

(1) Number of pages _____

(2) Date of repair _____

(3) Initials of the Referencer _____

MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

G.O. No. 272

(W)

Press

Mis.

Dated

19-8-

1877.

Not to be folded or roughly handled

GOVERNMENT OF MADRAS
PUBLIC WORKS DEPARTMENT

19th June 1877, No 272 W

General
Establishment

Read the following paper —

No. 184 From Captain L CONWAY-GORDON, RE, Examiner of Public Works Accounts, to the Secretary to Government, Public Works Department, General Branch, dated Fort St George, 9th June 1877, No 43 W.

At the request of Mr Bowyer-Smyth, I have the honor to submit, for the information and orders of Government, the accompanying letter, dated June 1877, received here to-day from that officer on the subject of the action taken by this office in disallowing him pay and travelling allowance prior to 1st January 1877

2 Mr Bowyer-Smyth returned from furlough on the 15th December 1876, and in the *Fort St George Gazette* of the 19th idem he was posted to the Nellore District for employment on the East Coast Canal. Subsequently he was reported by the District Engineer to have arrived at Nellore on the 25th December 1876, and to have joined his appointment at Kotapatam on the East Coast Canal on the 1st January 1877

3. Mr Bowyer-Smyth holds that he is entitled to pay and travelling allowances from the date (24th, and not 25th, December 1876 as stated by the District Engineer) on which he reported his arrival at Nellore. It will be seen however from Section 37, Rules 8 and 10, of the Civil Leave Code, that if the appointment of an officer is changed during furlough out of India, or upon his reporting his return, nothing in excess of the allowances admissible for subsidiary leave can be passed to him until he joins his new office, and that he begins to draw pay only from the date "on which he assumes the office to which he may have been appointed." Mr Bowyer-Smyth was not under the rules entitled to any subsidiary leave allowances, and this office, in accordance with the rules just quoted, declined to pass him any pay or travelling allowance prior to the 1st January 1877. Extracts of disallowance lists are enclosed for the information of Government. I am of opinion that Mr Bowyer-Smyth is incorrect in thinking that Section 37, Rule 10, of the Civil Leave Code admits of his being considered as having taken charge of his new office and to have entered on the duties of his appointment from the date on which he reported himself at Nellore en route to join his appointment on the East Coast Canal

No 185 ORDER THEREON, 19th June 1877, No 272 W.

THE Government do not concur in the Examiner's ruling. Mr Bowyer-Smyth was posted to the Nellore District for employment on the East Coast Canal Famine Relief Works. It rested with the District Engineer to decide on what part of the canal he should be placed. It was therefore necessary that Mr. Smyth should report himself at head-quarters to receive further orders, and pay should be passed to him from that date *

* 24th December

2. The Government desire that in such cases as the present the opinion of the Chief Engineer should in the first instance be obtained by the Examiner

(True Extract)

Colonel, R.E.
Secretary to Government, P.W.D

To the Examiner of Public Works Accounts with two L's

Saint Thomas Mount,
June 1877.

From

E.C. Bowyer Smythe Esq.
Assistant Engineer.

To

The Examiner of
Public Works Accounts.

Sir, your disallowance statement for
December 1876 ^{in para 1 of your Ho}
you state that I can not draw any pay
for the month of December last, as I did
not join my Office till the 1st of January/77.
I have the honor to call your attention
to the fact that I reported my arrival to the
District Engineer on the 24th December and
put myself under his orders on that date, and
I consider myself clearly entitled to draw
pay from that date, together with travelling
allowance up to Kottapattanam.

On leaving Madras I was informed
by General Walker that I was posted to
Sasakapilly which is only one day from
Mellore but instead of going there I naturally
considered it my duty to stop at Mellore to
report myself to the District Engineer and
the event justified my procedure in this
instance, for that Officer ordered me still
further north viz to Kottapattanam.

My "taking up office" as laid down
in Chapter XIII Section 10 Civil leave code I

I respectfully submit, should commence from the date of my reporting myself to my District Engineer, for immediately I did so. I came under his orders and became thereby entitled to pay for carrying out such orders; the mere fact of my travelling to take charge of my work was ~~not~~ in itself.

