

MADRAS RECORD OFFICE.

Government of Madras.

Public DEPARTMENT.

G.O. No.	756 (52-53)	Press Mis.
Dated	7.8.	19/10/61

Not to be folded or roughly handled

No. 52. Read the following letter from the Examiner of Claims, to the Chief Secretary to Government, Fort Saint George; dated Fort Saint George, 21st July 1866, No. 191.

Presidency Department.

When forwarding the accompanying letter from the Superintendent of the Eye Infirmary to the Deputy Inspector General of Hospitals, dated 6th instant, No. 59, received under the Officiating Principal Inspector General's docket, dated 8th idem, No. 248, I have the honor, by the direction of the Accountant General, to offer the following remarks.

2. My report upon Dr. Smith's original application for 60 days' privilege leave, forwarded with the Deputy Inspector General's remark as per margin, was as follows:—"Will be eligible to one

"month's privilege leave on or after the 15th August next. The undersigned does not agree with the Deputy Inspector General of Hospitals that Dr. Smith's appointment is a Military one."

3. As the nomination of an Officer to the appointment of Superintendent Eye Infirmary is made in the Public, which is a Civil and not a Military, Department of Government, Dr. Smith is a Military

Vide Dr. Smith's appointment in Gazette, dated 11th March 1863, page 378.

(Medical) Officer in civil employ, and the following three rulings of the Government of India in my opinion conclusively support the views expressed in my report above quoted, when taken in connection with the fact that Dr. Smith returned to duty from last leave upon 15th September 1865.

4. The first of these rulings is Government of India's Resolution, 31st December 1864, No. 4117, Financial, in which it is declared that "the appointment of a Medical Officer shall in future be regarded as a Military or Civil charge, according as he may be nominated to it by the Military or the Civil Department; his emoluments being audited and adjusted in the former case in the Military Department under Military Rules, and in the latter case in the Civil Department under Civil Rules."

5. The second is letter from the Government of India, Military Department, to Madras Government, Military Department, dated 22nd April 1865, No. 1073, in which it is stated that "Military Officers employed in the Civil Department are subject to the Military Furlough Regulations in respect of all leave, save privilege leave which they take under Civil Rules, and that the allowances to which they are entitled are drawn in accordance with Government General Order, No. 157 A, dated 13th October 1863."

6. The third is contained in G. O. G. No. 363, dated 10th October 1865, and is as follows:—"The Right Honorable the Governor General in Council is pleased to decide that all Military Officers employed in Departments under the Military Department of Government shall be under the Military Rules, in respect to privilege leave. Officers employed under the Foreign and Home Departments* are under the Civil Rules, except those Officers serving in the few Native Corps, not under the Military Department, who remain under the Military Rules."

"These rules apply equally to Medical Officers"

*Proceedings of the Madras Government, Public Department,
7th August 1866.*

The letter from the Government of India, of which the foregoing is an extract, is their reply to this Government's letter, dated 8th August 1865, No. 2914, Military, and it is understood that, in that letter, the Madras Government not only alluded to the reference mentioned in Proceedings of Government, 8th July 1863, No. 788, Public, but also prominently brought before the Supreme Government the non-uniformity that existed in this Presidency in the matter of the grant of privilege leave to Presidency Medical Officers. Thus, the decision of the Government of India above quoted not only supersedes the provisional order of 8th July 1863, under which Dr. Smith was allowed his 60 days' privilege leave last year, but lays down, in the most uncontrovertible language, the rules regarding privilege leave which were thereafter to be applied to the cases of all Military and Medical Officers.

7. With these decisions of the Government of India before me, I do not think it necessary to notice the pleas contained in paragraphs 3, 4, and 5 of Dr. Smith's letter, further than to say that I do not consider there are any grounds for the deduction implied in paragraph 4, that, because service in the appointment of Superintendent Eye Infirmary is Military, qualifying for Military Departmental promotion, the incumbent comes under the Military Rules regarding privilege leave. I do not think that the Government Order will bear that construction, for, to my mind, it appears that the appointment was classed as Military with the single object above stated, and with no other in view.

From Surgeon Major G. SMITH, M. D., Superintendent Eye Infirmary, to the Deputy Inspector General of Hospitals, Presidency Division; dated Madras, 6th July 1866, No. 59.

I have the honor to return the letter to your address from the Secretary to the Principal Inspector General*, in which the decision of the Examiner of Claims upon my application† for 60 days' leave is given in the following terms—

* No. 2693, dated 30th June 1866.

† No. 49, dated 5th June 1866.

