

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No. ⁴⁹³⁻ 494	Press Mis
457	
Dated	23-2-1866.

Not to be folded or roughly handled

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*Proceedings of the Madras Government, Revenue Department,
23rd February 1866.*

Read the following papers :—

No. 454. Office Memorandum from the Secretary to the Government of India, Financial Department, to the Chief Secretary to the Government of Madras, dated Fort William, the 7th December 1865, No. 3,282.

With reference to the Order of the Government of Madras in the Revenue Department, No. 2,557, dated 19th October 1865, the undersigned has the honor to request that the Chief Secretary to the Government of Madras will have the goodness to forward to this Department a copy of the Order of that Government, No. 1,703 of the 22nd July 1865, regarding the case of Mr. V. Vurdachary, the Head Scrishtadar of the Godavery District, and of the previous correspondence connected herewith.

No. 455. From the Examiner of Claims, to the Chief Secretary to Government of Fort Saint George, Financial Department, dated Fort Saint George, 13th December 1865, No. 260.

1. I have the honor with reference to Government Order, No. 2,956, dated the 28th ultimo, Revenue Department, by direction of the Accountant General, to bring to the notice of Government that, that order is in direct opposition to the Resolution of the Government of India, 9th May 1861, No. 5,556, Financial. quoted in paragraph 3 of my letter to your address, dated 21st August last,

No. 45. That Resolution distinctly lays down, that from the date on which an Officer is relieved from the charge of an appointment he is not entitled to full pay should he fall sick and not join the appointment which he is proceeding to take up. For the reasons given in my letter, dated 14th October 1865, No. 40, Vurdachary cannot be considered as on preparatory leave, which carries moiety of pay, and it is an established rule that sick leave cannot be given for a period not covered by the Medical Certificate, so that he cannot get sick leave pay till 8th August. The consequence is, that from date of relief at Trichinopoly on 13th July till the date of sick certificate, Vurdachary can under the Rules draw no pay at all.

2. This being the case, I have the honor respectfully to solicit a reconsideration of the Order first above quoted; but should Government repeat these instructions they will be carried out, and the point referred to the Government of India for their orders.

No. 456. ORDER THEREON, 23rd February 1866, No. 493.

Miscellaneous.

Ordered that the following letter be sent to the Government of India :—

(Here enter No. 494, dated 23rd February 1866.)

(True Extract.)

(Signed) J. D. SIM,

Secretary to Government.

No. 494.

No. 457.

To

THE SECRETARY TO THE GOVERNMENT OF INDIA.

SIR,

Miscellaneous.

Dated 7th December 1865, No. 3,282.

1. I am directed to forward the papers called for in your Memorandum, marginally noted and the entire correspondence between this Government, the

Board of Revenue, and the Pay Department, in connection with the case of V. Vurdachary, late Sheristadar of the Madras District, and briefly to explain the circumstances of the case.

2. In February 1863 the Board of Revenue ordered the dismissal of Vurdachary from his post of Sheristadar, (the pay of which was Rupees 200 per mensem,) and the Collector in the following month appointed another person to the situation.

3. Vurdachary appealed to the Government, who took a different view of the case, acquitted him of the corrupt motives with which he stood charged, but directed his suspension for a year, and his transfer at the end of that period to another District, for serious neglect of duty in not personally examining a return received in his Department. The penalty was, in fact, equivalent to a fine of Rupees 2,400, and the loss of a year's service, and was inflicted not only as a punishment for the specific offence but also as a warning to officers in his responsible position.

4. The Government of India will doubtless admit that so heavy a punishment inflicted on an Officer of twenty-five years' service should not be aggravated by a combination of circumstances beyond his control.

5. When the Order of Government suspending Vurdachary was issued, the arrangements made by the Collector and the Board for filling up his place at Madras should have been declared temporary, as in fact they were. This unfortunately was not done at the time, but shortly afterwards the post of Sheristadar in the Godavery District became vacant, and Vurdachary was nominally appointed to it, in the expectation that before his suspension expired a similar situation would be found for him in a Southern District, he being unacquainted with the language, &c., of the Godavery District.

6. No such appointment, however, became vacant, and Vurdachary would have had to join the Godavery District, but for illness duly certified by a Medical Officer.

Vide G. O. 22nd March 1864, No. 495.

The Government upon this granted him four months' leave on half pay, as a special case, it being undesirable so far as the

public interests were concerned that he should take up his appointment in the Godavery, and not equitable that a punishment already sufficiently severe should be enhanced by the misfortune of illness.

