Date taken out.	For what purpose.			Initials of clerk taking the paper or of attender.	Date returned.	Initials of att…der.
	Department.	C. No.	Year.			

L. & M.
300—10-4-96.

Local & Munl. (1896) Department.

PRINTED.

G.O., No. 1064 M.
1065 M.

DATED 23rd June 1896

[Despatch Abstract.]

Pay, Pension and Leave.

Answering the questions raised by Mr. Ellis Engineer of the Madras Municipality, regarding the rules regulating his ---- and requesting the Government of India to obtain the approval of the Secretary of State to the order of Government in G.O., No. 381 M., dated 20" March 1893 granting leave to Mr. Ellis under chapter XIII of the Civil Service Regulations.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

---

[1]

INDEXED.

PRESS,

LOCAL AND MUNICIPAL DEPARTMENT.
G.O., DATED 23-6-96
No. 1064 M.
1065 M

First copy sent to Press. 25/6/96

Returned for signature. 13/7/96

Despatched in print. 16/7/96

[Despatch Abstract.]

Pay, pension and leave.

Answering the questions raised by Mr. Ellis, Engineer of the Madras Municipality, regarding the rules regulating his ———, and requesting the Govt. of India to obtain the approval of the Secretary of State to order of Govt. in G.O. 381 M. dated 20th March 1893, granting leave to Mr. Ellis under Chapter XIII of the Civil Service Regulations.

[illegible] 16/7

Back Paper, No of

Read again Or of Government, dated 11th November 1895, No. 1875 M. Misc. — P

9

Further Paper, No. of 18

Enclosures

Current No. 212 M/96 — A

Pass

Type & send proof please

R.S. 23/6/96

Statement with ditto.

Order, &c., of Government—A.

Papers kept out of File for despatch in original (not paged).

Number of copies required.
Order complete. 80
Letter only. 60
Order complete with Letter. 30

N.B.—
A = Print in full.
B = Not to be printed.
P = Print abstract only.
C = Print heading only.
R = Print, but not for monthly volume.

Proof

No. 1064 M., 23rd June 1896.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—again the following paper :—

G.O., Mis. No. 1875 M., dated 11th November 1895.

Abstract.—Recording proceedings of the Municipal Commissioners, Madras, on the subject of Mr. Ellis' pensionary contribution, and referring his letter to the Accountant-General for remarks regarding the rules which should regulate age of retiring, &c., in his case.

Read—also the following paper :— the

Pass

From ~~F. C. HARRISON, Esq.~~, Officiating Accountant-General, ~~to the Chief Secretary to Government, dated Fort St. George,~~ 17th January 1896, No. I.A.E.—7-C.

With reference to paragraph 2 of G.O., Mis. No. 1875 M., dated 11th November 1895, I have the honour to report as follows :—

Mr. Ellis raises three questions—

(*a*) What rules determine the grant of a pension to him.
(*b*) What rate of exchange such a pension will be payable at.
(*c*) Whether he is entitled to exchange compensation allowance.

Taking the first point, section 48 of Act I of 1884 vests the power of making the municipal pension rules in the Governor in Council. The rules so made are recorded in G.O., No. 1197 M., dated the 9th July 1892, and they provide that pensions should be regulated by the scale given in Article 518 of the Civil Service Regulations. Government do not say, be it noticed, that the provisions of the Civil Service Regulations distinguishing between various kinds of offices (*e.g.*, Article 690, Civil Service Regulations) are to be applied. Presumably, therefore, no more of the Civil Service Regulations apply than is necessary to calculate the service for pension. The question therefore of Mr. Ellis' exact status as an Engineer does not arise. It is, of course, open to Government under section 48 of the Act to rule that Mr. Ellis should be differently treated on the ground that he has had European training. It might be ruled on the analogy of Appendix 13 mentioned in Article 703, Civil Service Regulations, that he should get a pension under section III, Chapter XXIX, of the Regulations, or again Government might rule that on his attaining a certain standing (following the analogy of Article 704) he should come within section III. Before quitting this point, I may mention that, so far as the pension rules are concerned, Mr. Ellis cannot plead that they were in any respect materially different when he entered the service of the municipality. The only orders I can trace are No. 420, Financial, dated the 4th April 1872, and No. 177 M., dated the 18th February 1888.

(*b*) Taking the second point, the reasoning above adopted shows that Article 1015-A does not apply unless Government, under Article 48 of the Act, so declare. Mr. Ellis, therefore, in the absence of orders to the contrary, will be paid his pension in rupees.

(*c*) Taking the third point relating to exchange compensation allowance, I may point out that Mr. Ellis explained to me verbally that this was the point he intended to raise and not that of family remittances. The contention is that, as he has been granted the favourable leave rules, he is entitled to exchange compensation allowance in accordance with Article 41-B of the Civil Account Code. But there are, I think, three fatal objections to this argument. In the first place, in my respectful opinion he is not entitled to the favourable leave rules; in the second place, if he were, the fact of his being so entitled would not carry the grant of compensation allowance for two reasons. Firstly, exchange compensation allowances are only given to *Government* servants (Article 41-A). Mr. Ellis' leave rules are, under section 45 of the Act, governed by the leave rules of Government. It does not, therefore, follow that rules relating to the grant of a totally different kind of allowance can be applied to him. Secondly, exchange compensation allowances are of the nature of pay or salary, and the pay or salary to be given to Mr. Ellis is regulated by section 37 of the Act. It is, of course, open to Government to raise Mr. Ellis' pay to any figure up to Rs. 1,000 in consequence of any fall in the rupee since his appointment, but I submit it would be better, if this course commends itself, not to complicate the addition by the use of the confusing term—exchange compensation allowance. This allowance was granted and fixed upon a multitude of very conflicting considerations concerning men recruited at different times and ways; and these considerations are, many of them, not relevant to a simple question involving the remuneration of one or two officers.