"The undersigned does not agree with the Deputy Inspector General of Hospitals that Dr. Smith's appointment is a Military one."

28th June 1866.

(Signed) W. DONALD,
Examiner of Claims.

and to request that you will obligingly submit the decision of this point to higher authority, inasmuch as I am under the impression that the appointment of Government Oculist is a strictly Military one, and that it has been a Military one since its establishment in 1819.

2. It rests with Government to determine the original grounds and intent of the appointment, which, as far as I can learn, were, *primarily*, to furnish Medical aid to Soldiers of the European, and Sepoys of the Native, Army of the Presidency, when subjects of ocular disease, and, *secondarily*, to extend the benefits of professional skill to all and sundry who should apply for them.

3. A reference to the Medical Code‡ proves that the Eye Infirmary is intended to be a Hospital for the treatment of European and Native Soldiers, when subjects of eye disease, as well as to be a training Institution for Military Medical

‡ Page 127, &c

Officers, for the inferior Medical servants attached to Regiments and detachments at the Presidency, and for the pupils of the Medical College, the great majority of whom are Military Medical Students.

*Proceedings of the Madras Government, Public Department,
7th August 1866.*

4. The Superintendent of the Eye Infirmary is "the Oculist of the Army," and his position and duties are essentially those of a Military Medical Officer. That this is the view held by the Government of Madras and by the Supreme Government may be proved by reference to the orders marginally quoted, to which I respectfully solicit attention.

No. 94, Fort Saint George, 3rd April 1857.
G. O. by Government.
With reference to G. O. G. G., 29th February 1856, No. 361, published in Madras G. O. G., 18th March 1856, No. 86, the Right Honorable the Governor in Council is pleased to notify that the Government of India has decided that the Superintendent of the Eye Infirmary shall be included among the appointments held by Medical Officers which are to be considered as appertaining to the Military branch and qualifying for promotion.

Fort Saint George, 15th April 1857, No. 105 of 1857.
Fort William, the 2nd April 1857, No. 491 of 1857.
In continuation of Government General Order, No. 361, dated 29th February 1856, the Right Honorable the Governor General of India in Council is pleased to direct that the appointment of Superintendent of the Eye Infirmary shall be included amongst those appertaining to the Military branch of the Medical Department, and qualifying the incumbents for appointment to the situation of Superintending Surgeon.

5. Up to 1861, the pay of the Superintendent of the Eye Infirmary was issued by the Military Paymaster. Since that date, it has been issued by the Civil Paymaster, as a matter of convenience to Government. I cannot, however, think that a change made simply as a matter of convenience to Government, which change does not involve any alteration in the position or duties of a Military Medical Officer, can or ought to be so interpreted by the Examiner of Claims as to withdraw from that Officer privileges which he has always enjoyed, and which, in virtue of his position and his duties, he certainly possesses.

6. Under these circumstances, I again apply for the 60 days' privilege leave, to which, I believe, I am entitled, and I shall feel obliged by your assisting me in getting my application laid before Government for its decision.

I fully concur in Dr. Smith's views of his case, and recommend his request to the favorable consideration of the Principal Inspector General, Medical Department.

(Signed) H. W. PORTEOUS,
*Depty. Inspr. Genl. of Hospitals,
Presidency Division.*

7th July 1866.

No. 248.

MEMORANDUM.

Forwarded, through the Examiner of Claims, for the favorable consideration of Government.

FORT SAINT GEORGE,
9th July 1866.

(Signed) J. SHAW,
Offg. Prin. Inspr. Genl., Medl. Dept.

No. 53. ORDER THEREON, 7th August 1866, No. 786.

The Governor in Council concurs in the opinion of the Examiner of Claims, that, under the rulings of the Supreme Government quoted in his letter, a Military Medical Officer holding the appointment of Superintendent of the Eye Infirmary falls under the Civil Rules as regards the grant of privilege leave.

(True Extract).

Chief Secretary.

To the Principal Inspector General, Medical Department.

" Accountant General.
" Examiner of Claims.
" Military Department.

Edw. J. H. Burns.

From
The Examiner of Claims
To
The Chief Secretary
to Government
Public Department
Sir,

When forwarding the accompanying letter from the Superintendent of the Eye Infirmary to the Deputy Inspector General of Hospitals, dated 6th Instant, N^o. 59, received under the Officiating Principal Inspector General's docket, dated 8th idem, N^o. 248, I have the honor, by direction of the Accountant General, to offer the following remarks.

