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TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU
P. W. DEPARTMENT

G.O. No.	1186 W	Press.
B.P. No.		Mis.
Dated	8-3-1878	197.

AK
Not to be folded or roughly handled

1186
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GOVERNMENT OF MADRAS.
PUBLIC WORKS DEPARTMENT.

8th March 1878, No. 1,186 W.

General.
Establishment.

Read the following paper :—

No. 100. From the District Engineer, Malabar, dated 8th January 1878, No. 143.

No. 101. ORDER THEREON, 8th March 1878, No. 1,186 W.

MR. LAFRENAI's application cannot be entertained in the face of the objections urged against it by the Examiner, Public Works Accounts.

(True Extract.)

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

To the District Engineer, Malabar.

Exd. S. T. Austin.
Spare Copies

1878
PUBLIC WORKS.

Tel. 11 March 8th.

Issued

Recd.

G. O., Sec. March 1878, No. 118 W.

MARCH.

Nos. 100-101.

Mr. Superior Lafrenais informed that his application for commutation of leave without pay for certain days into privilege leave cannot be entertained in the face of the Director's objection.

1186
Extract from the Govt. of India P.W.
Code.

Chapter IV
Section I

Para 39 A. Public Works Officers, who are obliged to leave their stations to procure medical advice, will be allowed travelling allowance to the station where the nearest Commissioned Medical Officer is located at the usual departmental rates. The bills for the allowance should, however, invariably be supported by a medical certificate stating that the trip was necessary, i.e., that medical advice and personal interview were both necessary. Particular care should be taken that no undue advantage is taken of this privilege, and the permission of superior authority should be obtained in the first instance in cases that are not urgent or where it is possible to await the permission without risk to the Officer requiring advice.

1001

1186
/ 7

Extract from the Civil Leave Code
Supplement F Section 13.

"An Officer permitted to present himself
"at any examination which must be passed
"before a person is eligible for a higher
"Subordinate appointment, such as a
"Deputy Magistracy, may, under the
"orders of the Local Government, be allowed
"leave of absence for the number of days
"which is actually necessary to enable
"him to attend at the examination.
"During this absence, which is expected
"to be short, no deduction will be made
"from the Officer's allowances, unless
"the head of the Office finds such deduction
"necessary to enable him to make arrange-
"ments for carrying on the work. Such
"leave should not be allowed more than
"twice for each standard of examination"

H. S. S.

GOVT.
OF MADRAS.

1878.

{ P.W.
DEPT.

EXAMINER, P. W. ACCOUNTS.

Madras,

26. Feby

1878.

OFFICE NOTE.

To

Mr.

Mr. Lafenais was
granted two months privilege
leave on the 14th August 1877,
on that date, owing to two
interruptions of his service, he
had only 2 months 1 day
of privilege at his credit.

Owing to sickness Mr.
L did not rejoin at the
expiry of his privilege leave,
i.e. on the 13 Oct. 1877; he
did not rejoin till the 8th
Nov. 1877, and the consequence
is, how is this extension of

KEEP WITH

Genl. No.

dated

187

leave to be treated -

If treated as leave
on medical certificate, the
whole of the leave from the
14th August must be so
treated.

The contention of this
Office, is, assuming that
the breaks of service occurred,
that as Mr. L. has no more
privilege leave to his credit,
than 2 months & 1 day. Of
which he had already taken
2 months, that the extension of 26 days
must be treated as ^{leave on} medical
Cert^e, & that there is no
option but to treat it as
such, no matter what the
hardship to Mr. L. may be;

and this contention, ¹⁸
assuming that the breaks of
service occurred, is obviously
Correct.

Mr. Laferrière's contention
is, that the breaks of service did
not occur, or if they did occur, that
they should not be counted as
such, & that assuming that the
breaks of service had not occurred
that he would have had 3 months
privilege leave to his credit, which
would amply have covered the
26 days extension.

So that the first issue
in the case is,
Have any breaks
of service occurred?