I now revert to the first argument, namely, that Mr. Ellis is not entitled to the favourable leave rules.

The provisions of Act I of 1884 are not nearly so elastic in the matter of the leave rules as they are in the matter of the pension rules. Section 45, as amended, directs that leave is to be granted under the rules applicable to Government service; that is to say, the Civil Service Regulations. Now, applying this argument rigorously, Mr. Ellis comes within definition (*g*), Article 690, Civil Service Regulations. He is therefore entitled to the Indian Service leave rules. He can only be exempted from those rules and placed in Appendix 3 by permission of the Secretary of State. Another alternative is, of course, to amend section 45 so as to give the Local Government more power. Government, however, without consulting this office, in G.O., No. 381 M., dated the 20th March 1893, has directed that the more favourable leave rules may be applied to him. It may be urged in support of this order that, when Mr. Ellis entered the service of the municipality, section 45 unamended was in force and gave Government full powers to regulate these matters. This power, however, was not exercised, as is clear from the order of 1888 (No. 177, Local and Municipal, dated the 18th February) in which this very point is left unsettled. It does not therefore appear to me to be now in the power of Government, when that section has been amended, to proceed otherwise than in accordance with its provisions. Had the order of 1893 been passed before the amendment of the Act, it would have been valid under Note 2 to Article 7-A of the Civil Service Regulations.

In conclusion, I desire to add that all these questions are exceedingly difficult and the views above expressed are given with considerable diffidence. It might be well to ascertain the views of the municipality before Government commits itself to any action.

Order—No. 1064 M., dated 23rd June 1896.

In his letter, No. 91, dated 18th May 1895, read in the Government Order referred to above, Mr. Ellis submits the following three points for the orders of Government:—

(*a*) Whether the age of retiring and the amount of pension shall be determined in his case by the same rules as apply to Engineers in the Public Works Department trained at Cooper's Hill.
(*b*) Whether his pension will be paid at the current rates of exchange, or on the same terms as apply to the Engineers mentioned in (*a*).
(*c*) Whether he will be allowed to remit his pay when on leave on the same terms as apply to the Engineers above referred to.

2. With reference to (*a*), Mr. Ellis will be informed that his pension will be calculated according to the rules contained in Part IV of the Civil Service Regulations relating to ordinary pensions.

As regards (*b*), His Excellency the Governor in Council is pleased to declare, under section 48 of Act I of 1884 as amended by Act II of 1892, that Mr. Ellis pension shall be payable in accordance with the provisions of Article 1015-A of the Civil Service Regulations, and accordingly his pension will be paid in rupees, which may be converted into sterling at the rate of exchange prescribed by that article.

With respect to (*c*), it is not quite clear what is meant by this question. If, as stated by the Accountant-General, Mr. Ellis intends to ask whether he is entitled to exchange compensation allowance, the answer will be in the negative. If, however, he wishes to enquire at what rate of exchange he will draw his furlough allowance, the reply will be that he will draw it at the current official rate of exchange subject to a minimum of 1*s.* 6*d.* to the rupee in accordance with Article 945, Civil Service Regulations.

3. In G.O., No. 381 M., dated 20th March 1893, Mr. Ellis was declared to be entitled to leave in accordance with the rules in Chapter XIII of the Civil Service Regulations. It appears, however, that this Government was not competent to sanction this concession, as the order was issued subsequent to the amendment of Act ~~IV~~ of 1884 by Act II of 1892. Section 45 of the original Act empowered the Governor in Council to grant Mr. Ellis such leave as he thought fit, but under the Act as amended Government has only power to grant him leave in accordance with the leave regulations from time to time applicable to the Government service, and therefore the provisions of Chapter XIII, Civil Service Regulations, could not be applied in this case. G.O., No. 381 M., dated 20th March 1893, was therefore *ultra vires* and must now be cancelled. The Secretary of State will, however, be addressed with a view to obtaining sanction to the concession which it improperly conferred.

[Here enter No. 1065 M., dated 23rd June 1896.]

(True Extract.)

Under Secretry, P.W.D.,
for *Chief Secretary.*

To the President, Municipal Commission, Madras.
" Accountant-General.

Exd. A. Raitt.

Govt. of {1896} Madras.

LOCAL AND MUNICIPAL.

A.S.

For approval.

11/7

Issued

Recd. Encl.

G.O., No. 1064 M., 23rd June 1896.

JUNE.

Pay, Pension and Leave.

Answering the questions raised by Mr. Ellis, Engineer of the Madras Municipality, regarding the rules regulating his —, and requesting the Government of India to obtain the approval of the Secretary of State to the order of Government in G.O., No. 381 M., dated 20th March 1893, granting leave to Mr Ellis under Chapter XIII of the Civil Service Regulations.

---

601 ph
50

Letter docket wanting. Please furnish
17/7

No. 1065 M., 23rd June 1896.

LOCAL AND MUNICIPAL DEPARTMENT.

Letter—from

The CHIEF SECRETARY to the GOVERNMENT of
FORT ST. GEORGE,

To

The SECRETARY to the GOVERNMENT of INDIA,
Home Department.

Sir,

I am directed to submit the following for the consideration of the Government of India with the request that the Right Honourable the Secretary of State may be moved to sanction the application of Chapter XIII of the Civil Service Regulations to Mr. R. E. Ellis, Municipal Engineer, Madras Municipality.

