Public Works (1897) Department.

(1)

G.O., No. 1165 ~~to~~ 1166 W.

DATED 5th May 1897

[Despatch Abstract.]

Mr. Norfor's claim to Exchange compensation allowance

Ordered that the 2 letters received from Mr. C. H. T. Norfor, Executive Engineer, submitting further points in support of his claim to Exchange compensation allowance, be forwarded for the orders of the Govt. of India.

6.5.97

[P.W. 25. / 5,000—30-11-96.]

Indexed. 15/5

BACK PAPERS.

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

FURTHER PAPERS.

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

B¹

Mr Norfor's claim
to Ex: compn allowance

No 1165 W of 5.5.97

PUBLIC WORKS DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following

Endt. from the S.E., V Circle, No 57 W d/ 10th Febry 1897
Memo to Mr C.H.T. Norfor No 1228 C d/ 3rd March 1897
Endt. from the S.E., V Circle No 91 W d/ 12th March 1897.

The correspondence will be forwarded for the orders of the Govt: of India.

S.E. V Circle ✓ 7/5/97

(Ltr. No 1166 W d/ 5th May 1897)

To

The Secy. to the Govt. of India, P.W.D.

Sir,

With reference to the correspondence ending with your letter No 81 I dated 11th Jany. 1897, I am directed to forward for the orders of the Govt: of India copies of two letters received from Mr C.H.T. Norfor, Ex: Engineer, submitting further points in support of his claim to exchange compensation allowance.

2. On receipt of his letter No 604 dated 6th Febry 1897, it was pointed out

7/5/97

[P. W. 40. / 300—13-3-97.]

O.S. 17. Hm. 26-4-97 R 29-4-97

out to Mr. Norfor that under the Circular[x] of the Govt. of India, Finance & Commerce Dept., No. 3974 P dated 12th Septr. 1893, the provisions of Part II of the Indian Succession Act were taken as a guide in deciding questions of domicile; that this act rules that the domicile of a person is ~~that~~ in the country in which at the time of his birth his father was domiciled; and that in individual cases, subsequently, it was ruled that if a person's father was in the East India Company's service at the time of the person's birth, the domicile of the father was Indian, and so therefore was the son's.

3. Mr. Norfor's attention was also drawn to the ruling in the Circular* of the Accountant General, P.W.D., No. 14 dated 27th Septr. 1893 that persons born and educated in India who entered Govt. service without having been out of the country, should *prima facie* be considered as domiciled in India — a ruling which was subsequently made still more # stringent by prescribing (1) that an officer born in England is not entitled to the allowance if he came out to India

India

[x] G.O. No 934 Finl. d/ 22.3.93. copy attached

*G.O. No 2601 W d/ 13.10.93. copy attached

Accnt. Genl's, P.W.D. Circular No 18 d/ 22.12.93. vide G.O. No 1483 W d/ 14.6.94. copy attached.

India at an early age, and was educated in India, and took service without leaving the country; and (2) that the fact that an officers' family resides in England and that his children are educated there gives him no claim to the allowance.

4. Mr. Norfor was further informed that the fact that his father came to the country in the circumstances now related in the letter referred to above, made no difference in his claim if his father was in the E. I. Co's service when he (Mr. Norfor) was born. It was also explained to him that his visits to England on furlough after his entry into the service of Govt., and his having his family there had no bearing on the point at issue, and that ~~the question~~ of Mr. Norfor's domicile did not affect the question.

5. Mr. Norfor was requested to state whether in the face of the foregoing facts he had anything further to urge as to why his letter should be forwarded to the Govt. of India. In his reply No. 1072 dated 10th March 1897 Mr. Norfor still presses the

question

BACK PAPERS

question, and the correspondence is therefore forwarded to the Govt. of India for disposal.

I have &c.

26/4/97

Ret.

Mr. Monfor's claim to Ex. Comp. allce.

Public Wor   DEPARTMENT.

ROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following

Endt. from the S.E. V Circle No. 57 W of 10.2.97 + Memo. to Mr. C.H.T. Monfor No. 1228 C of 3.3.97.
Endt. from the S.E. V Circle No. 91 W of 12.3.97.

S.E. V Circle

I think the case should be set forth in the letter. I believe the Govt. of India desire this to be done in correspondence of this kind. They don't like having to wade through a mass of enclosures.

A.G.H. 21.4.97

+ No. 604 of 6.2.97
" 1072 of 10.3.97.

The correspondenc will be forwarded to the Govt. of India for orders.

Ltr. No.   W of

To the Secy. to the G. of I. P.

