1. [illegible] 26
2. List [illegible] 29-5-37
3. Index [illegible]

M.R.O. 1—32,400—22-11-30.

MADRAS RECORD OFFICE.

Government of Madras.

Public DEPARTMENT.

G.O. No. 1768-69 Press Mis.

Dated 28-11 1871

Not to be folded or roughly handled

Proceedings of the Madras Government, Public Department, *28th November* 1871.

Read the following papers:—

No. 110. From the Acting Inspector-General, Indian Medical Department, to the Chief Secretary to Government, Fort St. George, dated Fort St. George, 30th October 1871, No. 353.

I have the honour to submit, for the orders of Government, or for final reference to the Government of India, an appeal from Surgeon-Major P. Gerald Fitzgerald against a decision of the Accountant-General, refusing to grant him Presidency house-rent, together with the warrant pay of his rank, while acting as Surgeon of the 4th District in Madras.

2. The Accountant-General bases his objections on the documents marginally noted, but Surgeon-Major Fitzgerald mentions an order in support of his claim of subsequent date to any of those quoted by the Accountant General.

G. O. G. G., No. 370, of 4th April 1867. Proceedings of Government, Public Department, No 558, of 16th May 1867, and No. 936 of 31st July 1867.

3. The bill for the amount to which the claimant considers himself entitled is enclosed, and the correspondence on the subject is attached for ready reference.

From Surgeon-Major P. GERALD FITZGERALD, M.D., Acting Garrison Surgeon, Bangalore, to the Deputy Inspector-General, Indian Medical Department, Mysore Division and Ceded Districts, dated Bangalore, 16th October 1871, No. 88.

I have the honour to request that you will do me the favour to submit the accompanying statement, through the prescribed channel, for the consideration of His Excellency the Governor in Council.

While acting as Surgeon of the 4th District in Madras, I was precluded from drawing the warrant pay of my rank instead of the consolidated pay of my appointment, although the former was a little more favourable to me, by the objection of the Examiner of Claims to my drawing also Presidency house-rent in addition to the higher rate of pay. I submitted to that decision at the time because I had no means of controverting it.

2. In the course of the present year, however, my attention was attracted to the Resolution of the Government of India noted in the margin, which seemed to me to lay down a broad principle that included my case. I forwarded in consequence a bill (enclosure marked No. 1) to the Examiner of Claims for the difference of pay between the consolidated salary of my appointment and the pay of my rank as Surgeon-Major, supported by a reference to the Resolution of the Government of India already referred to, of which a copy was also attached to the bill.

No. 1432, dated Simla, 23rd June 1870, Financial Department.

3. That bill was returned to me with a memorandum* stating that "house-rent is not payable in addition to any but the consolidated salaries fixed by G.O. G. G., dated 4th April 1867, No. 365, and, moreover, that house-rent does not come under the term "extra allowances" referred to in Government of India Resolution, dated 23rd June 1870, No. 1432, Finance.

* No. 2 enclosure.

4. Having a strong conviction that the decision of the Officiating Accountant-General was contrary to the spirit as well as to the express terms of the Government of India Resolution, I addressed to that Officer a letter† requesting him to submit my claim for the consideration of Government, to which I received the reply marked No. 4.

† No. 3 enclosure.

5. In that reply, the Accountant-General informed me that a similar claim to mine for Presidency house-rent with pay of rank was disallowed some time before by the Madras Government in its Proceedings, No. 558, of the 16th May 1867, and No. 936 of July 31st, 1867, and that he declined to trouble Government again on the subject; but that if on perusal of those Proceedings,

copies of which were sent to me, I should still be of opinion that my claim was good, I might address the Government direct on the subject.

6. I have carefully perused those Proceedings, and with great respect for the Officiating Accountant-General, I believe that my claim is not in the least invalidated by them. I find that the case under the consideration of Government was not, as erroneously stated by the Officiating Accountant-General, that of an officer electing the warrant pay of his rank instead of the consolidated salary of his appointment, but something very nearly the reverse of this, and, therefore, the decision of the Government in that case cannot in reason be applied to another, the circumstances of which are dissimilar.

7. But even were it otherwise, and that the two cases were exactly similar in every respect, I submit that a decision of the Madras Government in 1867 cannot be quoted as a conclusive answer to a claim founded on a more recent ruling of the Supreme Government.