I 2/

2. Under section 45 of Madras Act II of 1884 (City of Madras Municipal Act), the Governor in Council was empowered to grant such leave of absence to the Vice-Presidents (of which Mr. Ellis was one) as might seem to him fit. Subsequent to the appointment of Mr. Ellis as Municipal Engineer this Act was amended by Act II of 1892, and section 45 now runs: "The Governor in Council may grant leave of absence to the officers appointed under section 37 [amongst whom Mr. Ellis is included] in accordance with the leave regulations from time to time applicable to the Government service." Notwithstanding this amendment the Government, in G.O., No. 381 M., dated 20th March 1893, having duly considered section 45 of this Act as it then stood, made the provisions of Chapter XIII, Civil Service Regulations, applicable to Mr. Ellis under the impression that its powers in this respect were the same as they had been under the original law. This order was, no doubt, *ultra vires*, and has now been cancelled. His Excellency the Governor in Council is, however, of opinion that, as Mr. Ellis entered the municipal service in 1890 before the Act was amended and at a time when it was still within the powers of this Government to grant him leave in accordance with the provisions of Chapter XIII, and as he is by training and qualifications of the same status as officers of the Public Works Department, he may fairly claim to be placed on the same footing as they are in the matter of leave. He has already been granted this privilege, illegally, it is true, but that fact makes it none the less hard that he should be deprived of benefits which he has already been enjoying. His Excellency trusts that these views will be shared by the Government of India and that it will be able to accord its support to the request now preferred on behalf of Mr. Ellis.

I have the honour to be,
Sir,
Your most obedient servant,

Chief Secretary.

Ootacamund,
23rd *June* 1896.

Exd. A. Raitt.

filed ok

Docket wanting

A.S.

For approval.

Pay, Pension & leave

Requesting the Government of India to obtain the approval of the Secretary of State for India to the admission of ~~[illegible]~~ Mr A. E. Ellis, Engineer, Madras Municipality to ~~the~~ the favourable leave rules under chap XIII of the Civil Service Regulations

---

Pension

Read - also the follg paper!—

28

DEPARTMENT.

FORT ST. GEORGE,

Accountant General's Office,

17th January 1896.

No. ~~Local &~~ Municipal Dept L&E 7c

CURRENT No. 212 M

Ims 1904 m 8 28/6

From

F C Harrison Esquire,

offg ACCOUNTANT-GENERAL TO THE GOVERNMENT OF MADRAS,

To

THE Chief Secretary to Government,
Local and Municipal Department.

SIR,

With reference to paragraph 2 of Government Order No 1870. M. Miscellaneous dated 11 November 1895, I have the honour to report as follows.

Mr Ellis raises three questions

(a) What rules determine the grant of a pension to him.

(b) What rate of exchange such a pension will be payable at.

(c) whether he is entitled to exchange compensation allowance.

Taking the first point. Section 48 of Act 1. 1884 vests

ests the power of making the Municipal pension rules in the Governor in Council. The rules so made are recorded in Government Order No. 1197M. Local and Municipal dated the 9th July 1892 and they provide that pensions should be regulated by the scale given in Article 518 of the Civil ervice Regulations. Government do not say, be it noticed, that the provisions of the Civil Service Regulations distinguishing between various kinds of offices (e.g. Article 690 Civil Service Regulations) are to be applied. Presumably therefore no more of the Civil Service Regulations apply than is necessary to calculate the service for pension. The question therefore of Mr. Ellis' exact status as an engineer does not arise. It is of course open to Government under section 48 of the act to rule that Mr Ellis should be differently treated on the ground that he has had European training. It might be ruled on the analogy of appendix 13 mentioned in Article 703 Civil Service Regulations that he should get a pension under Section III

Chapter XXIX of the Regulations, or again Government might rule that on his attaining a certain standing (following the analogy of Article 704) he should come within section III. Before quitting this point, I may mention that, so far as the pension rules are concerned, Mr. Ellis cannot plead that they were in any respect materially different, when he entered the service of the Municipality. The only orders I can trace are No. 420 Financial dated the 4th April 1872 and No. 177M Local and Municipal dated the 18th February 1888.

(b) Taking the second point. The reasoning above adopted shows that Article 1015 A does not apply, unless Government under Article 48 of the Act so declare. Mr. Ellis therefore, in the absence of orders to the contrary, will be paid his pension in rupees.

(c) Taking the third point relating to Exchange Compensation Allowance, I may point out that Mr. Ellis explained to me verbally that this was the point he intended to raise and not that of family remittances. The contention is that, as has been granted the favourable leave rules, he is entitled to Exchange Compensation Allowance in accordance with Article 41 B. of the Civil Account Code. But there are, I think, three fatal objections to this argument. In the first place in my respectful opinion he is not entitled to the favourable leave rules; in the second place, if he were, the fact of his being so entitled would not carry the grant of compensation allowance for two reasons:- Firstly, exchange compensation allowances are only given to Government Servants (Article 41 A). Mr. Ellis' leave rules are under section 45 of the Act governed by the leave rules of Government. It does not therefore follow that rules relating to the grant of a totally different kind of allowance can be applied to him. Secondly, exchange Compensation allowances are of the nature of pay or salary, and the pay or salary to be given to Mr. Ellis is regulated by section 37 of the Act.

It is of course open to Government to raise Mr. Ellis' pay to any figure upto 500 R. in consequence of any fall in the rupee since his appointment, but I submit it would be better, if this course commends itself, not to complicate the addition by the use of the confusing term Exchange Compensation allowance. This allowance was granted and fixed upon a multitude of very conflicting considerations concerning men recruited at different times and ways; and these considerations are, many of them, not relevant to a simple question involving the remuneration of one or two officers.

