

MADRAS RECORD OFFICE.

Government of Madras

DECLARATION

C.I. No.	Part
10-4	15

Fort Saint George, Public Works Consultation of 23th September 1858.

No. 124. Read the following letter from Major E. LAWFORD, Officiating Chief Engineer; to the Secretary to Government, dated 9th September 1858, No. 3526.

SIR,

From Mr. H. B. Smith dated July 22nd 1858.
From Civil Auditor July 31st 1858.
To do. August 10th 1858.
From do. August 26th 1858.
To do. September 1st 1858.
From do. September 6th 1858.

I have the honor to forward for submission to Government, the accompanying correspondence with the Civil Auditor, respecting an application from Mr. H. B. Smith, Acting Executive Engineer for an extension of Medical

leave and his claim for Travelling allowance from Madras to Malabar.

2. The Civil Auditor having decided that Mr. Smith did not exceed the leave granted on 8th January last and that an application to Government for an extension was unnecessary, the only subject for the consideration of Government is Mr. Smith's claim to travelling allowance, on which the Civil Auditor considers Government should express an authoritative opinion.

3. Mr. Smith was transferred from Kurnool to Bellary on the 25th November last, but before proceeding and joining the latter District, he became sick and left the former District under an emergent Medical Certificate on the 31st December last.

4. On Mr. Smith's return from leave, he was on the 3rd July last transferred on account of the exigency of the service from Bellary to Malabar, and he proceeded and joined the latter District on the 18th direct from Madras.

5. The Civil Auditor is of opinion, that Mr. Smith is eligible under Extract Minutes Consultation No. 1056, dated 3rd June 1857 to travelling allowance for the interval between his old and new station, but as Mr. Smith did not join the Bellary District prior to his leave, the question arises whether he should be allowed the travelling allowance for the distance to Malabar from Bellary or from Kurnool?

6. Under the rules laid down by the Government of India, communicated with Extract Minutes Consultation No. 1056 of the 3rd June 1857 above referred to, an Officer of the Public Works Department is entitled to the full salary of his grade, as well as Travelling allowance for the interval occupied between quitting his old and joining his new station, to which he may be removed under the exigency of the service; but in the case under consideration, the Civil Auditor proposes to allow Mr. Smith only half pay up to 18th July, the date on which he reported his arrival in the Malabar District.

7. If Mr. Smith's claim to travelling allowance be admitted for the time which may be occupied in travelling from his old to his new station, he appears also entitled to his full salary for an equal period of time, and I have therefore the honor to submit the question for the decision of the Right Honorable the Governor in Council.

Extract from the Proceedings of the Chief Engineer, dated 30th July 1858, No. 2344.
Read the following letter from H. B. SMITH, Esq., Acting Executive Engineer; to Major E. LAWFORD, Officiating Chief Engineer, dated Calicut, 22nd July 1858.

SIR,

With reference to Extract from the Proceedings of the Chief Engineer in the Department of Public Works under date the 9th July 1858, No. 1831, I beg that you will be pleased to grant me Leave from the 30th June to the 2nd of July the date of my arrival in Madras, and from the 3rd to the 9th July the day on which I reported my departure from Madras, and also, if necessary, from the 10th to the 18th July the day on which I arrived in this District.

Submitted for the favorable consideration of Government through the Civil Auditor and with the Officiating Chief Engineer's recommendation, that special leave of absence may be granted to Mr. H. B. Smith, Acting Executive Engineer 4th Class, from the 30th June to 18th July 1858, the day on which he arrived in the District of Malabar, to which District he was during his absence transferred from Bellary.

(Signed) E. LAWFORD, Major,

Offg. Chief Engineer.

Fort Saint George, Public Works Consultation of 28th September 1858.

Extract from the Proceedings of the Chief Engineer, dated 5th August 1858, No. 2531.

Read the following Memorandum from F. LUSHINGTON, Esq., Acting Civil Auditor; to Major E. LAWFORD, Officiating Chief Engineer, dated 31st July 1858, No. 172.

The Acting Civil Auditor has the honor to return Mr. H. B. Smith's application received under the Officiating Chief Engineer's endorsement No. 2344, of yesterday's date, and requests the attention of the Officiating Chief Engineer to the Notification in Page 716 of the Gazette for 1857, Vol. I which renders unnecessary an application for special leave for the period intervening between and of reckoning absence on Sick Leave out of India and re-arrival at station.*

Resolved to communicate the foregoing Memorandum to Mr. H. B. Smith, Assistant Engineer for his information with reference to his letter dated 22nd Ultimo.

