Public Works (1897) Department.

G.O., No. 3125-625

Dated 6 Nov 1897

[Despatch Abstract.]

Mr G. P. Davidson Ex Engr. Orders that the Govt of India be addressed on the subject of Mr Davidson's claim to have his furlough pay and Advance of absentee allowance for the periods specified passed to him at certain rates of exchange in accordance with the last Bengal certificate granted to him by the Govt of India.

The Govt of India addressed

R 6.11.97

[P.W. 20. 5,000—20-11-96.]

Indexed. 12/11

BACK PAPERS.

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

FURTHER PAPERS.

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

[40/500]

P. W. DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated 189 , No.

Again G.O., dated 189 , No.

Current No. 9165 of 1897, dated 11th Septr. 1897, from the S. E. V Circle.

" " " 189 , " , "

" " " 189 , " , "

ORDER. No. 3125 W dy 10-11-97

Ordered that the Govt. of India be addressed.

H.E. No: 3126 W dy 10-11-97

To

The Secy. to the Govt. of India
P. W. Department

Sir,

In forwarding herewith a copy of Proceedings of this Govt. No: 3125 W dy 10 6 Nov. October 1897, I am directed to state that Mr. J. P. Davidson, Executive Engineer 1st grade, an officer entitled to furlough pay at 2 Shillings to the Rupee, claims that his furlough pay for the 29th March 1897, the date of his disembarkation at Bombay should be reckoned at that rate and that the

To
The S. E. V Circle
" Exor. P. W. Accounts

A.H. 2.11.97

A.H. 11/11/97

H.E. 6.10.97

advance of absentee allowance for the period from 1st to 4th April 1897 drawn by him should be recovered at 1 shilling 2½d the rupee, the official rate of exchange for 1897-98, and bases his claims in both cases on the wording of the last pay certificate granted to him by the India Office, a copy of which is enclosed for reference

2. The Examiner has passed to Mr. Davidson subsidiary leave pay for the 29th March 1897 under Article 359 of the Civil Service Regulations which rules that furlough ends on the day before the arrival of the vessel in which an officer is travelling. As the last pay certificate says that the absentee allowance for any period beyond the date of disembarkation should be adjusted at the official rate of exchange, Mr. Davidson considers that he is entitled to absentee allowance at 2 Shillings the Rupee up to and inclusive of the date of disembarkation.

3. Under Article 82 of the Civil Service Regulations, which lays down that advances made in England should be recovered at the rate of exchange fixed for the year in which advance was made, the Examiner adjusted the absentee allowance from 1st to 4th April 1897 drawn by Mr. Davidson at 1 shilling 1½d, the official rate of exchange for 1896-97, that being the year in which the advance was made. Mr. Davidson contends that in accordance with the terms of his last pay certificate which states that the allowance drawn for any period beyond the date of disembarkation should be adjusted at the official rate of exchange for that period, the recovery of the advance for the period from 1st to 4th April 1897 should have been made at 1 shilling 2½d, the official rate of exchange for 1897-98.

4. Mr. Davidson is of opinion that his English last pay certificate is an

undertaking given to him by the Secretary of State that his allowances would be adjusted in accordance with the terms therein set forth, and that as the Secretary of State has power to override the provisions of the Civil Service Regulations, the last pay certificate must be regarded as superior in authority to the Regulations and requests that his claims may, if necessary, be referred to the Secretary of State. I am accordingly to request that the case may be submitted for the decision of the Secretary of State.

I have &c.

6/10/97

W

Maj

C.O. 885.
6.10.97.

2

7/10/97

3125 W
10-11-97.

P. W.D.

Current No 9165

W

Mr J. P. Davidson, Sup., an officer who is entitled to furlough pay at the rate of 2 sh. 6d. per diem, claims furlough pay at that rate for the 24 months 1897, the date of his disembarkation at Bombay - The Sup. has passed 6 months on full pay, under Art. 359 C.S. Regs., which clearly refers to furlough earned on the day before the arrival of the vessel in which an officer is travelling again, before his departure from England, Mr Davidson received an advance of absentee allowance up to 1st April 1897 - The Examiner has adjusted the over-

W.

The decision Re point would appear to rest on the question whether the Secretary of State's dictum as point in the certificate furnished to Mr Davidson should be considered as superior authority to the C. S. Regulations. If such be the case Mr Davidson's claim must apparently be upheld: but if otherwise it will be necessary to forward his letter to the Secretary of State.

payment from 25 March to 4 April at the Official rate of exchange for 1896-97, viz: at 1-1 5/32, that being the year in which the advance was made - Mr Davidson however claims that the advance for the days in March only should be adjusted at 1-1 1/2, & that for the period from 1st to 4th April, recovery should be made at 1-2 1/2, the Official rate of exchange for 1897-98. The Examiner bases his action on Art. 82, C.S.R, which rules that advances made in England should be recovered at the rate of exchange fixed for the year in which the payment was made.