I now revert to the first argument, namely that Mr. Ellis is not entitled to the favourable leave rules.

The provisions of Act 1 of 1884 are not nearly so elastic in the matter of the leave rules as they are in the matter of the pension rules. Section 45, as amended, directs that leave is to be granted under the rules applicable to Government ervice; that is to say, the Civil Service Regulations. Now applying this argument rigorously Mr. Ellis comes within definition (g) Article 690 Civil Service Regulations. He is therefore ~~entitled~~ entitled to the Indian Service leave rules. He can only be exempted from those rules and placed in appendix 3 by permission of the Secretary of State. Another alternative is of course to amend section 45, so far as to give the local Government more power.

Government however, without consulting this office, in Government Order No 381 dated the 20th March 1893 has directed that the more favourable leave rules may be applied to him. It may be urged in support of this order that, when Mr. Ellis entered the service of the Municipality, section 45 unamended was in force and gave Government full powers to regulate these matters. This power however was not exercised, as is clear from the order of 1888 (No. 177 Local and Municipal dated the 18th February) in which this very point is left unsettled. It does not therefore appear to me to
be

be now in the power of Government, when that section has been amended, to proceed otherwise than in accordance with its provisions. Had the order of 1893 been passed before the amendment of the act it would have been valid under Note 2 to Article 7. A of the Civil Service Regulations.

In conclusion, I desire to add that all these questions are exceedingly difficult and the views above expressed are given with considerable diffidence. It might be well to ascertain the views of the Municipality before Government commits itself to any action.

I have the honour to be,
Sir,
Your most obedt. Servant,

F. Morison
Offg. Accountant General

17/1.

Loc l Dept.

(189) DEPARTMENT.

N.S. CURRENT No. 212 M

From

THE ACCOUNTANT-GENERAL,

MADRAS,

To

THE Chief Secy to Govt Local & Municipal Depts

No. 106/7C

Dated
Received 17 January 96

No. CHIEF SECRETARY 18 JAN. 1896 GOVERNMENT OF MADRAS

Abstract

Subject.

Reporting on the three questions raised by Mr Ellis regarding his pension

on

the 18 Sep 18-5-95.

unsettled Sr

24/1

[G./25.]
10—8-3-95.

DEPARTMENT.

C. No. 212 M of 1896 dt 17 Jany from Acct. Genl.

Chief Secretary's Office,

27th November 1895.

My dear MacCartie,

Herewith I send, as desired, the following papers connected with Ellis, the Municipal Engineer:-

(1) G.O. No. 1875 M. d/11" November 1895.

(2) Letter from the President, Municipal Commission, Madras, No. 498 d/21" November 1895, with references.

Yours sincerely,

W.W.P. 27/11/95

My dear Price

Thanks for papers.

---

orders in

letter read above

Acct Genl on

ed by Mr Ellis.

in a note for orders

mount of pension.

the amount of pension

under sec. 578 C.S.R.

en to Govt to rule under

~~to which class of office~~

be more favourably treated.

no mention is made

R.

(2) Manner of paying pension, rupees or sterling. The A.G. says that Art. 1015 R does not apply as he has no particular status, which brings him under that Section. His argument on this point is not very clear.

(3) Exchange Compensation allowance

Local & Municipal Dept. (189) Department.

N.S. CURRENT No. 212 M

2117 M 18-12-95
1875 M 11-11-95

From

THE ACCOUNTANT-GENERAL,

MADRAS,

To

THE Chief Secy to Govt
Local & municipal Dept.

Cor.—4,000—.

ordr

18-5-95.
the 18th Febr

unsettled. Sr

[G/25.]
610—8-3-95.

DEPARTMENT.

C. No. 212 M of 1896. dt 17 Jany
from Acctt. Genl.

FOR ORDERS.

Please see the notes & orders in G. O. No 1875 M / 11. 11. 95. The letter read above contains the views of the Acctt Genl on the three questions raised by Mr Ellis. These were dealt with in a note for orders in the above G.O.

(1) Age of retiring & amount of pension.

The A.G. agrees that the amount of pension is to be determined under sec. 518 C.S.R. but adds that it is open to Govt. to rule under Sec 48 of Act I of 1884 ~~to which class of officer~~ that Mr Ellis shall be more favourably treated, as in G.O. 1197 M / 9.7.92 no mention is made of Art 690 C.S.R.

(2) Manner of paying pension, rupees or sterling

The A.G. says that Art. 1015 R does not apply as he has no particular status, which brings him under that Section. His argument on this point is not very clear.

(3) Exchange Compensation allowance

Mr. Ellis contends that as he is entitled to the favourable leave rules, he is also entitled to this. In the first place the A.G. says that he is not entitled to the favourable leave rules, as G.O. $\frac{381 M}{20.3.93}$, ~~was ultra vires~~ granting him this concession, was ultra vires, as it was issued under the powers conferred by sec. 45 of Act I of 1884 as it originally stood, while the order was passed after the ~~act~~ section had been amended by Act II of '92 so as to preclude the possibility of such an order. Even if this order is to hold good ~~three~~ two further arguments are put forward, which seem effectually to preclude the possibility of granting Mr. Ellis exchange compensation allowance.

2. Mr. Harrison finally adds that as the questions are very difficult, the views of the municipality on the subject might be ascertained, but it is submitted that at present it is not desirable to do so, as the Commissioners, or a majority of them are unfavourably disposed towards Mr. Ellis, as is evidenced by their action, when the question of raising his pay came up for discussion. They are therefore likely to be prejudiced, & their views on these questions would not be of much value.