7. By the time this leave expired an opportunity occurred of employing Vurdachary as Acting Sheristadar in Trichinopoly, and thither he accordingly proceeded, and performed his duties to the satisfaction of the Collector. He was relieved at the

end of May last, but continued employed (to the 13th July) on other duties by the Collector, under the impression that Government did not wish him to proceed to the Godavery and desired his detention at Trichinopoly. At this time also the Government called upon the Collector for a statement of his services, with a view to his being pensioned if unfit, as was supposed, for duty. This led to a further detention at Trichinopoly till the 13th July, and Vurdachary did not reach Madras till the 1st August, and on the 8th idem he produced a certificate from a Medical Officer at Madras for four months' leave. For the delay in returning to Madras Vurdachary cannot reasonably be punished, but according to the Civil Paymaster, he is subject to entire loss of pay and service for this delay, as well as for the five months' of sick leave which he will have had up to the 7th instant. The punishment which the Government deemed ample both for his offence and as a warning to others will in fact be nearly doubled, if the letter of the rules as interpreted by the Pay Department be alone regarded.

8. The Government, however, consider that as Vurdachary was ordered to the Trichinopoly District, he must be held to have fulfilled the spirit of the Rules, and that "an order of the Government directing one of its servants to join a certain post and there do duty, must absolve him from the disabilities attaching to his not having joined some other post."

9. Moreover, I am to submit that a case of this kind cannot justly be dealt with irrespective of its attendant circumstances. No rules can be prescribed at once so comprehensive and so detailed as to embrace every contingency and fairly meet every variation of circumstance, nor can it be intended or desired that a Government should be reduced to the level of a mere machine, to administer a set of Rules without discretionary power to relax their severity in special instances.

10. Such a case as that of Vurdachary is naturally of rare occurrence, and the Government submit it that it is best to deal with it on its merits as an exceptional case, a course which creates no embarrassing precedent, and causes no addition to the complicated mass of rulings already on record.

I have the honor to be,
Sir,
Your most obedient servant,
(Signed) J. D. SIM,
Secretary to Government.

Exd. S. T. Augustin.

N^o 5556.

From, C. H. Lushington Esquire
Secy to the Govt of India

To, The Officiating Civil Paymaster
Madras

Sir,
Financial Dept.
With reference to your letter N^o 196 dated
23rd March last, I am directed to answer regarding
the questions put by you in connection with the
cases of Messrs Cockrell and Boswell.

Questions on behalf of	Answers.
Mr. Cockrell.	
1 st Mr. Boswell's appointment having, 1 st No, only, after the lapse of the under the circumstances stated, been fine, that Mr. Boswell would have altogether cancelled, may Mr. Boswell, taken in the ordinary course, to join Cockrell's draw higher pay his appointment, as Officiating from the 13 th December. Sub Judge of Combaconum, for from the date he was placed beyond the ordinary operation of the Rules.	
2 nd If Mr. Boswell had actually joined after taking privilege leave might Mr. Cockrell have drawn higher pay from 13 th December as from the 6 th January or must he have continued to act without compensation during the whole time of Mr. Boswell's absence?	Yes - from 6 th January the date on which Mr. Cockrell was placed beyond the ordinary bearing of the Rules

Questions on behalf of
Mr. Lockwood

Answers

Rules by his being prevented from
taking up his permanent appoint-
ment, under the express orders of
Government which directed him
to continue acting as sub judge.

Answers

Questions on behalf of Mr. Boswell

1st Might Mr. Boswell's privilege
leave have been made retrospec-
tive to the date of quitting his
station.

Otherwise he would ap-
parently be without pay from
that day till the one on which
his leave was granted.

2nd On as privilege leave is not
unfrequently allowed in
addition to the time for
joining a new station, whether

Mr. Boswell might be granted

this and be considered to
have taken his joining time

first, and to be under obligation
to assume charge on the
expiry of the month of privi-
lege leave.

leg leave.

Mr. This cannot be done under

Section 3 of the Cantonment
Civil Service Absence Rules.

He is entitled to
preparatory leave in addition

to the sick leave granted to
him and during the period

of the preparatory leave he
can claim under the Rules

a portion of this pay

Questions on behalf

Answers

Mr. Boswell

3rd Whether, being
compelled to take sick
leave after having started
in good health and with
the bonafide intention of
proceeding to his new station,
he may not be allowed
to draw full pay up
to the date of his detention
by sickness and to reckon
his preparatory leave from
the same.

