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M.R.O. 1-32 400-22-11-20

MADRAS RECORD OFFICE.

Government of Madras.

Public DEPARTMENT.

G.O. No.	<i>251</i>	Press Mis.
Dated	<i>1-3-</i>	<i>1870.</i>

Not to be folded or roughly handled



*Proceedings of the Madras Government, Public Department,
1st March 1870.*

Read the following papers :—

- No. 1. From J. H. NELSON, Esq., of the Madras Civil Service, to the Chief Secretary to Government, Fort Saint George, dated Madras, 2nd February 1870.

I have the honour to bring the following case to your notice, in the hope that Government will be pleased to take it into favourable consideration, and direct the payment to me of certain monies to which I believe myself to be entitled.

2. I am at present availing myself of one month's leave on full pay, granted to me under the Financial Resolution of the Government of India, No. 2749, of the 24th September 1867, to take effect from the 8th of last month. And as I have been granted two years' furlough under the new rules from this present month, together with preparatory leave for a month, I am entitled to preparatory leave from the 6th January 1870, to the 5th February, this present month. But as I am drawing full pay whilst enjoying my extraordinary leave, I have no wish to avail myself of my preparatory leave before starting on the 5th instant. On the contrary I wish to have my one month's extraordinary leave extended, under the Resolution above referred to, to two months, so that I may continue for the present to draw full pay. Mr. Donald, however, has objected to my drawing full pay after the 27th ultimo, being the date on which I ceased to perform the duty of Judge at Combaconum and handed over charge of the Court there to the Head Clerk, and it is with reference to this refusal of Mr. Donald to pass my bill for full pay for the past month that I solicit the interference of Government in my behalf.

3. Mr. Donald has informed me orally—no written communications have passed between us on the subject—that his refusal is based on the Financial Notification, No. 908, of the 7th February 1869, which shows that the Government of India ruled that a Junior Civilian could not have special leave in continuation of extraordinary leave granted under the Financial Resolution afore-mentioned, and that it is a mistake to suppose that privilege leave may be taken in continuation of the extraordinary leave aforesaid. And further the Notification contains the following words, which Mr. Donald holds to be conclusive on the point, viz.—“ It will in all cases be necessary for an officer to rejoin his post after the expiration of the two months' examination leave, and no leave must be taken simply in continuation of such leave.”

4. When I was first shown these words, I certainly agreed with Mr. Donald in thinking that I was barred by them from obtaining what I want ; but on further consideration of their meaning, and after carefully construing the Resolution as a whole, I have come to the conclusion that my first impression was erroneous, and that there is, in fact, nothing to prevent Government from giving me what I ask.

5. The cases above referred to, which elicited the Resolution said to stand in my way, were both of them cases in which an officer desired to tack on leave to his extraordinary (examination) leave, and so increase the duration of his leave to the extent of two months ; and this the Government of India has ruled cannot be done. What I wish to do is, to enjoy two months' extraordinary leave concurrently with my one month's preparatory leave and two years' furlough, and for two months enjoy the full pay of my appointment. I do not ask for two years and two months' leave,

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1st March 1870.*

I ask for the full pay grantable to me for two months under the Examination Rules as a reward for passing the Honour Examination in Tamil.

6. Upon my pointing this out to Mr. Donald he was good enough to point out to me the Financial Resolution, No. 101, of the 24th April 1869, of the Government of India, which, in my opinion, most materially helps my case. In that Resolution, after explaining the nature of privilege leave, the Government of India goes on to rule, that—"If any officer to whom privilege leave is due be allowed subsidiary or preparatory leave, he shall be permitted to draw the allowances admissible during privilege leave for the period of his subsidiary or preparatory leave; or for any less period for which privilege leave may be due to him." In other words, though an officer may not tack on furlough or other leave to privilege leave, he may enjoy two kinds of leave concurrently, and draw the allowances admissible under the privilege leave so long as it lasts to him. And it is precisely this thing I wish to do. I wish to have my one month extended to two, because I have passed the Honour Examination, and to enjoy it concurrently with my preparatory leave from the 28th ultimo to the date of my embarkation, and subsequently with my furlough up to the 8th March, exclusive of that date.