To answer this issue
it is only necessary to refer to
page 875 of the Fort St. George

of the 4th May 1875, in
which Mr. L. is granted a
week's sick leave from the
10th April 1875.

This constitutes a
break of service in the meaning
of the Civil Leave Code, which
there is no getting round.

Another break of service
occurred from the 1st to the 23rd
Feb^y, when Mr. L. had leave without pay
to attend an Inquest. - This again
constitutes a break of service.

The first issue is
consequently above doubt. As
the facts stand, two breaks of
service have occurred.

The remaining issue
is: What the Authorities

118
at the time correct on the
occasions when Mr. L. took
leave, in treating the leave as
breaks of service, and in indignifying
them as such?

As regards the week's sick
leave from 10th April^{ys}, according
to rigid rule, my Office note of
the 8th Feb^y is right; but
personally I think the Prob. Mag.
might well have increased his
discretion & treated the week's
absence as casual leave, & said
nothing about it. But as it
is indignified in the Gazette as sick
leave, the Office has no option
but to consider it as such.

There is but one remark I
wish to make on the subject now.
I consider that the case must
be the last degree exceptional.

- that would justify our taking
up & altering Gazette notices
of over two years ago, simply
because they are subsequently
found to affect an Officer's
interests in some way or other.

If this is done, there is an
end to all finality, & no
Officer will better go on furlough
or pension, without Govt. being
flooded with correspondence
regarding points connected with
his service, & being called upon
to reconsider conclusions
which have already been
decided, & decided probably
very much better, when the
circumstances were fresh in
the memory & all parties
concerned present on the spot.

186
All Gazette notices are issued
under the approval of the Chief
Eng^r - and the Chief Surg^t, as well
as the Officer concerned knows
how these notices affect leave &
service. It is to be inferred that
the notice of the 2nd May 1875
was properly considered by the
Chief Eng^r: of the time being, & on
its issue, he did not have an opportunity
of objecting to it. As he did not
then object, I think the notice
should stand. There is no
hardship in making a man
responsible for the results of his
own conduct.

As regards to the leave
granted in Feby. 1875, I
am of opinion that it cannot
be held to come under Sec¹
B of Suppl. F of the C. L. Code.

The Spirit as well as the letter
of the Civil Service Code draws
a distinct line between
examts. that must be passed &
those that need not be passed
before promotion. - The examts.
for which H.L. appeared need
not have been passed before his
promotion. - There are every
day promoted from the
Grade of Overseer to the
Grade of Supervisor without
passing this examt. - Of all the
Supervisors & Sub-Eng's there are
but three who have passed
the B.C.E. examt. - It is in
no sense an obligatory examt.
in the meaning of the C.S. Code.

If a man goes out
of his way to pass examts.
which show him to be a man
of unusual attainments in

his profession, ¹¹⁸⁶ he expects to
find his reward in his increased
chance of promotion. - In the
particular case of H.L., I
gather from the Chief Eng's
note that he has already
found his reward in increased
promotion, & his case is thus
still further removed from
hardships.

From the above it will
be gathered that I think the
leave in April 1875 might
properly have been so treated
so as not to constitute a break
of service, but that it is
expedient to reverse the
decision now. - As
regards the leave in Feb. 1875
I agree with the Comr. at the

time in thinking it
constitutes an unalterable
break of service -

As the occasion of leave
must be reversed to do his

Leaving good, I consider that
his app^l cannot be
entertained, and I am very
sorry to say so.

26/2

of unusual amount

PUBLIC WORKS DEPARTMENT.

Letter from the District Engineer Malabar
No. 143 dated 8th January 1878.

FOR ORDERS.

The undersigned is
of opinion that Section 13
Supplement F of the Civil
Leave Code applies to an
examination such as that for
which Mr. Lafrenais presented
himself and passed, and
that the Examiner's inter-
pretation of the rule is too
restricted. As a matter
of fact the passing of this
examination led to Mr. Lafrenais
promotion to a higher appoint-
ment. He passed the

I think I am: under
little pay for the
analogy of Rule 3. etc.
to. (Civil Leave Code. &
of the Rules for Examination
Chap VIII. R. shows leave
in the full pay & presents
to me entitled to a reward
R. is asking to
present to me a reward
for promotion of Mr. Lafrenais
not cancel R. R. R.
R. R. R. previously

Examination in February 1875,
and was in consequence
promoted to Overseer 1st Grade
on the 1st May 1875 and to
Supervisor 2nd Grade on the
4th July 1876.