Forwarded, for submission, to the Inspector-General, Indian Medical Department.

BANGALORE, (Signed) J. L. RANKING,
26th October 1871. *Dy. Inspr.-Genl., Indian Medical Dept., Mysore Division and Ceded Districts.*

Referred to the Acting Accountant-General for his remarks.

FORT ST. GEORGE, (Signed) R. S. ELLIS,
9th November 1871. *Chief Secretary.*

No. 111. From the Acting Accountant-General, to the Chief Secretary to Government, Fort St. George, dated Fort St. George, 13th November 1871, No. 374.

Audit Department.

The Acting Accountant-General has the honour to return the papers referred with the Chief Secretary's endorsement of the 9th instant, and to submit the following report.

2. Dr. Fitzgerald was drawing the pay of his rank, Rupees 1,056-9-7 a month, as Surgeon of the 4th District, Presidency, up to the publication of G. O. G. G. of 4th April 1867, No. 370. Since, however, the issue of this order, which authorizes the payment of house-rent to medical officers serving at the Presidency in addition to the *consolidated salaries* fixed therein, Dr. Fitzgerald has been drawing only the consolidated salary of Rupees 1,050, fixed for an officer of his rank in charge of the 4th District and Presidency house-rent of rank, viz., Rupees 125 per mensem, the latter allowance not being payable in addition to any other than consolidated salary, as has been decided in a similar case in Proceedings of Government dated 31st July 1867, No. 936, Public Department.

3. The Order of the Government of India, No. 1432, dated the 23rd June 1870, Financial, under which Dr. Fitzgerald now claims the difference between pay of rank and consolidated salary, authorizes the grant in addition to pay of rank of any extra allowance which is payable in addition to consolidated salary; but the term "extra allowances" does not, it is held, include Presidency house-rent, that allowance forming a part of the salary payable to a medical officer serving at the Presidency, and not being one given for any extra charge.

No. 112. ORDER THEREON, 28th November 1871, No. 1768.

The Government concur with the Acting Accountant-General in opinion that Surgeon-Major Fitzgerald is not entitled, under the Resolution of the Government of India dated the 23rd June 1870, No. 1432, to the difference between the pay of rank and consolidated salary, during the period he held the appointment of Surgeon of the 4th District at the Presidency.

2. They resolve, however, to refer the question for the decision of the Government of India.

(True Extract.)

Chief Secretary.

To the Inspector-General, Indian Medical Department, with enclosures returned.
,, Accountant-General.

Exd. J. Wright.

1871.

FINANCIAL DEPARTMENT.

From
The Chief Secretary to Government,
Fort St. George,
To
The Secretary to the Govt. of India,
Financial Department.

Dated 28th November 1871.

Recd.

No. 1769.

Enclosure.

Submitting, for orders, copy of the Proceedings of this Government, relative to a claim preferred by Surgeon-Major Fitzgerald, for the difference of pay of rank and consolidated pay during the period he held the appointment of Surgeon of the 4th District at the Presidency.

No 88

From
The Acting Garrison Surgeon
Bangalore
To
The Deputy Inspector General
I. M. D.
Mysore Divn & C. D.

Sir,

I have the honor to request that you will do me the favor to submit the accompanying Statement through the prescribed Channel for the consideration of His Excellency the Governor in Council.

1. While acting as Surgeon of the 4th District in Madras I was precluded from drawing the warrant pay of my rank instead of the Consolidated pay of my appointment, although the former was a little more favorable to me, by the objection of the Examiner of Claims to my drawing also Presidency House rent in addition to the higher rate of pay. I submitted to that decision at the time because I had no means of controverting it.

No 1432
dated Simla
23 June 1870
Financial Department

2. In the course of the present year, however, my attention was attracted to the Resolution of the Government of India noted in the margin, which seemed to me to lay down a broad principle that included my Case. I forwarded in

consequence a Bill (enclosure marked No 1) to the Examiner of Claims for the difference of pay between the Consolidated Salary of my appointment and the pay of my rank as Surgeon Major, supported by a reference to the Resolution of the Government of India already referred to, of which a Copy was also attached to the Bill.