7. I trust that Government will concur with me in my view of the case, and consider it favourably. There can be no question but that the extension of one month's examination leave to two months upon success was allowed by the Government of India purely in order to encourage Junior Civilians to pass certain examinations, and to reward them handsomely, if successful, and after all, I only ask that I may be allowed part of the reward, namely, the full pay, because circumstances prevent me applying for the other part, namely, the leave of absence.

8. In any case I trust that Government will be pleased to extend my one month to two, so that in case it should be found necessary to refer the matter to the Government of India, I may be found to be qualified for the full pay as far as the grant of leave on full pay goes.

Referred to the Accountant-General for report.

FORT SAINT GEORGE,
3rd February 1870.

(Signed) H. E. STOKES,
Under Secy. to Govt.

No. 126.

No. 2. *Report of the Accountant-General.*

The undersigned has the honour to report on Mr. Nelson's letter as follows:—

Mr. Nelson appeared for examination in Tamil on 10th ultimo, and was granted one month's leave from 8th idem under Financial Resolution of 24th September 1867, No. 2749. Having been successful in passing, he was eligible to an extension of this leave for a second month. Mr. Nelson, however, rejoined his appointment during the currency of the first month's leave, finally made over charge of his Court upon 27th ultimo, and proceeded to Madras *en route* to Europe on furlough. The resumption of his appointment virtually cancelled the leave granted to him, and there is no provision that examination leave can be taken in instalments;

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1st March 1870.*

this being the case, Mr. Nelson can only be considered as upon subsidiary leave with the ordinary allowances of that leave, calculated in accordance with Section 11. of the Rules of 1868, from 28th January to the day prior to his departure from Madras.

2. Mr. Nelson's application for extension of examination leave for a second month cannot be complied with, as, if granted, it will run into his furlough, and this cannot be sanctioned under the Government of India's Resolution of 7th February 1869, No. 908, Financial, where it is distinctly laid down that no leave can be taken simply in continuation of the examination leave.

3. Mr. Nelson's request to be granted, for two months from 8th January 1870, the pay which he would have drawn during the examination leave must also be refused. During that period Mr. Nelson's time will have been spent in four different circumstances, for each of which he comes under different rules—

(a).—As a Junior Civilian appearing as a candidate for the reward in an Oriental language from 8th January to day prior to assuming charge of his Court.

(b).—On duty as Small Cause Court Judge from date of resuming charge of his Court to 27th January.

(c).—As a Civilian on subsidiary leave from 28th January to date prior to sailing of P. and O. Steamer *Surat*.

(d).—As a Civilian on furlough from date of sailing of *Surat* till 7th March.

Further, the analogy which he seeks to draw between the grant of privilege leave allowances during subsidiary leave, and that of examination leave allowances during subsidiary leave and furlough, cannot be maintained. In the former case the allowances are for a period which reckons as "actual service," and must be spent in India, for subsidiary leave terminates with date of departure therefrom, and the allowances cannot ordinarily be drawn for a longer period than thirty days; while in the latter the allowances will be due for a period of leave enjoyed *beyond India* which does not count as "actual service," and which will be more than a month in excess of the term of ordinary subsidiary leave.

4. The Financial Resolution referred to in paragraph 7 of Mr. Nelson's letter was pointed out to him with reference to an inquiry he made to the effect whether an officer on one kind of leave could not draw the pay due during another species of leave; but it was never imagined that Mr. Nelson's claim could be admitted under that order as he seems to imply.

FORT SAINT GEORGE,
7th February 1870.

(Signed) W. DONALD,
Examiner of Claims,
for Accountant-General.

To the Chief Secretary to Government, Fort Saint George.

No. 3. ORDER THEREON, 1st March 1870, No. 251.

The Government do not consider that the fact of Mr. Nelson having taken charge of his Court for one day should debar him from obtaining the leave on full pay as a Junior Civilian appearing as a candidate for the reward in an Oriental language,

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1st March 1870.

and passing in the examination, under which leave Mr. Nelson is entitled to full pay to the date of sailing of the *Surat*, the 7th March.

2. Mr. Nelson's other claims are, as shown by the Accountant-General, clearly inadmissible.

(True Extract.)

Acting Chief Secretary.

To J. H. Nelson, Esq.
To the Accountant-General.

Exd. J. Wright.

No 126.