The time taken up
by this examination, viz:
from 1st to 23rd Feb 1875,
should therefore, in the
opinion of the undersigned,
not bar any claim to
privilege leave.

As regards the period
between 10th and 16th April 1875,
the section of the Govt. of
India Code quoted by the
Examiner (Para 39 A of Chapter
IV. Sec: I) is extracted for
reference. It seems to refer
to claims to travelling
allowance more than to a
technical definition of what
constitutes an interruption

leave.

I do think that
the grounds taken in
App: 75. in this case
& obtain medical
and high certainty
has been allowed
in that requiring
it to counterbalance
appearing claims to
privilege leave. or
in which case of
any part in the
absence of any thing
to show that in W.
L's present applic:
that the Govt. has
objection it is not
easy to form a direct
opinion on this applic:
on his behalf. [Signature]

1186
off duty. The whole spirit
of the rule is in favor
of Mr. Lafrenais' claim -
and it seems hard that
he should now be debarred
from a well earned privilege
through non-observance
of routine at a time when
such is probably rendered
such impracticable.

E A Ford Col. R.C.

Chief Engr & Secy to Govt.
P.W.D.

12 Feb 1878.

FOR ORDERS.

To C

Please explain more clearly for the Hon. Mr. Anderton's information what is Mr Lafrenais' present application, and your exact objection to it.

1186 W Malabar
19/2-78

Reiterated to Mr. Kault
W. Kault's letter with
reference to his remarks.

W.H.
1.3.78

I am at present to
write my view in the face
of the Exam. objection

4.3.78

Nº 98

Manantoddy

27/10/77

To

The officer in charge of
Munimbram Division

Sir

With reference to the District Engineer's
enclosurement Nº 119 on the Examiner's letter Nº 120
M.L., I beg to state that I joined the Department on the 27th
March 1874. I applied for privilege leave as I believed I was
entitled to one-eighth of my total service, being under the
impression that only suspension or leaving the service for any
period of time was an interruption to service. I first took leave
in February 1875 for 24 days to enable me to go down to
Madras for the B.C.E. examinations which I passed that
year. The District Engineer Major Hindle granted
me Examination leave but as the Examiner did not
pass my pay, leave without pay was granted me. In April
1875 I took 10 days sick leave when I was on special duty,
necessitating to go down to Vizagapatnam for medical aid, as
there was no medical man at the place I was stationed in.
After this I only took privilege leave as stated by the
Examiner. I also beg to state that the above is the only leave
I have taken. Never been able to take advantage of the
Government holidays granted to Subordinates on account of
pressure of works. Now I have been obliged to take leave on
account of the fever contracted at Vizagapatnam. This fever

Complied

EXAMINED
12 JAN 78
RECEIVED

compelled me to leave Wyward and go down for a change.
The travelling has put me to a great deal of expense and
by therefore you would kindly represent the matter to the
proper authorities and recommend privileges leave to be
granted for the whole period of my absence.

At the present time when every ^{article} thing is so dear and
in no place like Wyward where the rules for every ^{articles} are
high the loss of one half of my pay will be greatly felt and
being unexpected will inconvenience me very seriously and
therefore beg you will take this into consideration and
recommend my case as a special one as provided for, in
para 7 Chapter 6 of Civil Serv. Code.

I have &c
Edw. J. E. Lafrenais
Superior Engineer North Wyward.
(True copy)

Alfred Smith R.E.
Assistant Engineer Malabar

W. B. Kinn & Co
Dist. Engr. Malabar.

Malabar Dist. Engr's Office
Calicut 8th January 1878
No 143
From
The District Engineer
Malabar
To
The Chief Engineer
Public Works Department
Madras
(through the Examiner, P. W.
Accounts)

Sir,
I have the honor to
submit for consideration the
case of Mr. Supervisor Lafrenais
as detailed in his letter No 98 of
27th November 1877. attached, ac-
companied by following observa-
tions.