(Signed) E. LAWFORD, Major,
Officiating Chief Engineer in Charge of S. C.

Official Memo. from Major E. LAWFORD, Officiating Chief Engineer; to F. LUSHINGTON, Esq., Acting Civil Auditor, dated 19th August 1858, No. 2977.

With reference to the Acting Civil Auditor's Memo No. 172 of the 31st July last, the Officiating Chief Engineer has the honor to state, that Mr. H. B. Smith over-stayed his sick leave published in General Order dated 8th January 1858. He was first posted to the Bellary District on the 25th November and afterwards on his arrival at Madras was transferred to Malabar, such being the case the Officiating Chief Engineer requests to be informed whether travelling allowance can be passed to Mr. Smith or the distance between Madras and Malabar in accordance with the rules laid down for regulating such allowance. The Officiating Chief Engineer is induced to refer the matter to the Acting Civil Auditor in consequence of Mr. Smith having submitted to the Central Office his travelling allowance Bill for the month of July including the period occupied in travelling from Madras to join the Malabar District.

Letter from F. LUSHINGTON, Esq., Civil Auditor; to Major E. LAWFORD, Officiating Chief Engineer, dated 26th August 1858, No. 202.

SIR,

With reference to your Official Memorandum of the 19th Instant, No. 2977, I have the honor to acquaint you that, it is necessary for Mr. H. B. Smith to obtain an extension of leave for the period he was absent in excess of his authorised leave.

2. With reference to the concluding part of your Memorandum under acknowledgement, I beg to state that I am unable to discover any rule or order authorising travelling allowance to Officers of the Department of Public Works on the occasion of their transfer or removal permanently to other Districts.

Letter from Major E. LAWFORD, Officiating Chief Engineer; to F. LUSHINGTON, Esq., Acting Civil Auditor, dated 1st September 1858, No. 3323.

SIR,

I have the honor to forward with reference to para. 1 of your letter dated the 26th Ultimo No. 202, the accompanying letter from Mr. H. B. Smith with my endorsement thereon dated the 30th July No. 2344 in original, which were returned to me with your Memo. dated the 31st Idem No. 172, and to request that you will be so good as to obtain leave for such period as you may consider Mr. Smith as having over-stayed his authorized leave either inclusive or exclusive of the time involved in progress to join his new appointment.

I beg to inform you that Mr. Smith on his arrival at Madras from leave was transferred to Malabar from Bellary and he proceeded and joined the former District on the 18th July last.

Fort Saint George, Public Works Consultation of 28th September 1858.

With reference to para. 2 of your letter under acknowledgment, I beg to refer you to Extract Minutes Consultation P. W. D., No. 1056, dated 3rd June 1857, communicating certain rules laid down by the Government of India regarding the salaries and travelling allowance to be drawn by Officers when removed from one charge to another. It is evident that if Mr. Smith had proceeded from Bellary to Malabar, he would be entitled under this rule to draw his full salary and travelling allowance, but as he proceeded direct from Madras to join his new District, it became a matter of question how far the rule could be considered applicable to his case and to all similar cases which may hereafter occur.

On the receipt of a Bill from Mr. Smith for travelling allowance, your opinion was solicited in my memo. of the 19th July and having now referred you to the rule under which it is claimed, I have the honor to request you will favor me with the same at your earliest convenience.

Letter from F. LUSHINGTON, Esq., Civil Auditor; to Major E. LAWFORD, Officiating Chief Engineer, dated 6th September 1858, No. 268.

SIR,

In reply to your letter No. 3323 of the 1st Instant, with reference to Mr. H. B. Smith's application for an extension of Medical leave from the 30th June to 2nd July inclusive, the period alleged to be in excess of the leave granted to him, I have the honor to observe that, that Officer has not exceeded the leave under which he proceeded to Sea and Ceylon. In Manual, Chap III, para. 62, Sick leave is defined to be the period comprised between the dates of embarkation and debarkation. Mr. Smith on the leave for 6 months granted on the 8th January last, sailed from Madras on the 16th Idem and arrived on the 2nd July last, consequently the duration of his absence is but 5 months and 18 days.

2. The suggestion in my letter No. 202 of the 26th Ultimo for Mr. Smith's applying for an extension of leave was based on the assertion in your memo No. 2977 of the 19th Ultimo that that Officer had over-stayed his leave. This statement I have shown to be erroneous.

