M.R.O. 14-5,460-28-10-25.

# MADRAS RECORD OFFICE.

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## Government of Madras.

*Revenue* DEPARTMENT.

G.O. No. 669 Press ~~M10.~~

227-28
Dated /3-3- 1868.

***Not to be folded or roughly handled***

*Proceedings of the Madras Government, Revenue Department, 13th March 1868.*

No. 227. Read the following Proceedings of the Madras Government in the Judicial Department:—

Directing the cancellation of the retrenchment of Mr. E. W. Bird's salary, reported in paragraph 4 of the Deputy Accountant General's letter, dated 20th February 1868, No. 374. (Here enter 4th March 1868, No. 354.)

No. 228. ORDER THEREON, 13th March 1868, No. 669.

Miscellaneous. Communicated to the Revenue Board.

(True Extract.)

(Signed) F. BRANDT,
*Under Secretary to Government.*

To the Board of Revenue, with Proceedings Judicial Department, No. 355.

Rrd. S. T. Augustin.

Read the following papers :—

No. 21. From the Deputy Accountant General, Madras, to the Chief Secretary to Government, Fort Saint George ; dated Fort Saint George, 20th February 1868, No. 374.

Post Audit Department.

I have the honor, by direction of the Accountant General, to call your attention to the following case :—

Mr. E. W. Bird, of the Civil Service, was granted 15 months' leave to Europe on sick certificate on the 27th February 1866, and on the 9th April 1867 that leave was further extended to five months, making him due in Madras on the 28th November 1867, he having quitted Madras on the 28th March 1866.

2. Mr. Bird arrived at Madras on the 29th November, and therefore exceeded his leave by one day, and under the rules forfeited his appointment.

3. He nevertheless joined the forfeited appointment at Tanjore, and the Examiner of Claims passed to him absentee allowance in full, at Rupees 833 5-4 a month, for November.

4. On the case coming under review by me, owing to a bill being received for December from Tanjore for my audit, in which it appears that Mr. Bird has been paid from the 1st to 4th, at Rupees 833-5-4, I was obliged to direct a retrenchment to be made of Mr. Bird's allowances as under.

Full allowances for 28th November, as Mr. Bird was then at sea and had over-stayed his leave.

From 29th November to 4th December, so much of his absentee allowance as is in excess of the subsistence allowance of his rank—in all Rupees 126-14-10.

5. It is now necessary that Mr. Bird should be re-appointed to Tanjore to give him a claim to his pay, and I have, therefore, the honor to request that His Excellency in Council will be pleased to re-appoint him, with retrospective effect from the date of taking charge, the 5th December, in order that I may pass Mr. Bird his salary as Civil and Session Judge from that date.

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No. 22. From the Examiner of Claims, to the Chief Secretary to Government, Fort Saint George; dated Fort Saint George, 22nd February 1868, No. 175.

I have the honor, with reference to the Deputy Accountant General's letter to your address, dated 20th instant, No. 374, to state, by direction of the Accountant General, for the consideration of the Right Honorable the Governor in Council, the reason which induced me to hold that Mr. E. W. Bird had not forfeited his appointment of Civil and Session Judge of Tanjore, although he arrived from sick leave to Europe, per *Moollan*, upon 29th November 1867, in consequence of which I passed to him the allowances objected to by the Deputy Accountant General.

2. Mr. Bird and other officers returned to their duty in this presidency from leave to Europe by the second direct mail in October last. Owing to circumstances over which they had no control the passengers were, at Suez, divided into two batches, one proceeded by the P. and O. Steamer *Bengal*, the other per P. and O. Steamer *Moollan*; the former arrived at Madras on the 28th, the latter on 29th November 1867. Mr. Bird, as above mentioned, was a passenger by the latter steamer, and had, strictly speaking, over-stayed his time.