Fort William

The 9th May
1862

This cannot be allowed
as the Government cannot
act by what Mr. Boswell
intended but by what he
actually did Mr. Boswell
took sick leave and
is entitled to preparatory leave
in addition thereto

I have the honor to be
Your most Obedient servant
Signed C. H. Lushington
Secy to the Govt of India

True copy

Ronald
Examined & Claimed

GO of 10th June 1863, No 1016 - Murdas collector's office was suspended for neglect of duty for one year and ordered to be transferred to another district after the period of suspension -

Board of Pro: Govt of India
of 14th July 1863, No 431 - Murda Charloo was transferred the-
-ristadar of the Godavari district while
under suspension -

GO of 22nd March 1864, No 495 - Govt were pleased to grant him leave for 4 months from 19th February 1864 on half pay as a special case on the objections raised by the Civil Paymaster for granting him leave of any kind as Murda Charloo had not joined his appointment after suspension -

Govt of India in their letter No 979 of 23rd June 1864 - Confirmed the order of this Govt granting 4 months special leave to Murda Charloo while observing that his claim was inadmissible under the rule that the salary of the post can only be drawn after joining it -

GO of 9th May 1864, No 796 - The Govt expressed their earnest-
-ness for Murda Charloo's transfer to a
Saamil district without delay before the
expiration of his leave on their promising
the collector of the Godavari district to
transfer him from his to a Saamil district -

GO of 3rd June 1864, No 949 - The Govt approved Murda Charloo's
appointment as Acting Sheristadar of
Trichinopoly made by the Board in the
place

File 3557/65

13 July 1864
13 July 1864

place of Setu Rao employed under the
Director of Revenue Settlement.

Sanctions Durda Pharloo's payment from the settlement Budget until he joins his present appointment in the Godavery District.

G.O. of 10th Augt 1865,
No. 1861.

The Govt concurs in the correctness of the opinion of the members of the Board that Durda Pharloo is not entitled to 4 months sick leave that he applied for and for which he was recommended by the Board as he had not joined his present appointment.

G.O. of 9th Sept 1865,
No. 420, dated Sept.

On a re-consideration of the representation made by the Board the Govt are of opinion that Durda Pharloo having been ordered to proceed on duty to Trichinopoly instead of his substantive appointment in the Godavery District should be considered as having fulfilled the condition of his joining the present post and that his case should be dealt with accordingly.

G.O. of 10th Oct 1865, Revenue Dept
No. 2456.

Directs that the members of the Board will submit copy of his letter to the Govt of India on Durda Pharloo's ineligibility to obtain the leave granted by this Govt, observing however that the point on which the ruling of this Govt rests is that an order of Govt directing one of its servants to join a certain post and there do duty must absolve him from the disabilities attaching to his not joining some other post, as in the absence of the order he would have

the

G.O. of 24th Nov 1865, No. 2889.

The Govt forward to the Board of Revenue copy of the accounts General's letter to the Govt of India for orders on the points therein mentioned in Durda Pharloo's case.

First. Does an unconvenanted servant, who after having been suspended at a punishment, is nominated at the expiry of that period to a permanent post, become entitled to all the privileges of the service (as to leave, joining time and travelling allowance) by taking up an acting appointment to which he has been nominated either at his own request or in respect thereof, without having first joined the permanent appointment.

Second. Whether Durda Pharloo, in all the circumstances of his case, and taking into consideration the irregular leave obtained by him last year, is entitled to the leave and pay sanctioned by Govt.

Third. Whether considering the reason of Durda Pharloo having remained at Trichinopoly, which apparently points to his immediate retirement from the service, he was eligible (assuming such to be the case) to more than 14 days' leave, under paragraph 19 of the revised Unconvenanted Civil Service Rules.

Rules.

G.O. 28th Nov 1865, No. 2956.

The Govt were satisfied with the Board's explanation of Durda Pharloo's delay in quitting Trichinopoly after

Requests a re-consideration. Examines
of Co. of 28th November 1865, No. 2956 point of claimed letter
in point that it is opposed to Financial No. 260 of 13th
Resolution of 9th May 1861, No. 5556 and December 1865.
if repealed it will be obeyed and the
case referred to Govt of India.