3. The grant of Medical Leave beyond Sea renders it unnecessary, as shown in my Memo No. 172 of the 31st Ultimo to apply to Government specifically for the special leave for joining, consequently as Mr. Smith's application at present under review, is for extension of leave which he has not exceeded, and for special leave which is authorized, any reference to Government on it will be purposeless. I shall however retain the application pending your reply or re-call of it.

4. In the Vade Mecum para. 189 you will find the rule limiting the period allowable to Mr. Smith to proceed from the port of debarkation to his station. Mr. Smith re-joined on the 18th July last: under the rule para. 192, he will be entitled to half salary up to that date and full salary subsequently.

The Extract Minutes of Consultation No. 1056 of the 3rd June 1857, to which you refer to me was not communicated to this Office, under the rules and paras. 62 & 63 of the *Vade Mecum*, Mr. Smith appears to be eligible to travelling allowance for the interval between his old and new station, but as an authoritative opinion on this subject would be preferable, I would suggest your submitting the case for the orders of Government.

No. 125. ORDER THEREON, No. 2007; dated 28th September 1858.

Para. 1. Mr. H. B. Smith, Acting Executive Engineer was transferred from Kurnool to Bellary on the 25th November 1856; but falling sick, he left the former District on an emergent Medical Certificate on the 31st December 1857. On the 8th January 1858, sick leave was granted to Mr. Smith for six months, from which he is reported to have returned on the 3rd July last, when he was posted to Malabar, and joined that District on the 18th July.

2. Mr. Smith did not take up his appointment at Bellary, and only joined that in Malabar from Madras. The question now raised is whether he is entitled to Travelling Allowance, and if so, whether it should be calculated on the distance from Kurnool, from Bellary or from Madras.

Fort Saint George, Public Works Consultation of 28th September 1858.

3. The Civil Auditor is of opinion that Mr. Smith is eligible under Extract Minutes Consultation, No. 1056, dated 3rd June 1857, to "Travelling Allowance" for the interval between his old and new stations, Major Lawford adverting to the rules referred to in the order quoted by the Civil Auditor, argues that an Officer of the Public Works Department is entitled not only to the Travelling Allowance, but also to the full salary of his grade for the interval occupied between quitting his old and joining his new station, instead of only the half of it proposed to be assigned to him by the Office of Audit.

4. The Government are not prepared to subscribe to Major Lawford's argument on the subject. The rules quoted by him refer to the transfer from one charge to another of Officers in active employment and not to absentees circumstanced like Mr. Smith. It is only after an actual resumption of duty, that such absentees can claim the privileges of the service, and the Government do not see how any claim can be advanced by Mr. Smith to full salary for a period prior to the date of his joining Malabar.

5. It is observed that the Government of India have in a recent letter dated 30th July 1858, No. 3680, directed "that the rules on the subject of Travelling Allowances to officers of the Department of Public Works, inserted in the recently published, Public Works Code are to be looked upon as finally disposing of this question," and that the interpretation of the rules on the subject proposed in Colonel Baker's Office Circular of the 1st May 1857, communicated to the Chief Engineer in Extract Minutes Consultation, 3rd June 1857, No. 1056, "are

not to be followed." The Government resolve therefore to direct that the Bengal Rule as quoted in the margin be applied to the present and all future cases.

(Signed) T. PYCROFT,
Chief Secretary.

Public Works Code page 265.
"If an Officer is transferred while on leave, he is allowed Travelling Allowance to join his new appointment, either from his old station, or from the place where he receives order, whichever may be the least expense to Government."

Central Office of Public Works
Fort Saint George 9 Sept 1858

No 3526

From

The Officiating Chief Engineer

To

The Secretary to Government P.W.D.

Sir

I have the honor to forward

for submission to Government the accom-

panying correspondence with the

Civil Auditor respecting an application

from Mr. A. B. Smith Acting Executive

Engineer for an extension of Medical

leave, and his claim for travelling

allowance from Madras to Malabar

The Civil Auditor having

decided that Mr. Smith did not exceed

the leave granted on the 8 January

last

From Mr. A. B. Smith
dated July 22/58

From Civil Auditor
July 31/

To Do Aug 19/

From Do " 26/

To Do Sep 1/

From Do " 6/

last and that an application to Government for an extension was unnecessary, the only subject for the consideration of Government is Mr Smith's claim of Travelling allowance, on which the Civil Auditor considers Government should express an authoritative opinion.

3. Mr Smith was transferred from Kurnool to Bellary on the 25th November last but before proceeding and joining the latter district he became sick and left the former district under an emergent Medical Certificate on the 31st December last.