Mr Davidson bases his claim on the wording of the last pay certificate granted to him by the India Office

It may be argued that the India Office Official did not intend to set aside the provisions of the C.S.R. but it is, nevertheless, clear that he has done so.

Costs
30.9.97.

office.

In the first case, the L.P. certificate says that the absentee allowance for any period beyond the date of disembarkation in India should be adjusted &c - Mr Davidson reads this as meaning, "up to and inclusive of the date of disembarkation."

In the second case, the L.P. certificate says that the amount should be adjusted, accounts for any period beyond disembarkation, "at the Official rate of exchange for that period".

Mr Davidson contends that his English last pay certificate is an undertaking given to him by the Secretary of State that his allowances should be adjusted

in accordance with the terms therein set forth, and that as the Secy. of State has power to override the provisions of the C.S. Rules, the L.P. certs must be regarded as superior in authority to the Rules.

He asks that his claims may be referred to the Secy. of State if necessary.

It is submitted that the rules in the C.S.R. on the two points involved are perfectly clear, & that the Govt's action is correct. It cannot be supposed that the India office intended to set aside the provisions of the C.S.R. in one individual case. The wording of the L.P. certs is evidently due to want of care in drawing it up.

for orders whether any reference to the Secy of State (which must go through the Govt. of India) is necessary. If the Govt. of India is addressed at all, it should apparently be in the form of a request that steps * might be taken to have Lost pay certs from the India office worded more accurately, so that officers may not receive erroneous impressions as to their dues.

CG
25.9.27

J.V.

Mr Davidson seems to be
[illegible] of both the
duties of the District Engineer
[illegible] to me it is a
matter of principle. I am with
the Deputy Master of the Mint
& the reasons [illegible] the
Chief has to consider. The
C.S. Regulations authorise the
Deputy in his absence to
[illegible] the Assistant Engineer
to the Mint for the time being
but he has to furnish [illegible]
this Office with a statement
daily. I am [illegible]
it is necessary to forward the
matter to the Secretary of State

30/9/97

W
Enquire perhaps point this out
Mr Davidson D.O. and ask him
whether he still wishes his letter to go on

CWSH
1.10.97

Perhaps it will be best to
refer the matter to the Secretary of
State

1/10/97

Public Works (1897) Department.

CURRENT No. 9165

Order

From The Deputy Engineer
5th Circle

No. 366 M.

Dated 11/13 September 1897.

Received 13-9-97

Enclosures 2.

Spare copies

SUBJECT.

Mr J. P. Davidson
Executive Engineer.

Submitting for orders
of Govt the facts of adjust-
ment of furlough pay
of — with certain explana-
-tion.

OLS 506

BACK PAPERS.

G.O.	No.	Department.	Date.
	1012C	Pw	19-2-97
	4003C	"	10-11-96
	2676W	"	19-9-96
	845W	"	4-4-95
	451C	"	6-2-95
	628C	"	16-2-95

FURTHER PAPERS.

G.O.	No.	Department.	Date.

From

E. A Denys Esquire
Examiner of P.W. Accounts, Madras

To,

The Executive Engineer
Chingleput Division.

No 2656 D/E Madras, 24th August 1897.

Sir,

With reference to your remarks against item 3 of disallowance list on the Salary Bill of the Chingleput Division for April 1897, I have the honour to reply as follows.

2. As regards your contention that you are entitled to furlough pay for the 29th March, at 2 S. the rupee, in accordance with your English Cash Pay Certificate, I would invite your attention to article 359 of the C. S. R. from which you will see that you are only entitled to subsidiary leave allowance from the date of disembarkation, your furlough out of India having ended on the day before the arrival of the vessel in which you sailed.

3. As regards the rate at which the overpayment of your allowances in England should be recovered, you will see, from article 82 of the C. S. R., that they are recoverable at the rate fixed for the adjustment of financial transactions for the year in which the payment was made and hence the adjustment was made at 1S. 1½d. the rate fixed for 1896-97.

4. The disallowance in question must accordingly stand.

I have &c
(True copy) (Signed) E. A. Denys
Examiner, P. W. Accts
Madras.

R Davidson
Executive Engineer.