"D^r. Smith's appointment is a military one. - Vide G. O. 11th 1856." "N^o. 364 dated 29 Feb'y 1856."

2. My Report upon A^r. Smith's original application for 60 days Privilege Leave, forwarded with the Deputy Inspector General's remark as per margin, was as follows. "Will be eligible to one month's Privilege Leave on or after the 15th August next. The undersigned does not agree with the Dy Inspector General of Hospitals that D^r. Smith's Appointment is a Military one."

Vide D^r. Smith's appointment in Gazette's date 11th March 63 Page 378

3. As the nomination of an officer to the appointment of Superintendent Eye Infirmary is made in the Public, which is a Civil and not a Military Department of Government, D^r. Smith is a military (medical) officer in civil employ, the following 3 rulings of

of the Government of India in my opinion conclusively support the views expressed in my report above quoted, when taken in connection with the fact that Dr. Smith returned to duty from last leave upon 15th September.

4. The first of these rulings is Government of India Resolution, No. 1073, dated 22nd April '65, in which it is declared that "the appointment of a Medical Officer shall in future be regarded as a Military or Civil Charge according as he may be nominated to it by the Military or the Civil Department, his emoluments being audited and adjusted in the former case in the Military Department under Military Rules and in the latter case in the Civil Department under Civil Rules."

5. The second is letter from the Government of India, Military Department, to the Government, Military Department, dated 22nd April '65, No. 1073, in which it is stated that "Military Officers employed in the Civil Department are subject to the Military Discipline Regulations in respect of all leave and Privileges leave which they take under Civil Rules, and that the allowance to which they are entitled are drawn in accordance with Government General Order No. 157A dated 15th October 1865."

6. The third is contained in G.O. No. 1073 dated 10th October '65 and is as follows: "The Right Hon^{ble} The Governor General in Council is pleased to decide that all Military Officers employed in Departments under the Military Department

"of Government, shall be under the Military Rules, in respect to Privilege leave. Officers employed under the Foreign and Home Departments are under the Civil Rules, except those officers serving in the few Native Corps, not under the Military Department, who remain under the Military Rules."

"These Rules apply equally to Medical Officers"
"Political, Public, Judicial and Revenue in Madras."

The letter from the Government of India of which the foregoing is an Extract is their reply to this Government's letter, dated 8th August '65, No. 2914, Military, and it is understood that in that letter the Madras Government not only alluded to the reference mentioned in Proceedings of Government 8th July '63, No. 788, Public, but also prominently brought before the Supreme Government the non-uniformity that existed in this Presidency in the matter of the grant of Privilege leave to Presidency Medical Officers. Thus the decision of the Government of India above quoted not only supersedes the provisional order of 8th July '63 under which Dr. Smith was allowed his 60 days Privilege leave last year, but lays down in the most incontrovertible language the rules regarding Privilege leave which were thereafter to be applied to the cases of all Military and Medical Officers.

7. With these decisions of the Government of India before me, I do not think it necessary to notice the pleas contained

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in Paras 3-4 & 5 of Dr. Smith's letter further than to say that I do not consider there are any grounds for the deduction implied in para 4. that, because service in the appointment of Superintendent Eye Infirmary is military qualifying for military departmental promotion, the incumbent comes under the military Rules regarding Privilege leave. I do not think that the Government Order will bear that construction, for, to my mind, it appears that the appointment was classed as military with the single object above stated, and with no other view.

I have the honor to be

Sir
Your most Obedt Servt

H. Donald
Examiner of Claims

Fort Saint George
Accountants Office
21st July 1866

No 23 July/65 No 127-128
8 July/65 36 @ 36
No 2 July/65 No 2069
8 August - 29/10

Remand for order on application for 60 days privilege leave from Dr. Smith's Dept of the Eye Infirmary, & adjourn his case for considering that application at a date to be named by the Medical Officer in charge of the Eye Infirmary.

Public 1866
Examiner of Claims
12.191

Public Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Examiner of Claims.
(Here enter 21st July/66 No 191)

Order 7 August 1866 No 786.

The Governor in Council concurs in the opinion of the Examiner of Claims under the rulings of the Supreme Government quoted in his letter a Military Medical Officer holding the appointment of Superintendent of the Eye Infirmary falls under the civil rules as regards the grant of privilege leave.

Wm

- To Public Dept. for Med. Dept.
- " Accountant General
- " Examiner of Claims
- " Military Department

deap 11/8

H. M. () 186 D. Department

No. 206

PROCEEDINGS OF GOVERNMENT.

Dated 24th August 1881.

52-53.