If taking charge of an office is literally rendered, as a matter of fact, had no office to take charge of, nor did my office join me for a month or so after I had commenced work.

I request therefore that if there is any doubt on the matter, you will be good enough to refer the matter for the favorable consideration of Government. mine is perhaps an exceptional case & certainly in exceptionally hard times & as I have been put to great expense I hope the case will meet with liberal treatment.

I have the honor to be

Sir,
Your most Obedt Servant

W. Bowyer-Smyth

District Engineer

Confd
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FROM L. CONWAY-GORDON,

EXAMINER, P.W. ACCOUNTS.

TO THE SECRETARY TO GOVERNMENT,

PUBLIC WORKS DEPARTMENT,

GENERAL BRANCH.

NO. 43. W.

FORT ST. GEORGE, 9TH. JUNE 1877.

SIR,

AT THE REQUEST OF MR. BOWYER-SMYTH, I HAVE THE HONOR TO SUBMIT FOR THE INFORMATION AND ORDERS OF GOVERNMENT THE ACCOMPANYING LETTER DATED — JUNE 1877 RECEIVED HERE TO DAY FROM THAT OFFICER ON THE SUBJECT OF THE ACTION TAKEN BY THIS OFFICE IN DISALLOWING HIM PAY AND TRAVELLING ALLOWANCE PRIOR TO 1ST. JANUARY 1877.

2. MR. BOWYER-SMYTH RETURNED FROM FURLOUGH ON THE 15TH. DECEMBER 1876. AND IN THE FORT ST. GEORGE GAZETTE OF THE 19TH. IDEM HE WAS POSTED TO THE NELLORE DISTRICT FOR EMPLOYMENT ON THE EAST COAST CANAL. SUBSEQUENTLY HE WAS REPORTED BY THE DISTRICT ENGINEER TO HAVE ARRIVED AT NELLORE ON THE 25TH. DECEMBER 1876, AND TO HAVE JOINED HIS APPOINTMENT AT KOTAPATAN ON THE EAST COAST CANAL ON THE 1ST. JANUARY 1877.

3. MR. BOWYER-SMYTH HOLDS THAT HE IS ENTITLED TO PAY AN AND TRAVELLING ALLOWANCES FROM THE DATE (24TH. AND NOT 25TH DECEMBER 1876 AS STATED BY THE DISTRICT ENGINEER) ON WHICH

HE REPORTED HIS ARRIVAL AT NELLORE. IT WILL BE SEEN HOWEVER
FROM SECTION 37, RULES 8 AND 10, OF THE CIVIL LEAVE CODE,
THAT IF THE APPOINTMENT OF AN OFFICER IS CHANGED DURING FUR-
LOUGH OUT OF INDIA, OR UPON HIS REPORTING HIS RETURN, NOTHING
IN EXCESS OF THE ALLOWANCES ADMISSIBLE FOR SUBSIDIARY LEAVE
CAN BE PASSED TO HIM UNTIL HE JOINS HIS NEW OFFICE, AND THAT
HE BEGINS TO DRAW PAY ONLY FROM THE DATE ON WHICH HE ASSUMES
THE OFFICE TO WHICH HE MAY HAVE BEEN APPOINTED. MR. BOWYER-
SMYTH WAS NOT UNDER THE RULES ENTITLED TO ANY SUBSIDIARY
LEAVE ALLOWANCES, AND THIS OFFICE, IN ACCORDANCE WITH THE RULES
JUST QUOTED, DECLINED TO PASS HIM ANY PAY OR TRAVELLING ALLOW-
ANCE PRIOR TO THE 1ST. JANUARY 1877. EXTRACTS OF DISALLOWANCE
LISTS ARE ENCLOSED FOR THE INFORMATION OF GOVERNMENT. I AM
OF OPINION THAT MR. BOWYER-SMYTH IS INCORRECT IN THINKING THAT
SECTION 37 RULE 10 OF THE CIVIL LEAVE CODE ADMITS OF HIS BE-
ING CONSIDERED AS HAVING TAKEN CHARGE OF HIS NEW OFFICE AND
TO HAVE ENTERED ON THE DUTIES OF HIS APPOINTMENT FROM THE
DATE ON WHICH HE REPORTED HIMSELF AT NELLORE, EN ROUTE TO JOIN
HIS APPOINTMENT ON THE EAST COAST CANAL.