The offence of which
the Government found Under-
.chary guilty was gross neglect
of

of duty in not personally examining an important return, in consequence of which default a remission of revenue was erroneously granted by the collector. He was acquitted of corrupt motives in the case.

This punishment was in fact a fine of Rs. 3,000 - the loss of a year's service - and the disgrace of suspension after 25 years service.

Prior to the decision of Government, the Acting Collector appointed one Kistnamachary, a Tahsildar of Salem to be Sheristadar of course with the Board's sanction.

The proper course on the receipt of the order of Government was for the Board to have declared Kistnamachary's appointment, acting on full pay, until they could arrange for

for an exchange of office between Tundachary and a Sheristadar of some district in the South, he being a Samudra for, if Government had wholly acquitted Tundachary then Kistnamachary would, as a matter of course, have reverted to his former post. Unfortunately this was not done and the first place which turned up for him was in the Godavery of the language, &c. of which District he was wholly ignorant.

Tundachary's suspension expired on the 18th February 1864, but he was prevented from joining his station by illness, duly supported by a medical certificate.

The Civil Paymaster reported that in the case of an uncovenanted officer's suspension was considered to place him out

of duty in not personally examining an important return, in consequence of which default a remission of revenue was erroneously granted by the collector. He was acquitted of corrupt motives in the case.

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for an exchange of office between Tundachary and a Sheristadar of some district in the South, he being a Samudra for, if Government had wholly acquitted Tundachary then Kistnamachary would, as a matter of course, have reverted to his former post. Unfortunately this was not done and the first place which turned up for him was in the Godavery of the language, &c. of which District he was wholly ignorant.

Tundachary's suspension expired on the 18th February 1864, but he was prevented from joining his station by illness, duly supported by a medical certificate.

The Civil Paymaster reported that in the case of an uncovenanted officer's suspension was considered to place him out

out of Government employ,
and consequently to bar all
claim to leave. The Government
however under the special em-
circumstances of the case granted
him 4 months' sick leave on
half pay.

The Government of
India on this ruled that the
grant of half pay was ap-
posed to the rules but ab-
stained from disturbing the
decision.

Before his leave expired,
viz on the 18th June 1864, a
temporary vacancy occurred
in the Trichinopoly District,
and Tundachary was appointed
to it and did duty in it up
to the end of May 1865.

His relief from this
duty however was not reported
to the Board, and the Collector
detained

detained him at Trichinopoly,
employing him on general
duty till the 13th of July.

Tundachary left Tri-
chinopoly on the 27th July - a
reference having immediately
been made to the Collector
by Government regarding his
fitness for further health. Tun-
dachary reached Madras early
in August placed himself
under medical treatment, and
was advised to, and according-
ly did, apply for 4 months
sick leave. The Examiner of
Claims on the ground of his
not having joined his perma-
nent employment, declared him
disentitled to leave or pay till
he joined.

The Government at
first acquiesced in this ruling
but on the Board's further
explanation and recommendation
held.

held that the fact of Tur-
dachary having been ordered
to proceed on duty to Tri-
chinopoly instead of joining
his substantive appointment
should absolve him from this
condition, and granted him 4
months leave on half pay.

The Examiner of Claims
declared him eligible, under this
order, to leave from the 8th August,
the date of his certificate but
not entitled to pay for the in-
terval between that date and
his departure from Trichinopoly,
and notified that the case
would be submitted for the special
orders of the Supreme Government.

The Government
desired to be furnished with
a copy of the letter of reference
and remarked that the point
on which their ruling rested
was "that an order of Govt
directing

directing one of its servants
to join a certain post and
there do duty must absolve
him from the disabilities at-
taching to his not joining
some other post."

The letter was accord-
ingly submitted on the 13th
November, and on the 28th Go-
vernment finally ordered
that Turdachary should be
allowed his full pay from the
31st May when he was relieved
at Trichinopoly up to the 8th
August when he sent in his
medical Certificate. The Ex-
aminer of Claims upon this
reported that Turdachary was
clearly not entitled to any pay,
and if Government adhered to
their order, it would be obeyed
and the matter referred to the
Supreme Government.

The Government of
India

India have now called for
an order of Government in
this case dated 22nd July 1865-
in which Government considered
it desirable that Tundachary
should be pensioned- and the
previous correspondence.-

W

W. 493.

Ordered that the follow-
ing letter be sent to the
Govt of India. -

(Received 23rd Feb. 1866. N^o 494)

Fort St. George
23rd July / 66.

No. 260

5

13th December-1865.