W.B.P.
1.11.96

24/1

FOR ORDERS.

I am afraid we can do nothing for Mr. Ellis — we suggested that in their budget for '96-'97 the Comrs. should provide more pay for him. I don't know whether they have done so — we must see before we can make any move.

BL
18/2/96

JG
20/2/96

I suppose we shall soon see this budget.

W
27 Feb

H.M.

On the question of exchange compensation the A.G. is undoubtedly right. Mr. Ellis' salary may be raised within the limits fixed by the Act without resorting to the factitious device of an exchange allowance.

As to pension, G.O. 9.7.92 No. 1197 M. declared the scale to be regulated by Art. 518 for gazetted officers. That declaration must I think be held to have been made under S. 48 of the Act I of 1884 (Madras Mty.): & it apparently was meant to apply to all gazetted officers including the Engineer. Govt. may no doubt modify the scale, but is any sufficient reason made out for doing so?

And the pension will of course be paid in rupees & no question of exchange enters into the matter.

Whether the time is opportune for approaching

Connd. with a proposal for enhancing Mr. Ellis' salary is a point which must be left to Col. Moore. The recent liberal grant from Govt. may make them better disposed to consider the matter favourably: but Col. Moore knows this.

Re: Mr. Ellis' questions regarding pension

212 M

FOR ORDERS.

Resubmitted in connection with the Madras Munl. Budget. The Commrs. have budgetted for an increase of Rs 100 in Mr. Ellis' pay - but orders have not been passed on his questions.

W.R.S. 6.4.96

I don't think we can do anymore for him

M.A.
13/4/96

G.
25 A.
1,000—21-3-96.

DEPARTMENT

C. No.

FOR ORDERS.

It seems to me that the discussion has travelled beyond Mr. Ellis' questions.

His 1st question is "Whether the age of retiring & the amt. of pension will be determined in his case by the same rules as apply to Engrs. in the P.W.D. trained at Cooper's Hill?" — The obvious answer is "No, but by the rules ~~[illegible]~~ contained in Part IV of the C.S.R. as to ordinary pensions."

His 2nd question is "Whether the pension will be paid at the current rates of exchange or on the same terms as apply to the Engrs. above referred to?" The answer is that his pension will be paid in rupees, convertible under Art 1015 A at 1/9, if he is resident in a country other than India in which the currency is gold, and if Govt. determines to apply Art 1015 A to his case, which it has not done — but perhaps it will be sufft. to answer him simply "In rupees, to be drawn in India and to be remitted by himself under such arrangements as he pleases?"

His 3rd question is "Whether he will be allowed to remit his pay when on leave on the same terms as apply to the Engrs. above referred to" — What this means, it is difficult to say. I suppose by "remit my pay" he means "draw my furlough allowances". If so, the answer is that he will draw at the appl. rate of exch.: subject to a minimum of 1/6 — This is under Art 945 C.S.R., which appears to be of general application & therefore to affect Mr.

I am sorry to trouble H.E. again with these papers but I do not exactly know what form the G.O. should take.

Mr. Ellis asks three questions and telling him that Govt. has sanctioned an increase of Rs. 100 to his salary
and can do nothing more for him
recommended in the Munl. budget
is no reply to these. To communicate the Atg's letter to him and say that Govt. cannot do anything for him would only give him an opportunity for further discussion which from what I know of him he would not be slow to seize.

The Atg is incorrect in stating that Exchange Compensation allowances are paid only to Govt. servants. He has overlooked G.O. No. 281 dated 23rd July 1894 which sanctioned the grant of them to certain Harbour Trust Employees. Mr. Ellis will no doubt know of this and promptly pounce on this over-sight.

With reference to the last para of the A.G.'s letter marked with blue pencil reference is invited to the notes in the original of G O No. 381 M dated 20th March 1893. It will be seen from these that Sir H E Stokes wrote most strongly against the appt. then made and that he was over-ruled. It seems clear that Mr Ellis is not entitled to the favourable leave rules.

Perhaps Mr. E might be ~~told~~ informed with regard ~~reference~~ to his first question to Art. 7 (a) of the C S R. The answer to his second question is that his pension will be payable in rupees. As regards the third however I do not feel by any means certain. With all deference to the Acct.-Genl's view I am inclined to think that Exchange Compensation is not "pay or salary" ~~[illegible]~~; the A.G. as he uses the words "are of the nature" is evidently not sure on the point. If Exchange Compensation is "pay or salary" it would be taken into calculation when settling furlough allowances — it is not. It is merely an allowance

DEPARTMENT

C. No.

FOR ORDERS.

given to an Officer to compensate him for the loss caused by a very heavy fall in Exchange, and in no wise affect the calculation of either his pension or leave allowances. If Mr. Ellis was a Govt. servant he would distinctly be qualified for Exchange Compensation allowance and I think that he can fairly quote the case of the certain servants of the Harbour Trust Board as a precedent for granting it to him. I do not ~~[illegible]~~ consider that saying that the grant of Exchange Compensation brought his income over Rs 1000 p.m. this would ~~[illegible]~~ contravene the law fixing his salary at that sum.

8/5/96

FOR ORDERS.

Ellis equally whether he is, or is not, entitled to the more favourable leave rules.