I HAVE THE HONOR TO BE

SIR,

YOUR MOST OBEDIENT SERVANT,

Lowry-Jordan

EXAMINER, E. & A. ACCOUNTS.

EXD. J.P.
9-6-77.
X

CD. E.H.M.
8-6-77.

QD 11.7.62 No 1648
Ch 15.1.77 - 97
Civil Service Code
Section 37, Rules 8 & 10

P.W.D.
11.7.77
FROM THE EXAMINER, P.W. ACCOUNTS,
NO. 5755
MADRAS.

TO THE SECRETARY TO GOVERNMENT,
PUBLIC WORKS DEPARTMENT,
GENERAL BRANCH.

NO. 43. 97

DATED 9TH. JUNE 1877.

RECD.

ENCLOS. 3. 1.

SUBMITT CINTAIN LETTER FROM
MR. BOWLER-SMYTH ON THE SUBJECT OF
THE ACTION TAKEN BY THIS OFFICE IN
DISALLOWING HIM PAY & TRAVELLING
ALLOWANCE PRIOR TO 1ST. JANUARY 1877
FOR THE INFORMATION & ORDERS OF
GOVERNMENT.

J. W. Dept

Proceedings of the Madras Government
Under date the
Read the following

The Ex. J. W. Accounts (No. 43 Wd/9th June/77)

I think Mr. B. is
entitled to pay from the
date of his joining the
govt. of his office. if as
understand he was appointed
for the duties of
in the Public Works
Dept. & as per rules
of the office is a
govt. servant & as such
entitled to pay & travelling
allowance.

The Government
consider Mr. Bowler Smyth's
claim has been rightly
rejected by the Examiner,
who should however
have obtained the Chief
Engineer's opinion before
submitting the case to the
Government.

Wd/9th June/77

19.19. June/77 LAR: 184

219677
Cur 12/16/77

W. A. P.

[Faint, mostly illegible handwritten notes in the left margin]

by 19 June 1862

12/6/77

Note

The notification appointing Mr. Bowyer Smith is circulated, with by O. No. 1648 of the 11th July 1862, from which it would appear that ^{as} the station to which Mr. Smith was appointed - i.e. the East coast canal works - was intimated in the notification, the Examiner's ruling was correct.

2 The code is, however, of subsequent date to Lieut. Colonel Gule's letter - and may.

I think the Lt. Col. clearly shows that Mr. B.S. joined his appl. at the time at Belvoir. Lt. Col. the Lt. Col. it is the Lt. Col. the Lt. Col. for Mr. B.S. on the canal generally. I have his personal file. Lt. Col. was a matter for the decision by the Lt. Col. the Lt. Col. to obtain further orders in this form from Mr. B.S. applying.

1862

may be considered not any
prejudice on the point at
issue.

CAF

16/6/77

No 2726 P. H. S. 1877
Proceedings of the Madras Law

Under date the 19 June 77

Recd the following:

From

The Examiner

P. H. Accounts

(D. H. Dec 434 77 June 1877)

The Government
do not concur in the
Examiner's ruling. Mr
Bouyer Smith was
posted to the Nellore
District for employ-
ment on the East
Coast Canal Famine
Relief Works; it rested
with the District
Engineer to decide
on what part of
the Canal ~~Mr Bouyer~~
~~Smith~~ should be
placed. It was therefore
necessary

ATP

necessary that Sir
Smith should report
himself at Naval Quarters
to receive further orders,
and pay should be
advanced to him from
that date.

24th December

2. The Government
advise that in such
cases as the present
the opinion of the
Chief Engineer should
in the first instance
be obtained by the
Commander.

647 1915

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8, 6 1/2 with two
Picts -
Sept 26. 6. 77

W. Smith

4-21-68

Col. of 1577

PUBLIC WORKS.

∴ The Ex. P. W. acts

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1910

1. 2. 3.

17 Jan 1977, 3 272 W

202/14-155

H. Burger Length

Pay ~~the~~ 26th December &
ordered to be passed to
—, and the opinion of the
to be in such cases
obtained by the examiners
in the first instance.

Edw. W. B. Jr.

11. 11