Rec'd 6.9.97

SUPERINTENDING ENGINEER'S OFFICE
No. 1600 C.I.
9 - SEP. 1897
V. CIRCLE, P.W.D., MADRAS.

G.O.C.I.
2265/97

Civil

No. 142 P.W. Department.
Government Madras.

Certified that Mr. J. P. Davidson (Executive Engineer 1st Grade) of the India Civil Establishment has received his absentee allowance, according to the Regulations, as under, both dates inclusive:—

From 5th April 1895 to 4th April 1897 at
Rs. 458-7-3 per mensem at 2-0-0 the Rupee.

The absentee allowance issued, as shewn above, for any period beyond the date of disembarkation in India should be adjusted at the official rate of exchange for that period.

(Signed) A. Carter
for Accountant Genl.

India office —
20th February 1897.

(True Copy)

J P Davidson
Executive Engineer.
Chingleput.

6.9.97.

SUPERINTENDING ENGINEER'S OFFICE
No. 2/100. C.R.
9 - SEP. 1897
V. CIRCLE, P. W. D., MADRAS.

O.W. 2
1965/97

Copy of a letter from J. P. Davidson Esquire, Executive Engineer, Chingleput Division, to the Superintending Engineer, 5 Circle, No. 1770 d/8 September 97.

I have the honour to submit the following facts for the orders of Government and reference, if necessary, to the Right Honourable the Secretary of State for India.

2. Before leaving England, in March last, to rejoin from furlough, I, after certain correspondence with the India office, received an advance of furlough pay from the 16th March to the 4th April inclusive; my furlough pay in England being payable at 2/5 to the rupee, the advance in question was made to me at that rate.

3. In the last pay certificate, issued by the India office, the conditions regulating the recovery of this advance, are very clearly laid down; a reference to this certificate (copy herewith forwarded) will show (1) that my absentee allowance was payable to me at 2/5 to the rupee up to and inclusive of the date of disembarkation, and (2) that for any period, beyond the date of disembarkation, the advance was to be adjusted at the rate of exchange for that period:

4. I landed in Bombay on the 29th March, and, under the authority of this certificate, I claim that, my furlough pay for that day, was due at 2/5 to the rupee, and that adjustment of the absentee

allowance

allowances, for the period 30 March to 4 April has to be made at the rate of exchange of that period, that is for the 30th & 31st March at 1s-1½d to the rupee, and for the 1st to 4 April at 1s-2½d to the rupee.

5. The advance was adjusted in the salary bill of the Lehinglepet Division office for April, but the Examiner has disallowed my claim to furlough pay for the 29 March at 2s/ to the rupee, and has ordered adjustment of the absentee allowance, for that date, and for the 30th to 4 April inclusive, at the rate of 1s-1½d. I forward copy of his letter, No. 2656 A/2 dated 24 August 1897 in which, he supports his action, by reference to articles 359 and 82 of the Civil Service Regulations.

6. The last pay certificate, given to me by the Accountant-General India office, is virtually an undertaking, given to me by the Right Honourable the Secretary of State for India, laying down the conditions, regulating the issue to me, of my absentee allowance, and as, I have no reason to doubt that, the Accountant General India office, is fully cognisant of the Civil Service Regulations, while, there can be no doubt at all, that the Secretary of State can overrule these regulations I submit, that, my claims as laid down in the Last Pay Certificate, cannot be upset by the Civil Service Regulations.

7. With regard to Article 82 C.S.R, quoted by the Examiner, P.W. Accounts, I should like to point out

out, that in the adjustment of deferred fees of passed students of Coopers Hill, this rule was not enforced, these deferred fees, were recovered in India, at the official rate of exchange, in force at the date of the recovery, and not at the rate of exchange of the official year in which the advances, which the deferred fees practically were, were made.

8. I merely quote this to show, that, the ruling in article 82 of the Civil Service Regulations, which I understand, has been in force for many years, was not allowed to interfere, with the conditions, regulating the repayment of these deferred fees, though, the enforcement of the rule, would have been readily accepted by the Coopers Hill Engineers concerned, as it would have been considerably to their pecuniary advantage.

9. The sum at stake in my case is small, but I have thought it advisable to raise the question, with a view to it being decided, whether in cases of a similar kind, where, either of set purpose, or through oversight, the India office sets aside the Civil Service Regulations, the terms laid down by the India office should not be binding.

—

No 366 W.

To the Chief Engineer P.W. Department

for

Enc: 2

for favour of obtaining the orders of Government on the subject.

Chas Lamm ~~Col RE~~
11.9.99
Supdg Engineer 5 Circle