H. M.

The question whether he is, or is not entitled to those rules is not raised in his ~~[illegible]~~ letter, but is taken up by the A.G., who seems to me to be quite right. I agree with him & with Sir H.E.S. that Govt. cannot extend the more favourable leave rules (Ch: XIII C.S.R.) to Mr. Ellis. The argument appears to me to be this:— Under S. 45 of the Act the Govt. leave rules apply — Under Articles 330 & 331 C.S.R., which are a part of the Govt. leave rules, an officer can only be brought under Ch: XIII if he belongs to certain classes or by special order from the S. of S. Mr. Ellis does not belong to any of those classes and there is no special order in his case. Therefore he is not, and cannot be brought by the Govt., under Ch: XIII. Q. E. D. I think G.O. $\frac{381\text{ M}}{20.3.93}$ should be cancelled.

Mr. Ellis' letter does not raise the question of Exchange Compensation allce., so I do not know why the A.G. & the C.S. have gone into it. I think Mr. Ellis shd. not get it, however.

9/5/96

Circ:

The answer to Mr. Ellis' questions as suggested by the Hon Mr. Bliss seem to be right.

The reason why the A. G. went into the question of Exchange comp. [illegible]

G.
25 A.
1,000—21-3-96.

allowance is that Mr. Ellis explained to the A. G. that this was the point he wanted to know in his 3d question.

I agree that the extension of the favourable leave rules to Mr. E. without reference to the Sec of State was not right, but I think the Sec of State shd be recommended to extend the rules to him.

I also think Art. 1015 A shd be applied to Mr E.

J G
13/5/96

I agree in the view taken by the Hon. Mr. Grose.

A H
14.5.96

Very well — Let us refer ~~the~~ ~~[illegible]~~ question as to the favourable leave rules.

As to Art 1015 A, Mr. Ellis' pension will not be "payable at the Home Treasury" — How can this article be extended to him?

22/5/96

Note for Hon. Mr. Bliss

Art 1015 (a) C.S.R. states that when a pension is stated in rupees, it is payable at any treasury.... ... in India, or, at the pensioner's option, at the Home Treasury of the G. of I. Under sec 45 of Act I of 1884 H.E. the G.-in-C. can make Art. 1015 A applicable to Mr. Ellis, & also Art 1015 (a) if it is considered necessary to do so.

1/6/96

W W B
30-5-96

I don't find any Art. 1015(a) in the C.S.R. — Assuming that this is a clerical error for 1015, I still fail to see how Art 1015 A can be extended to Mr. Ellis. He will get his pension in rupees which may be worth 9½d each, as at present. How can he draw at 9d at the Home Treasury? Who is to pay the difference? Not Govt., certainly; nor the Municipality, for there is no way of making it do so.

2/6/96

The Acct. Genl has suggested that Art. 1015 can be applied of Govt. under Sec 48 of the Act so declare. Under that Section the Commissioners are to pay the pension prescribed by Govt. out of the Municipal Fund.

J.G.
5/6/96

I agree with the Hon. Mr. Grose.

A.H.
9.6.96

Mr. Ellis' questions re [illegible] pay & pension &c.

212 M.

FOR ORDERS.

H. M. & Circ.

Resubmitted to Hon Mr. Bliss with reference to the note of Hon Mr. Grose d/ 13.5.96 & H.E. the Governor d/ 14.5.96

W.W.D.
19.5.96

Fd
21/5/96

Resubmitted to Hon Mr. Bliss with note within below his note of 22.5.96.

W.W.D.
30.5.96

Fd
1/6/96

Submitted to (1) Hon Mr. Grose (2) H.E. the Governor with reference to Hon Mr. Bliss' notes of 22.5.96 & 2.6.96

W.W.D.
3/6/96

Fd
4/6/96

[G. / 24.]
500—22-4-96.

L & M DEPARTMENT.

6

Papers to be read in proceedings :—

Again G.O., dated 11th November 1895, No. 1875

~~Again G.O., dated 189 , No.~~

Current No. 212 M of 1896, dated 17th Jany from Acctnt Genl.

~~" " " 189 , " " "~~

~~" " " 189 , " " "~~

ORDER. No. 1064 M. D/ 23-6-96

In his letter No. 91 dated 18.5.95, read referred to above in the ~~above~~ G.O., Mr. Ellis submits ~~raises~~ the following three points for ~~decision by Go~~ for the orders of Govt.

(a) Whether the age of retiring & the amount of pension shall be determined in his case by the same rules as apply to Engineers in the I.W.S. trained at Cooper's Hill.

(b) Whether his ~~the~~ pension will be paid at the current rates of exchange, or on the same terms as apply to the Engineers mentioned in (a) ~~above referred to~~.

(c) Whether he will be allowed to remit his pay when on leave on the same terms as apply to the Engineers above referred to.

2. ~~The following answers will now be furnished.~~ With reference to (a) Mr. Ellis will be informed that his pension will be calculated according to the rules contained

in Part IV of the C.S.R. ~~as~~ relating to ordinary pensions.

(b) As regards H.E. the G.-in-C. is pleased to declare under sec. 48 of Act I of 1884 as amended by Act II of 1892, that Mr. Ellis' pension shall be payable in accordance with the provisions of Art. 1015 A of the C.S.R., & accordingly his pension will be paid in rupees, which may be converted into sterling at the rate of exchange prescribed by that article.

(c) With respect to It is not quite clear what is meant by this question. If, as stated by the Acctt. Genl, Mr. Ellis ~~means~~ intends to ask whether "~~Am I~~ he is entitled to exchange compensation allowance", the answer will be in the negative. If however he ~~means~~ asks to enquire at what rate of exchange ~~shall I draw~~ he will draw ~~my~~ his furlough allowance", ~~he will be informed that~~ the reply will be ~~he~~ that he will draw it at the current official rate of exchange subject to a minimum of 1s. 6d. to the rupee in accordance with Art. 945 C.S.R.