2 It appears that in Feb-
ruary 1875, Mr. Lafrenais, being
then an un gazetted Officer, was
granted leave by his District
Engineer for 24 days to proceed to
Madras for examination as P.W.E.,
which he passed; for what reason
I am unable to say, but his pay
was

was objected to by the Examiners of Public Works Accounts for the period of this absence, and the leave was consequently changed to leave without pay.

Under section 9 of the Leave Code I see that the time spent on leave under this section does not count as service for other leave; but it does not appear to me that it causes all arrears of privilege leave previously due to an officer, and if so, I see no obstacle to the 6 days' leave subsequently taken on medical certificate by Mr. Lafrenais from 10th to 16th April being, by authority of Government, commuted to Privilege Leave; though at the same time, it seems a hard case that an Officer, who in the execution of his duty falls sick at a place where medical aid is not obtainable, should be obliged to take leave at all to permit him to seek such aid actually within the limits of

of his District.

3. I would refer for favorable consideration: -

1st that the time spent between 1st, and 23rd February 1875 be regarded as examination leave, and not be allowed to prejudice Mr. Lafrenais' claims to arrears of Privilege Leave due up to that date.

2nd - whether leave without pay does, under section 9, in any way affect claims for Privilege leave beyond the fact that the time so passed cannot count as time entitling to Privilege leave.

3rd - that the leave taken from 10th to 16th April 1875 was unnecessary, and that Mr. Lafrenais should have been allowed to go to Nagasaki for medical treatment without being obliged to do so, on sick leave.

4th - ~~that~~ if the latter is ruled against him, that it be commuted to Privilege leave.

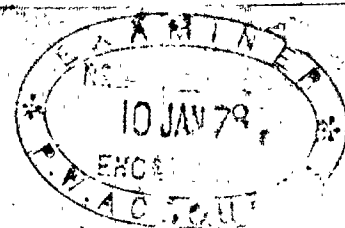
4. Mr. Lafanais to my
knowledge remained serving at his
post long after he was quite
justified in asking to be relieved,
and the effect of an adverse
decision on the foregoing points
will cause him to lose all his
Privilege leave, and its advan-
tages for the 2 months and
2 days that were, even under
the Examiner's ruling, due to
him, it is unquestionably a very hard
case, and one of those in which
the letter of the rules, and not
the spirit is made to prevail.

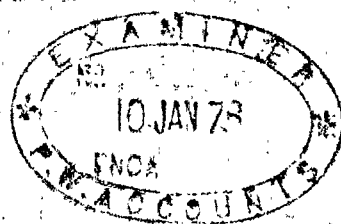
I have the honor to be
Sir,

Your most obedt Servt.

A. H. B. Kuning L. H. B.

District Engineer,
Malabar.





General.

From
District Engineer
Malabar

No 143.

Dated 8th January 1878.

No of Encl. One.

Offence certain ob-
servation regarding
the leave to Mr. M.
Superintendent of
is entitled.

As 12.2.78 As 18.2.78 As 1.3.78.

No 1186 W 11/26/15
Public Works Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Under date the 8th March 78

Read the following:—

From the District Engineer (H.E. No 143 of 8th Jan 78)

Mr. Lafrenais'
Application cannot be
entertained in the face
of the objections urged
against it by the Ex-
aminer, Mr. Accounts.

cut
1/3

W.E. Malabar 9th

13-3-78

1725



Vol. of 1878

PUBLIC WORKS.

To

Mr. D. A. Chalder

Dated

Issued

Recd.

Recd.

6-8 Mar 1878 No. 1186 W

Recd. 100 - 101

Mr. Supervisor Lapre

informed that his application for commutation of leave without pay for certain days into privilege leave cannot be entertained in the face of the law's object.

con

Wm. P. P.