67

Report of the Accountant General

The undersigned has the honor to report on Mr. Nelson's letter as follows:

Mr. Nelson appeared for examination in Tamil on 10th Ultimo, and was granted 1 month's leave from 8th idem under Financial Resolution of 24th September 67 No. 2749. Having been successful in passing, he was eligible to an extension of this leave for a second month. Mr. Nelson rejoined his appointment during the currency of the first month's leave, and finally made over charge of his Court upon 27th Ultimo, and proceeded to Madras en route to Europe on Furlough. The resumption of his appointment virtually cancelled the leave granted to him, and there is no provision that Examination Leave can be taken in Instalments, this being the case, Mr. Nelson can only be considered as upon subsidiary leave with the ordinary allowances of that leave, calculated in accordance with Section II of the Rules of 1868, from 28th January to the day prior to his departing from Madras.

Govt. of 1870 3110718.

PUBLIC.

To

J. H. NELSON, Esq.
Esq., Secy, Esq.

Dated March, 1st.

Recd.

Encl.

G. O., 1st March 1870, No. 251.

MARCH.
Nos. 1-3.

Passing orders on Mr. J. H. Nelson's application to be granted leave on full pay, &c.

2 Mr. Nelson's application for extension of Examination Leave for a second month cannot be complied with, as, if granted, it will run into his Furlough, and this cannot be sanctioned under the Government of India's Resolution of 7th February 1869 No. 908, Financial, where it is distinctly laid down that no leave can be taken simply in continuation of the Examination Leave.

3 Mr. Nelson's request to be granted, for 2 months from 8th January 1870, the Pay which he would have drawn during the Examination Leave must also be refused. During that period Mr. Nelson's time will have been spent in four different circumstances, for each of which he comes under different rules.

a. As a Senior Civilian appearing as a Candidate for the Reward in an Oriental language from 8th January to May prior to assuming charge of his Court.

b. On duty as Small Causes Court Judge from date of resuming charge

charge of his Court to 27th January.

c. As a Civilian on subsidiary leave from 28th January to date prior to sailing of P. & O. Steamer 'Surat'.

d. As a Civilian on Furlough from date of sailing of 'Surat' till 7th March.

Further, the analogy which he seeks to draw between the grant of Privilege Leave Allowances during subsidiary Leave, and that of Examination Leave Allowances during subsidiary Leave and Furlough cannot be maintained. In the former case the Allowances are for a period which reckons as 'Actual Service' and must be spent in India for subsidiary Leave terminates with date of departure therefrom, and the Allowances cannot ordinarily be drawn for a longer period than 30 days, while in the latter the Allowances will be due for a period ^{of leave enjoyed beyond India} which does not count as 'Actual Service', and which will be more than a month in excess of the term of ordinary subsidiary Leave.

4. The Financial Resolution referred to in para 7 of Mr. Nelson's letter was pointed out to him with reference to an enquiry he made to the effect whether an officer on one kind of leave could not draw the pay due during another species of leave; but it was never imagined that Mr. Nelson's claim could be admitted under that order as he seems to imply.

Fort Saint George } W. Norcald
 Account Genl's Office } Examiner of Claims
 7th February 1870 } per Accountant General

2
 C/11/2/70
 To The Chief Secretary
 to Government
 Ind. Dep^t

10.257.

Madras S.
 2.2.70.

From

J. H. Nelson Esq
 of the Madras
 Civil Service

To
 The Chief Secretary
 to Government
 Fort St. George.

Sir
 I have the honor to bring the following communication to your notice, in the hope that you will be pleased to give it such favorable consideration, and direct the progress of the same as the exigencies of the service may require.

2. I am at present awaiting my bill & one month's leave on full pay - granted to me under the financial resolution of the Government of India No. 2,749, of the 26th September, 1867, to take effect from the 8th of last month. And as I have been granted two years' furlough under the new rules from this present month, together with preparatory leave for a month, I am entitled to preparatory leave from the 5th January 1870 to the 5th February, this present month. But as I am drawing full pay whilst enjoying my extraordinary leave, I have no wish to avail myself of my preparatory leave before starting on the 5th inst. On the contrary I wish

to have my one month's furlough leave extended, under the resolution above referred to, to two months so that I may continue on the present to draw full pay. Mr. Donald however has reported to my dearness that full pay after the 27th ult. being the date on which I ceased to perform the duty of a Judge at Combarum and handed over charge of the Court there to the then Clerk, and it is with reference to this report of Mr. Donald to pass my bill for 2 full pay for the past month that I solicit the interference of Government in my behalf. 3. Mr. Donald has informed me orally - no written communication has passed between us on the subject - that his representative is here on the Financial Notification Committee in