3 In G.O. No. 381 M, dated 20.3.93 Mr. Ellis was declared to be entitled to leave in accordance with the rules in Chapter XIII of the C.S.R. It appears however that this Govt. was not competent to sanction this concession, as the order was issued subsequent to the amendment of Act IV of 1884 by Act II of 1892.

Grammar?

G.
24.
500—22-4-96.

DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated 189 , No.
Again G.O., dated 189 , No.
Current No. of 189 , dated , from
" " " 189 , " , "
" " " 189 , " , "

ORDER.

Sec. 45 of the original Act empowered the Governor in Council to grant Mr. Ellis such leave as he thought fit, but under the Act as amended ~~the G.-in-C.~~ Govt. has only power to grant him leave in accordance with the leave regulations from time to time applicable to the Government service, & therefore the provisions of Chapter XIII C.S.R. could not be applied in this case. The above ~~[illegible]~~ G.O. No. 381 Mr. dated 20th March 1893 ~~order~~ was therefore ultra vires, & must now be cancelled. The Secretary of State will however be addressed with a view to obtaining ~~his~~ sanction to the concession ~~formally allowed by [illegible]~~ which is imperfectly conferred.

(from orders)

WWD
16.6.96

18/6/96

No. 1065 M. of 23-6-96
Letter to the Secy. to the Govt. of India
(Home 4?)

To,
The President, Mr., Madras
& Accountant General. 96/7
Despd. 16/7/96

Sir,

I am directed to submit the following for the consideration of the Govt. of India with the request that the ~~Sanction of~~ the Rt. Hon^ble the Secretary of State for India may be ~~obtained~~ moved to sanction ~~for~~ the application of Chapter XIII of the C.S.R. to Mr. R. E. Ellis, Municipal Engineer, Madras Municipality.

2. Under sec. 45 of Madras Act II of 1884 (City of Madras Municipal Act) the Govt. in Council was empowered to grant such leave of absence to the ~~President~~ & Vice-presidents (of which Mr. Ellis was one) as ~~he thinks~~ might seem to him fit. Subsequent to the appointment of Mr. Ellis as ~~the~~ municipal Engineer this act was amended by Act II of 1892 & Section 45 now runs. "The G.-in-C. may ... grant leave of absence to ... the "officers appointed under sec. 37, (amongst whom "Mr. Ellis is included) in accordance with the "leave regulations from time to time applicable "to the Govt. service". ~~[illegible]~~ Notwithstanding this amendment ~~the~~ The Govt. in G.O. No. 381 M of 20.3.93 having duly considered section 45 of the act as it then stood made the provisions of Chap. XIII C.S.R. applicable to Mr. Ellis under the impression that its powers in this respect were the same as they had been under the original ~~act~~ law. This order was, no doubt, ultra vires, & has now been cancelled. H.E. the G.-in-C. is, however, of opinion, that as Mr. Ellis entered the municipal service in 1890 before the Act was amended, & at a time when it was still

---

[G. / 24.]
500—22-4-96.

DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated 189 , No.
Again G.O., dated 189 , No.
Current No. of 189 , dated , from
" " " 189 , " , "
" " " 189 , " , "

ORDER. ~~No. 1064 M dated 23-6-96~~

within the powers of this Govt. to grant him leave in accordance with the provisions of Chapter XIII, & as he is by training & qualifications of the same status as officers of the P.W.D. he may fairly claim ~~entitled~~ to be ~~treated~~ placed on the same footing as they are ~~like them~~ in the matter of leave. He has already been granted this privilege, illegally, it is true, but that fact makes it none the less hard that he should be deprived of ~~privileges~~ benefits which he has already been enjoying. His Excellency trusts that these views will be shared by the Govt. of India and that they will be able to accede to the request on behalf of Mr. Ellis ~~request that the Secretary of State may be addressed with a view to obtaining his sanction as indicated above.~~

(from orders)

Now prepared

Desp^d. 16/7/96

18/6/96

16.6.96

Mr. Ellis' questions re pay pension & leave

(From orders)

C.S.

pl.

Submitted to Hon. Mr. Bliss with ref. to para 2 (b), he being the H.M. in the minority.

19/10/96

First copy sent to

Returned for sig

No. 1065 M., 23rd June 1896.

LOCAL AND MUNICIPAL DEPARTMENT.

Letter—from

The CHIEF SECRETARY to the GOVERNMENT of
FORT ST. GEORGE,

To

The SECRETARY to the GOVERNMENT of INDIA,
Home Department.

Sir,

I am directed to submit the following for the consideration of the Government of India with the request that the Right Honourable the Secretary of State may be moved to sanction the application of Chapter XIII of the Civil Service Regulations to Mr. R. E. Ellis, Municipal Engineer, Madras Municipality.

2. Under section 45 of Madras Act I of 1884 (City of Madras Municipal Act), the Governor in Council was empowered to grant such leave of absence to the Vice-Presidents (of which Mr Ellis was one) as might seem to him fit. Subsequent to the appointment of Mr. Ellis as Municipal Engineer this Act was amended by Act II of 1892, and section 45 now runs: "The Governor in Council may grant leave of absence to the officers appointed under section 37 [amongst whom Mr. Ellis is included] in accordance with the leave regulations from time to time applicable to the Government service." Notwithstanding this amendment the Government, in G.O., No. 381 M., dated 20th March 1893, having duly considered section 45 of this Act as it then stood, made the provisions of Chapter XIII, Civil Service Regulations, applicable to Mr. Ellis under the impression that its powers in this respect were the same as they had been under the original law. This order was, no doubt, *ultra vires*, and has now been cancelled. His Excellency the Governor in Council is, however, of opinion that, as Mr. Ellis entered the municipal service in 1890 before the Act was amended and at a time when it was still within the powers of this Government to grant him leave in accordance with the provisions of Chapter XIII, and as he is by training and qualifications of the same status as officers of the Public Works Department, he may fairly claim to be placed on the same footing as they are in the matter of leave. He has already been granted this privilege, illegally, it is true, but that fact makes it none the less hard that he should be deprived of benefits which he has already been enjoying. His Excellency trusts that these views will be shared by the Government of India and that it will be able to accord its support to the request now preferred on behalf of Mr. Ellis.