3. It appeared to me, however, that all the officers who returned to duty by the *same opportunity*, viz., the second direct mail of October from England, should be upon the same footing as regards the date of their return to duty, and consequently that those who arrived by the *Moultan* were entitled to be considered as having returned to duty upon the same date as those who came per *Bengal*. Accordingly, I held that the 28th November must be reckoned as the date on which Mr. Bird returned to duty, and as this was the day on which he was due at Madras (his 20 months' leave extending to the 27th idem, inclusive) he arrived, retaining his appointment, and was entitled to the allowances I passed to him.

4. I regret very much indeed that I did not report to Government at the time, as I ought undoubtedly to have done, the view I had taken of this matter, with the request that, if they concurred with me, they would seek the confirmation of the Government of India to the same. This Government will now have to do, should they be pleased to coincide with my opinion.

5. Temporary absence from duty (with the permission of the Accountant General) prevented me from explaining to Mr. Lodwick, when the case came under his notice, the cause of my having acted in the way I did.

6. Although it does not affect the point under consideration, I would in conclusion respectfully remind Government, that the despatch from England of the mail in question was delayed for three days by order of Her Majesty's Government.

No. 23. From E. W. BIRD, Esq., Civil and Session Judge of Tanjore, to the Chief Secretary to Government, Fort Saint George; dated Tanjore, 22nd February 1868, No. 137.

With reference to the letter to Government of the Deputy Accountant General, Madras, (Post Audit Department), No. 374, of the 20th instant, copy of which has been sent to me by that officer, reporting a retrenchment of my pay from the 28th November to the 4th December last, on the grounds I had then forfeited my appointment by over-staying my leave one day, and require now to be re-appointed to this Court, I have the honor to submit that I embarked in a P. and O. Steamer from Marseilles, which was under contract to arrive at Madras on the 25th November 1867—three days within my leave—and that I left London to join the steamer at Marseilles on the 24th October 1867.

2. On arrival at Marseilles on the 26th October, I found the departure of the contract steamer (the *Ripon*) was delayed, without notice to me, by the P. and O. Company, from the 28th October to the 31st, by telegraph, with sanction of Her Majesty's Government in London; and my arrival at Madras, therefore, was delayed three days by a circumstance utterly beyond my control.

3. Under these circumstances, I beg respectfully to submit that I do not fall under the rules as to forfeiture of appointment alluded to by the Deputy Accountant General, and request that the retrenchment ordered may be cancelled, and no re-appointment be made in my case at all.

No. 24. ORDER THEREON, 4th March 1868, No. 354.

The Governor in Council directs the cancellation of the retrenchment of Mr. E. W. Bird's salary, reported in paragraph 4 of the Deputy Accountant General's



letter above recorded. There is not, in the opinion of the Governor in Council, any necessity for Mr. Bird's re-appointment to his office of Civil and Session Judge of Tanjore. The delay of one day, which occurred in Mr. Bird's rejoining his appointment on the expiration of his leave to England, arose from a delay in the time of the contract steamer for which Mr. Bird was in no way accountable. Under these circumstances it is unnecessary to refer this matter for the confirmation of the Government of India.

2. The Accountant General is requested for the future to communicate directly with the Government so as to avoid conflicting reports by his official subordinates, such as have been made in the case under disposal.

(True Extract.)

Chief Secretary.

To the Accountant General.
To E. W. Bird, Esq., Civil and Session Judge of Tanjore.
To the Revenue Department.

Rd. J. Tulloch.

Nº 669

Comm.ᵉ to the

Revenue Board.

13ᵗʰ March/68.

1 Copy to the Bd of Rev with Pro JD No 956 Dept Nº

Nº 1868. Nº 65
180 of Court for March
Nº 757
Proceedings of the
Jud.ˡ Dep.ᵗ

Dated 4ᵗʰ March
Received 10ᵗʰ March 1868
Nº 354

Directing the
cancellation of the
retrenchment of Mr
L. Bonis Salary
as fixed in pursuance of
the Dep.ᵗ Gen.ˡ letter
dated 20 Oct/68 Nº 374
Nº 669 13 March
With Order

Nº 227-228
221-226