Sir,

With reference to you letter No. 81 G dated 11 Jan 1897, I am directed to forward for the orders of the Govt. of India, cop of two + letters from Mr. C.H.T. Monfor, Ex. Engr. submitting some further points in support of his claim to exchange compensation allowance. In memorandum from this offi ✱ No. 1228 C dated 3 March

[P. W. 40. / 1,000—26-2-97.]

✱ Copy enclosed

Recd. in this condition from P.S.

1897, it was pointed out
qu to Mr Norfor that the
is rulings which govern the
grant of the allowance were
opposed to his claim, but
as he still presses the
question, the correspondence
is forwarded for disposal.

Have &c

10/4/97
W

Cu

H. E. 10/4/97. R 22.4.97

Public Works (1897) Department.

CURRENT No. 2650

Order

From The Supt Engineer
6 Circle

No. 918.

Dated 12 March 1897
Received 13-3-97
Enclosures
Spare copies

SUBJECT.

C. H. T. Norfor Esquire Exe. Engineer Tanjore Dn. – Forward a letter from —— giving full reasons to show that his domicil is English in connection with Exchange compensation allow. claimed by him

O.S. 41
R 3/6

BACK PAPERS

G.O.	No.	Department.	Date.
No	1228 C		3-3-97
File of rulings re Ex: Com: Allowce			
"	207W		21-1-97
"	3379W		24-11-80
"	295W		6-2-95
"	240W		31-1-95
"	2982W		21-11-94
"	2754W		30-10-94
"	3235C		20-10-94
"	3148C		16-10-94
"	2146W		31-8-94
"	1856W		25-7-94
"	1604W		27-6-94
"	1275W		22-5-94
"	3076W		28-11-93
"	2787W		2-11-93
"	3476C		26-10-93
"	493W		3-3-80
"	2175		11-6-79
"	1274W		1-5-79
"	3543		27-12-76
"	1289		22-5-76

FURTHER PAPERS

G.O.	No.	Department.	Date.

No 1072

Tanjore Divisional Office
10th March 1897

From,
C.H.T. Nafer Esquire
Executive Engineer
Tanjore Division

To,
The Chief Engineer
P.W.D. Madras.
Thro: The Supt Engineer.
T circle

Sir,

In reply to your memo No 1228 C / 3.3.97, I have the honour to state that none of the G.O's quoted in the memo under reference have any bearing on the point put forward in para 6 of my letter No 604 / 6.2.97, on which I mainly base my claim for the Exchange Compensation allowance; Stated briefly my point is – that:-

2. Whatever my domicile of origin may have been, my domicile became English in 1885 by Operation of Law.

3. I am advised that, as a matter of Law, a man acquires an English domicile (provided his domicile is not already English) if, when residing in England for however short a time, he clearly expresses his intention that his future,

future domicile shall be English, either in words or by conduct. Intention accompanied by residence are, I am informed, the only two elements required to give one an English domicile. This is what I have urged in para 6 of my letter above quoted.

4. In paras 4, 5 & 7 of my letter, I have mentioned certain facts which shew that my conduct, when I visited England in 1885, shewed my intention to change my domicile, that that intention was accompanied by residence in England, and that my conduct, subsequent to 1885, confirms the inference which I contend, should be drawn from my conduct in 1885.

5. The reason why reference was made to the fact that my wife and child have been almost continuously residing in England since 1885 was that, I am advised, Courts of Law regard as one of the best tests of a man's domicile, in doubtful cases, the fact where his wife and family usually reside. That place is generally presumed to be his permanent home, and the country where his permanent home is situated is presumed to be the land of his domicile. This circumstance about my having practically had a permanent establishment for my family in England since 1885, is one of the circumstances, but not the sole circumstance on which I rely in support of my contention that I have acquired an English domicile. The other circumstances on which I rely are detailed in paras. 4, 5 and 7 of my previous letter.

6. The statement in the penultimate para of your memo to the effect that my father was in the East India Company's service when I was born is not correct.

When I was born my father was not in the service of either the Company or the Crown. He was a private manufacturer of sugar at that time and still retained his English domicile of origin.

7. I contend that my father's domicile of origin having been English, my domicile of origin was English. But if, under the GO's quoted by you, it is held that my domicile became Indian at any time prior to 1885, then I rely on the ground set forth in paras 2, 3, 4 & 5 of this letter, viz that I acquired an English domicile by operation of Law in 1885.

I have the honour to be
Sir
Your most Obt Servt

Executive Engineer

Dhr

From

C.H.T. Wapshare Esquire
Executive Engineer
Tanjore Dn

To

The Chief Engineer
P.W.D.
Madras
Thro: S.E. V

No 1072

Dated 10th }
Despd 10 } March 1897.
Recd }

Superintending Engineer's Office
No 1637
11 MAR 1897
V. Circle, Madras

11.3.97
Papers { Should not have been
forwarded

Exchange Compensation allowance:— Gives full and clear reasons to show that his domicile of origin is English for his claims in regard to the.