I have the honour to be,
Sir,
Your most obedient servant,

J. F. PRICE,
Chief Secretary.

Ootacamund,
23rd June 1896.

Exd. A. Raitt.

Pay pension & leave

Regr. No.

HOME 1896 DEPT.

[ ]

From the Government of
Fort St. George.

Issued

Recd. *Encl.*

Letter, No. 1065 M., 23rd June 1896.

JUNE.

Pay, Pension and Leave.

Requesting the Government of India to obtain the approval of the Secretary of State for India to the admission of Mr. R. E. Ellis, Engineer, Madras Municipality, to the favourable leave rules under Chapter XIII of the Civil Service Regulations.

First copy sent to

returned for sig

No. 1064 M., 23rd June 1896.

GOVERNMENT OF MADRAS.

LOCAL AND MUNICIPAL DEPARTMENT.

Read—again the following paper :—

G.O., Mis. No. 1875 M., dated 11th November 1895.

Abstract.—Recording proceedings of the Municipal Commissioners, Madras, on the subject of Mr. Ellis' pensionary contribution, and referring his letter to the Accountant-General for remarks regarding the rules which should regulate age of retiring, &c., in his case.

Read—also the following paper :—

From the Officiating Accountant-General, dated 17th January 1896, No. I.A.E.—7-C.

Abstract.—Reporting on the three questions raised by Mr. Ellis regarding his pension.

Order—No. 1064 M., dated 23rd June 1896.

In his letter, No. 91, dated 18th May 1895, read in the Government Order referred to above, Mr. Ellis submits the following three points for the orders of Government :—

(*a*) Whether the age of retiring and the amount of pension shall be determined in his case by the same rules as apply to Engineers in the Public Works Department trained at Cooper's Hill.

(*b*) Whether his pension will be paid at the current rates of exchange, or on the same terms as apply to the Engineers mentioned in (*a*).

(*c*) Whether he will be allowed to remit his pay when on leave on the same terms as apply to the Engineers above referred to.

2. With reference to (*a*), Mr. Ellis will be informed that his pension will be calculated according to the rules contained in Part IV of the Civil Service Regulations relating to ordinary pensions.

As regards (*b*), His Excellency the Governor in Council is pleased to declare, under section 48 of Act I of 1884 as amended by Act II of 1892, that Mr. Ellis' pension shall be payable in accordance with the provisions of Article 1015-A of the Civil Service Regulations, and accordingly his pension will be paid in rupees, which may be converted into sterling at the rate of exchange prescribed by that article.

With respect to (*c*), it is not quite clear what is meant by this question. If, as stated by the Accountant-General, Mr. Ellis intends to ask whether he is entitled to exchange compensation allowance, the answer will be in the negative. If, however, he wishes to enquire at what rate of exchange he will draw his furlough allowance, the reply will be that he will draw it at the current official rate of exchange subject to a minimum of 1*s*. 6*d*. to the rupee in accordance with Article 945, Civil Service Regulations.

3. In G.O., No. 381 M., dated 20th March 1893, Mr. Ellis was declared to be entitled to leave in accordance with the rules in Chapter XIII of the Civil Service Regulations. It appears, however, that this Government was not competent to sanction this concession, as the order was issued subsequent to the amendment of Act I of

pension
leave

First copy sent to

Returned for sig

1884 by Act I[illegible] of 1892. Section 45 of the original Act empowered the Governor in Council to grant Mr. Ellis such leave as he thought fit, but under the Act as amended Government has only power to grant him leave in accordance with the leave regulations from time to time applicable to the Government service, and therefore the provisions of Chapter XIII, Civil Service Regulations, could not be applied in this case. G.O., No. 381 M., dated 20th March 1893, was therefore *ultra vires* and must now be cancelled. The Secretary of State will, however, be addressed with a view to obtaining sanction to the concession which it improperly conferred.

[Here enter No. 1065 M., dated 23rd June 1896.]

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the President, Municipal Commission, Madras.
„ Accountant-General.

Exd A. Raitt.

Pension
Leave

Govt. of {1896} Madras.

LOCAL AND MUNICIPAL.

Issued

Recd. *Encl.*

G.O., No. 1064 M., 23rd June 1896.

JUNE.

Pay, Pension and Leave.

Answering the questions raised by Mr. Ellis, Engineer of the Madras Municipality, regarding the rules regulating his —, and requesting the Government of India to obtain the approval of the Secretary of State to the order of Government in G.O., No. 381 M., dated 20th March 1893, granting leave to Mr. Ellis under Chapter XIII of the Civil Service Regulations.

First copy sent to Press.

Returned for signature.

patched in print.

NUMBER OF COPIES REQUIRED.
Order complete.
Letter only.
Order complete with Letter.

AGAIN G.O., No. DATED
189

ENT No.

CLOSURES TO C. No.

DER OF GOVERNMENT.

TTER OF GOVERNMENT.

EMENT WITH DITTO.

ERS NOT FILED UP BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—

A = Print in full.
B = Not to be printed.
F = Print abstract only.
G = Print heading only.