is submitted that he cannot, on any consideration, be allowed to draw it. It rests with Government, however, to determine, whether, under the circumstances stated in the 11th and concluding paragraphs of Mr. Thompson's appeal, the salary of his former appointment (Sub-Collector of Malabar) may be passed to him for the period now under re-trenchment, from 11th to 13th December 1865.

No. 96.

ORDER THEREON, 11th April 1866, No. 536.

The Governor in Council observes that, when Mr. Thompson obtained the permanent appointment of Civil and Session Judge of Cuddapah, he was acting as Civil and Session Judge of Chingleput, and was detained in that acting appointment, on public grounds, until relieved by the permanent incumbent. He was accordingly allowed to draw the salary of his permanent appointment from the date on which he was gazetted to it, and, in the opinion of the Governor in Council, he was thenceforward entitled to receive the salary of a Civil and Session Judge, so long as he complied with the conditions requisite to entitle an Officer to the full salary of his appointment. It is clear that the delay which subsequently occurred, on Mr. Thompson's joining his permanent appointment at Cuddapah, was caused by circumstances beyond his control.

2. The Governor in Council accordingly resolves to over-rule the retrenchment under which Mr. Thompson has been placed.
(True Extract).

Chief Secretary.

To the Civil and Session Judge of Cuddapah.
„ Accountant General.

Exd. J. H. Burns.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following papers;

From the Civil and Session Judge of Cuddapah (Hore enter 16th February 1866 No. 81)

Accountant General (— 27th March — 342)

Order thereon 11 April 1866 No. 536

W. H. W.

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trenchment under which
Mr. Thompson has been
placed.

To the Civil & Session Judge of Cuddalore
" Accountant General

Dec 15/4

Retrenchment from Dr.
Thompson's salary

94096.

Judicial 1860. Department.

No. 536.

PROCEEDINGS OF GOVERNMENT.

Of 349-2003.

Dated 11 April 1866.

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