No 918 W

Forwarded.

12/3/97
Lt Colonel R.E.
Superintending Engr 5th Circle

No 1228 C of 3.3.97 P.W.D.

Memo.

With reference to letter from Mr C.H.T. Wapshare, Ex. Engr, No 604 of 6th Feby 1897, forwarded under the Supdg Engr's endt No 57 W of 10th idem, the undersigned has the honour to request that Mr Wapshare's attention may be drawn to the following points:—

G.O. No 934 Fin. of 22nd Septr 1893 contains a ruling that in deciding the domicile of an officer, Part II of the Indian Succession Act should be taken as a guide. The act rules that the domicile of a

6/3/97

person is in the country in which at the time of his birth his father was domiciled. In individual cases, subsequently, it was ruled that if a person's father was in the East India Co's service at the time of the person's birth, the domicile of the father was Indian, & so therefore was the son's.

G.O. No 2601 W of 13th Octr 1893 has a ruling that persons born & educated in India, who entered Govt. service without having been out of the country, should prima facie be considered as domiciled in India.

G.O. No 1483 W of 14th June 1894 makes the rule still more stringent by prescribing (1) that an officer born in England is not entitled to the allowance if he came out to India at an early age, & was educated in India, & took service without leaving the country; and (2) that the fact of that an officer's family resides in England & that his children are educated there gives him no claim to the allowance.

The fact that Mr Horsfor's father came to the country in the circumstances now related, will make no difference in Mr Horsfor's claim if his father was in the E.I. Co's service when he (Mr Horsfor) was born. Mr Horsfor's visits to England on furlough after his entry into the Govt. service, & his having his family there have no bearing on the point at issue — nor ~~has~~ does the question of ~~Mr~~ Mrs Worsfor's domicile affect the question —

In the face of the foregoing facts Mr Worsfor is requested to state whether he has anything further to urge as to why his letter should be forwarded to the Govt. of India.

26/2/07

R/

D 4/3/07

C. H. T. Worsfor Esqr
(through the S. E. IV Circle)

Cn 1500 —

W.

A file of rulings on the Exchange Compensation question is submitted

G.O. No 934 Finl of 22.9.93 contains a ruling that in deciding the domicile of an officer, Part II of the Indian Succession Act should be taken as a guide —

The Act rules that the domicile of a person is in the country in which at the time of his birth his father was domiciled.

In individual cases subsequently, it was ruled that if a person's father was in the East India Co's service at the time of the person's birth, the domicile of the father was Indian & so therefore is the son's —

G.O. No 2601 W. of

13.10.93 has a ruling that persons born & educated in India, who entered Govt. service without having been out of the country, should, *prima facie*, be considered as domiciled in India - this I understand, was Mr Norfor's case.

G.O. No 1483 of 14.6.94 makes the rule still more stringent by prescribing that an officer born in England is not entitled to the allowance if he came out to India at an early age, & was educated in India, & took service without leaving the country.

also that the fact that an officer's family resides in England, & that his children are educated there gives him no claim to the allce, if he is not otherwise

entitled - this point ~~be~~ bears on Mr Norfor's case.

The facts now brought forward by Mr Norfor do not strengthen his case at all - Even if his father came to the country under the circumstances now related by him, the fact that he was born while his father was in the Company's service will bar his claim - It is also barred by the fact that he was born & educated in the country & took service here - His going to England on furlough afterwards & leaving his family there will not affect the question -

The decision however rests with the Govt. of India, and Mr Norfor's letter may be forwarded to that Govt. without comment.

25.2.97

Public Works (1897) Department.

CURRENT No. 1500

HE/B

Order

~~Mr. Norfor's letter will be forwarded to the Govt. of India.~~

~~S.E. V Circle~~

~~H.Q. No. W of 97~~

~~To the Secy. to the G. of I. P.W.D.~~

~~Sir,~~

~~With reference to your letter No. 81 G of 11th January 1897, I am directed to forward for the orders of the Govt. of India, a letter from Mr. C. H. J. Norfor, Ex. Engr., submitting some fourteen points in support of his claim to exchange compensation allowance.~~

~~I have &c.~~

From The Supg. Engineer 5th Circle.

No. 57 W

Dated 10th February 1897.

Received 11.2.97

Enclosures

Spare copies

SUBJECT.