THE EXAMINER OF CLAIMS,

Fort Saint George.

DEPARTMENT.

I have the honor with reference to Government Order No. 2956 dated the 28th

Utterno Revenue Department, by direction of the Assistant General
to bring to the notice of Government that that order is in direct opposi-
tion to the Resolution of the Government of India quoted in Para 3 of
the letter 1861
No 5355b and my letter to you addressed dated 21st August last No 45 - That Resolution con-
taining the same has been laid down that from the date on which an official notification

Pay at Will. -

2- The being the case, I have the honor respectfully to solicit a reconsideration of the Order first above quoted; but should Government regard their instructions being will be carried out and the point referred to the Government of India for their Order. —

Sir,

Abigail

Examiner of Claims.

29 Sept / 55 - 17 to 20
28 November - 582.583
19 Oct - 65 - 375.276
22 July - 65 - 407.408.

Rev. 1855
Proc. of Court for February 1866
from 3557

The Receiver of Customs
Fort Saint George

The Chief Secy to Govt
Fort Saint George

18 December

12/14

Com.

No 260.

M 493.28 Feb 1866

Worthy Order

With reference to
G.O. No 2956 of 29 Nov 1865
Revenue Dept. Announcing
Pay to Burma clergy without
deductions from scale of
relief at Lichindjy until
13 July 1865 is in direct
opposition to the Decree of
the Supreme Court & request
that Govt will reconsider
the order first quoted &
states that the Govt repeat
these orders they will be
carried out subject to appeal
to Supreme Court

No 45A & 45B

c/12 Feb 1866 Rib

Revenue Department

No. 494.

23rd Feby/66.

To

The Secretary to the Govt.
of India

Sir,

I am directed to forward the papers called for in your memo. and the entire correspondence between this Govt., the Bd. of Revs. and the Pay Department in connection with the case of V. Vundachary, late Sheristadar of the Madras District, and briefly to explain the circumstances of the case.

In February 1863 the Board of Revs. ordered the dismissal of Vundachary from his post of Sheristadar, (the pay of which was Rs. 200 per mensem) and the following month appointed another person to the situation.

Vundachary, appealed to the Govt. who took a different

view.

reference to 27 Feb 1866

W. A. M.

P. 9 Sept/65. A 17 to 20 lines
28 November — 582.583 R
19 Oct — 65 — 375.376
22. July — 65 — 407.408.

Rev. 1865 to Feb 66
Proc of Govt. for February/66
From Mr. 3557/1
The Receiver of Customs
Fort Saint George
The Chief Secy to Govt
Fort Saint George

D/18 December
R/14th
Encl.

No 260.
M 493.23 Feby/66
Withy order

With reference to
G.O. No 2956 of 29 Nov/65
Revenue Dept. sanctioning
pay to Vundachary without
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carried out subject to report
to Supreme Govt.

No 45A & 45B

c/12 Feby/66 R10

view of the case - acquitted him of the corrupt motives with which he stood charged but directed his suspension for a year and his transfer at the end of that period to another district; for serious neglect of duty in not personally examining a return received in his Department. The penalty was, in fact, equivalent to a fine of Rs. 3400 and the loss of a year's service - and was inflicted not only as a punishment for the specific offence but also as a warning to officers in his responsible position.

The Government of India will doubtless admit that so heavy a punishment inflicted on an officer of 25 years' service should not be aggravated by

When? his place at Madras was to be permanently filled up - that is the man was never to be employed again at Madras.

The Govt. should have arranged an exchange with a Southern Sheristadar - The man put in was only a Tahsildar.

a combination of circumstances beyond his control.

When the order of Govt. suspending Vundachary was issued, the arrangements made by the Collector and the Board for filling up his place at Madras should have been declared temporary, as in fact they were -

This unfortunately was not done ~~was not done~~ at the time -

but shortly afterwards the post of Sheristadar in the Godavery District became vacant and Vundachary was nominally appointed to it - in the ^{expectation} ~~hope~~ that before his suspension expired a similar situation would be found for him in a

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P.O. 22nd March
1860

Relinquish
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13
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General - to be sent to the

with the no future debt

Volume 1000 Page
No. of Govt. for Habes

July 4.
to the Secretary to the
Government of India

2/20/1866

From the Secretary to
the Govt. of India

Letter to the Secretary
to the Government of India
re the subject of the
delay of the War
Office of the War
Office of the War
Office of the War

Enc.