4. On Mr Smith's return from leave he was on the 3rd July last transferred on account of the exigency of the Service from Bellary to Malabar.

Malabar, and he proceeded and joined the latter District on the 18th direct from Madras.

5. The Civil Auditor is of opinion that Mr Smith is eligible under C. M. C. No 1056 dated 3rd June 1857 to Travelling allowance for the interval between his old and new station, but as Mr Smith did not join the Bellary district prior to his leave the question arises whether he should be allowed the Travelling allowance for the distance to Malabar from Bellary or from Kurnool?

6. Under the rules laid down by the Government of India communicated with C. M. C. No 1056 of the 3rd June 1857 above referred to an Officer of the Public Works Department

Department is entitled to the full salary
of his grade as well as Travelling Allow-
ance for the interval occupied between
quitting his old and joining his new
station, to which he may be removed
under the exigency of the Service;
but in the case under consideration
of the Civil Auditor proposes to allow
Mr Smith only half pay up to 18th
July the date on which he reported
his arrival in the Malabar district

If Mr Smith claims to
Travelling allowance be admitted
for the time which may be occupied
in travelling from his old to his
new station, he appears also entitled
to his full salary for an equal
period of time, and I have
therefore the honor to submit
the

the question for the decision of the
Right Honorable the Governor in
Council.

I have the honor to be
Sir

Central Office of P.W.
Fort Saint George
9 September 1858

Your most obedient Servant

Lawrence
Officiating Chief Engineer

To
The Secretary to Government
Public Works Department

11-2007

P.W.D

Extract from the minutes of consultation

Under date the 28th September 1858.

Recd the following letter from the officiating, Acting Engineer -

Per letter 9th September 1858 No 3526

1. Mr. A. D. Smith, acting Executive Engineer was transferred from Durugol to Bellary on the 25th November 1856, but falling sick, he left the former district on an emergency Medical Certificate on the 31st December 1856. On the 8th January 1858, Sick Leave was granted to Mr. Smith for six months, from which he is reported to have returned on the 3rd July last, when he was posted to Malabar, and joined that

11-2007

11-1858

Chair

Chief Officer

Office Secretary

Dated 9th Sept 1858

Received

11-2007

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that District on the 18th July.

2 Mr Smith did not
take up his appointment
at Bellary, and only joined
that in Malabar from Madras.

The question now raised is
whether he is entitled to
Travelling allowance, and
if so, whether it should be
calculated on the distance
from Kurnool, from Bellary
or from Madras.

3 The Civil Auditor is
of opinion that Mr Smith
is eligible under Extract
minutes Consultation No 1056
dated 2nd June 1857, to "Travelling
allowance" for the interval
between his old and new
stations. Major Lawford
adverting to the rule referred
to in the order quoted by the
Civil Auditor, argues that
an Officer of the Public Works

Department

Department is entitled not
only to the Travelling Allowance,
but also to the full
Salary of his grade for the
interval occupied between
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his new Station, instead of
only the half of it proposed
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4 The Government are
not prepared to subscribe
to Major Lawford's argu-
ment on the subject. The
Rules quoted by him refer
to the transfer from one
charge to another of officers
in active employment and
not to absentee circumstances
like Mr Smith. It is only
after an actual resumption of
duty, that such absentees
can claim the privileges
of the Service, and the
Government do not see how

any

any claim can be advanced
by Mr. Smith to full salary for
a period prior to the date of his
joining Madras.

It is observed that
the Government of India have
in a recent letter dated 30 July
1858 No 3580 directed that the
Rules on the subject of Travelling
allowances to officers
of the Department of Public Works
inserted in the recently published
Public Works Code are to be taken
upon as finally disposing of
this question. That the interpre-
tation of the rules on the subject
proposed in Colonel Barker's
Circular of the 1st May 1857 communi-
cated to the Acting Engineer in
Chief by Mr. Barker in June 1857 No 1056 are
not to be followed. The Govt
has therefore directed that
the General Rule as quoted in
the margin be applied to the
present and all future cases.

Public Works Code page 265.

If an officer is transferred
while on leave, he is allowed travelling
allowance to join his new
department, either from his old
station, or from the place where he
receives the order, whichever may
be the least expense to Govt.

10 Copies to the Secy to Govt. No 294

1 - " " " " " " " " " " " "

2000/1/1

Public Works 1838 & 1839
Down 28th Sept 1838

No 2007

Contract binding of Bond
28th Sept 1838

It is to be noted that the
contract of 1838 is not the
one which was made in 1838
but the one which was made
in 1838 & 1839.

1838 & 1839