Letter No 604 of 6th Feby 97. from C.H.J. Norfor Esqre of 6-2-97. requesting that it may be transmitted to India Govt. as it contains additional facts in connection with his domicile of origin & in regard to the grant of exchange Compensation allowance being reconsidered.

BACK PAPERS.

G.O.	No.	Department.	Date.
	207W	P.W.D.	21.1.97

FURTHER PAPERS.

G.O.	No.	Department.	Date.

596.

No. 602. Tanjore Division Office
6th February 1897

From

C.H. J. Nash Esquire
Executive Engineer
Tanjore Division

To,

The Secretary to Government
P.W.D.
Thro: Supd. Engineer Peri
Madras

Sir,

207W

I beg to acknowledge the receipt of Copy of Government of India letter No. 81.G dated 11th January 1897, communicated with G.O. No. 267.W of the 21st idem, and to respectfully state that I have reason to believe that the answers submitted by me to the printed questions regarding my domicile, which I was required to reply to by the Government of India, was, unfortunately, not worded so as to fully and clearly convey a correct idea of the facts of my case.

2. In the first place I was under the impression when replying to the questions aforesaid that my father came out to India in the Honorable East India Company's service – but on further enquiry I have learnt from my Elder brother that the true facts of the Case are as follows:–

My

My father was born and Educated in England - his Domicile of origin being English. He owned a Ship and traded between the Mauritius and India for some years, when his ship went down and he lost all. He then took to Iron works and Sugar manufactory and was also employed by a private Firm. Subsequently he entered Government Service and died when British Consul at Pondicherry.

3. In reply to the question "Where I was married" I believe I stated that it was in India, but I omitted to mention that my second wife's domicile of origin is English - (so was also my first wife's ~~origin~~ English -) that I met her in England and that she came out to India to be married in 1881.

4. I further omitted to mention the following very important facts - My wife went home in 1883 without me for 15 months - Subsequently in 1885 I went home on 18 months' furlough with her and our little boy. On that occasion I made arrangements to provide a home for myself and my family in England

and

and I accordingly engaged a house on a lease.

5. At the Expiry of my furlough my wife did not return with me to India, but has continued to reside in England with my son, having only come out to me to India for short periods. She has been home (where she now is) no less than 5 times and out of 15½ years of married life has spent but 6 years in India. My son has remained in England the whole time.

6. I submit that it is perfectly clear from these facts that my permanent home where my wife and child have resided since 1885 has been in England and that this fact by itself is sufficient legal proof that from 1885 at any rate, my domicile became English by reason of my intention to adopt an English domicile, an intention clearly expressed by my own acts and accompanied by continuous residence in England for 18 months after that intention was formed, and by subsequent visits there.

7. I have taken furlough on 3 different occasions and on each occasion spent the whole period of my leave in England. I have even spent privilege leave in England. I hope next year to take long furlough again to England

for

for the fourth and last time when I shall have taken and spent in England all the furlough that an Officer in Civil Employ can possibly take under the Civil Service Regulations, viz - 6 years.

8. It is my intention on retirement to reside in England.

9. I respectfully beg that this letter be submitted to the Government of India for orders, as I am advised that under the circumstances of my case the Courts of Law would recognize my domicile to be English, and as I have reason to believe that the adverse decision of the Government of India was due to my not having stated the facts of my case fully and clearly.

I have the honour to be
Sir
Your most obed^t Serv^t

C. Hooper
Executive Engineer

Mr Watson's letter is not addressed to India but is written to me as Secretary to Govt & I think the view of Govt should be taken as to whether his letter should be forwarded or not; it seems absurd to trouble the Govt of India with a request that we believe to be inadmissible.

Your note can be sent on for orders as to whether Mr Watson's letter should be forwarded to India or not.

25/2/07

Perhaps Mr Watson's attention may be called to the orders mentioned in the note & asked to state ~~whether~~ on what ground he bases his claim in the face of these orders.

25/2/07

Map in the notes

for explanation of

Inscription & [illegible]

12/6/87

From

C. H. J. Winsor Esquire
Executive Engineer
Tanjore Dt.

SUPERINTENDING ENGINEER'S OFFICE,
No. 94 F.J.
9 - FEB. 1897
[illegible] P.W.D., MADRAS.

To

The Secy. to Government
P.W.D.
[illegible]
Madras.

No. 604.

Dated 6th }
Despd. 8th } February /97.
Recd.
9 2 97

No. 57 W.

Forwarded

10/2/97

Lt. Colonel R.E.
Superintending Engineer
5th Circle

C. H. J. Winsor Esquire:— Requests to transmit this letter to the India Govt. as it contains certain additional facts in connection with his domicile of origin and in view to the adverse decision of that Govt. in regard to the grant of his Exchange Compensation allowance being reconsidered.