Furlough, and for two months ~~that~~
enjoy the full pay of my
appointment. I do not wish
for two years and two months
have, I ask you the full
pay payable to me for two
months under the examination
rules as a reward for passing
the House examination in June.
It will be pointing the way
to Mr. Donohoe he was paid
enough to point out to me
the ~~Financial~~ ~~the~~ ~~the~~
101 of the 24th April, 1889, of the
Government of India, ~~the~~ ~~the~~ ~~the~~
my opinion most ~~substantially~~
helps my case. ~~For~~ that ~~is~~ ~~is~~
after explaining the substance
of Privilege leave the Government
of India goes on to state that:
"If any Officer to whom
Privilege leave is due he
attended subsidiary or preparatory
leave, he shall be permitted
to draw the allowances admissible
during privilege leave for the
period of his subsidiary or

preparatory leave, ~~or for any~~ ~~of~~
periods the whole ~~of~~ ~~the~~ ~~the~~
may be ~~due to him~~ ~~the~~ ~~the~~
words though an Officer would
not take on furlough or other
leave to ~~take~~ ~~leave~~ ~~leave~~, he
may enjoy two kinds of leave
concurrent ~~the~~ ~~the~~ ~~the~~
allowances admissible ~~for~~ ~~the~~
privilege leave ~~to~~ ~~to~~ ~~to~~
leave to him. And it is ~~providing~~
that ~~the~~ ~~the~~ ~~the~~ I wish
to have my ~~leave~~ ~~the~~ ~~the~~
to two because I have passed
the House examination, and to
enjoy it concurrently with my
preparatory leave from the
20th ult. to the date of my
embarkation, and I interpret
with my ~~furlough~~ ~~up to~~ ~~the~~
8th March, ~~exclusive~~ ~~of~~ ~~that~~
date.
I trust that by ~~me~~ ~~of~~
will ~~concur~~ ~~with~~ ~~me~~ in my
view of the case, and consider
it favorably. There can be
no question but that the
expense of one month's ~~leave~~

have to have the same
sums of money allowed by the
Government to Indian Pursh in
order to encourage them to continue
to pass outside examinations and
to reward their handsomely if
successful, and after all I
only wish that I may be allowed
part of the sum, namely the
full pay, because in circumstances
present men applying for the
other part, namely the leave
of absence.

In any case I trust that
Government will be prepared to
expend my one month's pay
so that in case it should be
found necessary to refer the
matter to the Emperor's Government
of India, I may be found to be
qualified for the full pay
as far as the point of leave
on full pay goes.

Yours truly
Sir,

Your most obedient servant
J. H. Wilson
Ct.

24/4/90

1/3988

Referred to the Government
for report.

H. M. M. M.

5
13 Aug 69 from 23-24
6 March 18-19
18-19
2-6

Accidental Office
No. 4
Ans. 2 1870

1/3988
22 February 1870

to the Accountant General, under Secy

10.251.

No 153

1/3988

Mr. Nelson Esq.
C. J.

1870-1871

Request under the
Civilian Service Statute
that the examination
leave for six months
may be extended to
thirteen months.
Regard.

Public Department

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter

From Mr. Nelson Esq. C. J. hereunder 2 Feb. 1870
Report from the Acc. General on 4-12-1870

Order thereon No. 251. 1 March 1870.

R.
A/A.

The Court do not
consider that the fact of
Mr. Nelson having taken
charge of his Court for
one day, should debar
him from obtaining the
leave on full pay, as a
Junior Civilian appearing
as a Candidate for the
reward in an Oriental
language, and passing
in the examination, under
which leave Mr. Nelson
is entitled to full pay
to

to the date of sailing of
the *Surat*, the 7th March.

2. Mr. Nelson's
other ~~claims~~ are as shown
by the Accountant
General clearly inadmissible.

To J. H. Nelson Esq
the Accountant General. } *done* 7/8

Count of 11870 } **Munders.**

Paid

To

J. M. Nelson Esq
409

7 No. 430

Dated *Grand. 1.* }
Recd. 1870, No. 257.

Nos. 1. 3.

*Receiving order on No. 1
J. M. Nelson's application
to be granted leave on
full pay, Yes -*