3. That Bill was returned to me with a memo- stating that "House rent is not payable in addition to any but the Consolidated Salaries fixed by G. O. G. G. dated 4th April 1867 No 345, & moreover, that House rent does not come under the term "Extra allowances" referred to in Govt. of India Resolution dated 3rd June 1870 No 1432 Finance". No 2, enclosure

4. Having a strong conviction that the decision of the Officiating Accountant General was contrary to the spirit as well as to the express terms of the Govt. India Resolution I addressed to that Officer a +letter requesting him to submit my claim for the Consideration of Government, to which I received the reply, marked No 4. + No 3, enclosure

5. In that reply the Accountant General informed me that a similar claim to mine for Presidency House rent with pay of rank was disallowed some time before by the Madras Government in its proceedings No 558 of the 16 May 1867, and No 936 of July 31st 1867 - and that he declined to trouble Government again on the subject, but that if on perusal of those proceedings, copies of which were sent to me, I should still be of opinion that my claim was good, I might address the Government direct on the subject.

6. I have carefully perused those proceedings and with great respect for the Officiating Accountant General, I believe that my claim is not in the least invalidated by them - I find that the case under the consideration of Government was not, as erroneously stated by the Officiating Accountant General, that of an Officer electing the warrant pay of his rank instead of the Consolidated salary of his appointment but something very nearly the reverse of this, and therefore the decision of the Government in that case cannot in reason be applied to another the circumstances of which are dissimilar.

7. But, even were it otherwise and that the two cases were exactly similar in every respect, I submit that a decision of the Madras Government in 1867 cannot be quoted as a conclusive answer to a claim founded on a more recent ruling of the Supreme Government.

I have the honor to be
Sir
Your most Obed Servt
Surgeon Major
Actg Garrison Surgeon

Bangalore
16th October
1871

No 5255. 1871

No 348.

No 88
1871
October

A.G. 7728 Nov 8/71

From Dr B. No 110
The Act^g Garrison Surgeon
Bangalore

Forwarded for Submission
to the Inspector General
Indian Med^l Depart^t

L. Manning
Deputy Insp^r Genl Ind^n
Mysore Div^n & C.D.
Bangalore 26th October
1871

To
The Dept. Insp^r General
I. M. D.
Bangalore

To
The Secretary to the
Inspector General
Ind^n Med^l Depart^t
Madras

Rd 27 Oct 71

Forwards an appeal from the decision of the Accountant General on a claim for arrears of pay, founded on a resolution of the Govt. of India, with a request that it may be submitted for the consideration of His Excellency the Governor in Council

In Pub. G.O. 2299. 17/11

No. 353

Office of Inspector General, Indian Medical Department,
Fort Saint George, 30th October 1871.

From

The Acting Inspector General, Indian Medical Department,
Fort Saint George,

To

The Chief Secretary to Government
Public Department

Sir,

I have the honour to Submit for the order of Government, or for final reference to the Government of India, an appeal from Surgeon Major P. Gerald FitzGerald against a decision of the Accountant General, refusing to grant him presidency house-rent together with the Warrant pay of his rank, while acting as Surgeon of the 4th District in Madras.

2. The Accountant General bases his objections on the documents marginally noted, but Surgeon Major FitzGerald mentions an order in Support of his claim of Subsequent date to any of those quoted by the Accountant General.

G.O.G.G. 370 of 4th April 1867. Proceedings of Govt. Public Deptt No 558 of 16th May 1867, & No 936 of 31st July 1867.

3. The bill for the amount to which the claimant considers himself Entitled is enclosed, and the correspondence on the Subject is attached for ready reference.

I have the honor to be
Sir,
Your most Obedient Servant

Acting Inspector General
Indian Medical Department.

G.O. 2299 ... D.E.

Prot: 16th Aug/67 Nos 112-116
" 31st July " " 307-308
G O G G 370 d 4th April/67
Prot: 29 July/67 Nos 285-286

Public 1871. Deptt.

No 2299.

From

Inspector General,
Indian Medical Department,
Fort Saint George,

To

~~F. O. No. 1765-69. D 28 Novr/71~~

Dated 30th October/71.

Recd 31/10

No. 353.

Forwards appeal from Surgn Major Fitzgerald regarding Presidency House Rent disallowed him by the Accnt Genl

Referred to the Acting Accountant General for his remarks.

Fort St. George
9 Novr 1871.

R. A. Ellis
Chief Secretary

To the Ag. Accnt General

Accountant General's Office
Recd 10 11 1871
Ansd

110

10809

---

udit Department

The Ag. Accountant General has the honor to return the papers referred with the Chief Secretary's Endorsement of the 9th Instant, and to submit the following report.

Dr. FitzGerald was drawing the Pay of his rank Rs. 1056-9-7 a month, as surgeon of the 4th District Presidency upto the publication of G. O. G. G. of 4th April '67 No. 370. Since however the issue of this order which authorizes the payment of House Rent to Medical Officers serving at the Presidency in addition to the Consolidated salaries fixed therein, Dr. FitzGerald has been drawing only the Consolidated salary of Rupees 1,050, fixed for an Officer of

of

of his rank in charge of the 4th District and Presidency House Rent of rank viz. Rupees 125 per mensem, the latter Allowance not being payable in addition to any other than consolidated salary as has been decided in a similar case in Proceedings of Government dated 31st July '67 No. 936 Public Department.

The order of the Government of India No. 1432 dated the 23d June '70 Financial under which Dr. FitzGerald now claims the difference between Pay of rank and Consolidated salary, authorizes the grant in addition to pay of rank, of any extra Allowance which is payable in addition to consolidated salary, but the term

extra

"Extra Allowances" does not, it is held, include Presidency House Rent, that allowance forming a part of the salary payable to a Medical Officer serving at the Presidency and not being one given for any extra charge.

Fort Saint George
Accountt. Genl's Office
13th November 1871

Ag. Accountt. General.

No. 374

To
The Chief Secretary
to Government
Fort Saint George.

8 17

Public Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letters

From the Inspector General, I. Indian Medical Departt. } Dated 30 October 1871, No. 353.

From the Ag: Accountt. Genl., Dated 13 November/71 No. 374.

Order thereon 28 Novr/71 No. 1768.

The Government concur with the Ag: Accountant General, in opinion that Surgeon Major Fitzgerald is not entitled, under the Resolution of the Government of India, dated the 23rd June 1870 No. 1432, to the difference between the Pay of rank and consolidated Salary, during the period he held the Appointment of Surgeon of the 4th District at the Presidency.

2. They resolve however to

Rec No. 2299 & papers marked thereon

Public 1871 Departt.

Lr. No. 1768 – 28 Novr.

From Ag: Accountant General No. 374

Dy 13 } Novr/71.
Dy 16 }

Papers recd. No. 2388.

Reporting on Dr. Fitzgerald's claim to Presidency house-rent

to refer the question for
the decision of the
Government of India —

The Surg. Genl. Medl. Deptt. } with enclos. r.t.d.
" Accountt. Genl. }

35/24E40

Govt. of {1871} Madras.

Public

To
The Inspr. Genl. Indn. Medl. Depts.
&ca

Dated Novr. 28. } 1871, No. 1768.
Recd.

Nos. 110-113.

Concurring in the opinion of the Acctt. Genl. that Surgeon Major Fitzgerald is not entitled, under a Resn. of the Supreme Govt. to the difference between the pay of rank & Consolidated Salary during the period he held the appointment of Surgeon of the 4th Dt. at the Presy. but resolving however to refer the question for the decision of the Govt. of India -

---

desp 8/12 with the 3 Enclns of No 1768.

Public Department.

No. 1769.

To
The Secretary to Government
of India,
Financial Department.

Sir,

No. 1768 of 28th Novr. 71.

I am directed to submit, for the consideration and orders of the Government of India, Copy of the Proceedings of this Government, date and number, as per margin, relating to a claim preferred by Surgeon Major Fitzgerald, for the difference of Pay of Rank and consolidated pay during the period he held the Appointment of Surgeon of the 4th District at the Presidency.

Fort St. George }
28th Novr. /71 }

187 , *Department.*

No.

To
The Secretary to the
Government of
Department

Edn 489 of 187

Dated 187

110-113.

1871.

Financial DEPARTMENT

From
The Chief Secretary to Government,
Fort Saint George,

To
The Secretary to the Govt. of India,
Financial Department.

Dated Novr. 28. 1871.
Recd.

No. 1769.
Enclosure.

Fls 489 of 1872

Nos. 110 - 113

Submitting for orders copy of the Pros. of this Govt. relative to a Claim preferred by Surgeon Major Fitzgerald, for the difference of pay of Rank and Consolidated pay during the period he held the appointment of Surgeon of the 4th D.L. at the Presy.