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Educational (1902) Department.

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DATED 23. 9. 02

INDEXED.

N. P.

ORIGINAL



[Despatch Abstract.]

Acceptance of remuneration

Recording certain correspondence
on the subject of the — by office
for literary work done.

26/9

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BACK PAPERS.

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

FURTHER PAPERS.

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

Government {1902} of Madras. EDUCATIONAL.

Recd.

Regd.

} 1902.

Enclosures

Spare copies

ORIGINAL

G.O., No. 591, 23rd September 1902.

N. P.

SEPTEMBER.

Acceptance of remuneration.

Recording certain correspondence on the subject of the — by officers for literary work done.

GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

READ—again G.O., No. 260, Educational, dated 2nd May 1902.

ORDER—No. 591, Educational, dated 23rd September 1902.

Recorded.

(True Extract.)

A. T. PRINGLE,
Assistant Secretary to Government
in charge.

Ed. S. J. Pereira.

EDUCATIONAL DEPARTMENT.

NOTES CONNECTED WITH G.O., No. 591, EDUCATIONAL, DATED
23RD SEPTEMBER 1902.

[SUBJECT.—Acceptance of remuneration from a private person.]

From the Director of Public Instruction, R.C. No. 33, dated 16th April 1902.

Under article 91 (c) of the Civil Service Regulations the sanction of the Government of India is required in this case but before that Government is addressed information seems to be necessary on the following points:—

(1) Why the two works are treated as one for the purpose of the remuneration. If the amount received on account of either of them is Rs. 500 or less, this Government can sanction it.

(2) The party for whom the work was done—Mr. Sinclair or any publishers.

(3) Why there was so much delay in submitting this application.

The Director may perhaps be asked u.o.

P. T. THARYAN—19-4-02.

We may ask the Director of Public Instruction as proposed. If he can arrange to separate the two works so as to bring the matter within the sanctioning power of the local Government, it will be a good thing: references to India should be avoided, if possible, on principle.

2. In any case Government should have fuller information. Mr. Stuart may be inclined to withdraw his present letter and replace it by two letters—one relating to the English, the other to the Indian, history.

A. T. PRINGLE—21-4-02.

To Director for favour of further information.

M. HAMMICK—22-4-02.

To the Director of Public Instruction.

Mr. Stone has gone to England for his vacation. I have written to him for the information required and in the meantime the application may lie over.

G. H. STUART—29-4-02.

EDUCATIONAL DEPARTMENT.

The draft below may issue.

P. T. THARYAN—1-5-02.

A. T. PRINGLE—2-5-02.

[G.O., No. 260, Educational, dated 20th May 1902.]

Demi-official from the Hon'ble Mr. G. H. STUART, Director of Public Instruction, to the Acting Secretary to Government, Educational department, dated Ootacamund, 9th July 1902.

About March or April last I applied to Government to sanction the acceptance by Stone of Rs. 1,105 for editing Sinclair's histories. Government thereupon asked for certain further information (I think unofficially) and the enclosed letter from Stone gives the information required. I doubt if the consent of Government is really required in cases of this kind.

If the enquiry from Government was not unofficial but official, please return Stone's letter and I will send an answer in proper official form.

ENCLOSURE.

Demi-official from J. H. STONE, Esq., to the Hon'ble Mr. G. H. STUART, Director of Public Instruction, dated 17, Gloucester Walk, Hampden Hill, W., 22nd May 1902.

Your letter of 29th April about my application for permission to receive Rs. 1,105-11-2 for Sinclair's histories.

(1) The remuneration neglecting annas and pies is divided between the two books, thus —

							RS.
History of India	..	..	..	..	..	..	797
" of England	..	..	..	..	..	..	308

(2 & 3). I undertook the revision of Sinclair's histories at the request of Mr. Grigg I think in 1890 or 1891. I arranged with Mrs. Sinclair that I was to receive one-fourth of the profits of each edition of the revised works, and have in past years received various payments on this account for both the English and Indian histories. I did not ask permission of Government to do the revision nor to receive my share of the profits because I had no idea that any such permission was necessary until I got your circular, in February I think, calling for report as to copyrights held by educational officers. In March, the S.P.C.K. Press (publishers of the histories) informed me that they had paid to my account with Arbuthnot's the sum which is the subject of my application, and, enlightened by your circular, I supposed it necessary to ask permission to receive it.

The question as to the party for whom the work was done perhaps admits of the answer "Mrs. Sinclair." At all events the publishers had nothing to do with the matter.

As, however, I was to receive nothing if no profits accrued from the revised editions (quite a possible contingency) and the agreement contained a clause providing for my receiving an enhanced share of the profits if the revised editions sold better than the original book (this has not been enforced) it is perhaps somewhat straining the meaning of the term employer to call Mrs. Sinclair such in this connection and my application to Government—so far as article 91 (if that be its number) of the Civil Service Regulations goes—may have been superfluous. I do not know that the publication of a book by an officer of Government at his own sole or partial risk is forbidden.

If you should find yourself able to take this view perhaps Government might be willing to record my application.

The Director has received a letter from Mr. Stone which furnishes the information required.

It is submitted that whatever the conditions may have been, if any remuneration is paid, article 91 (a) of the Civil Service Regulations applies, and that the sanction of the Government of India is necessary for the receipt of the amount paid for revising the history of India. The work done was for a private person and remuneration was received for it.

P. T. THARYAN—14-7-02.

I don't think that the remuneration (which was contingent on profits) can be classed as a "fee" under article 91 of the Civil Service Regulations. It seems clear that the word "fee" is there used with reference to a particular kind of payment from private persons. A month or two ago Colonel Smart went down to Travancore to

But the sanction of the Government of India has been asked.

G. S. FORBES—23-7-02.

inspect a large public work in that State and to advise the darbar. He is to receive a "fee" for it. Any Government expert may, in like circumstances, do work for a

private person, and the payment for it constitutes a "fee". Such cases are covered by the article. But if I write an occasional article for a magazine and am paid for it, that is a "fee", indeed, but not a "fee" under the article. It is a perfectly well-known and recognised fact that payments are made by private persons to public servants for literary work which are not classed as "fees". This is proved by the fact that the Government of India have passed special * rules on the subject,

* Rule 60 in the Public Servants Manual. defining the extent to which officers may be connected with the press and requiring them to obtain leave beforehand in certain cases. But this requirement has regard to the extent of their contributions—not to the remuneration for them.

2. I think we are in danger in this case of mixing up two very different matters. Certain circumstances make it probable that in the Educational department the Government may have to be exacting in regard to reports about work of the kind Mr. Stone has been doing, and may make provisions very much like those numbered (1) and (2) under clause (a) of article 91. But their doing so will not bring the case under the similar provisions in that article, and so bring it under the provision lettered (c).

This is all so evident that it seems hardly necessary to write it, but the previous notes, including my own under date 21st April 1902, disclose some confusion between the two sets of circumstances.

3. If the Secretary takes the view of this note, I think the papers may be "recorded", as suggested by Mr. Stone. Otherwise, the Accountant-General may be consulted. I feel certain that if he knew one of the officers subordinate to him had received, say, Rs. 150 for an article in a magazine, he would not consider that article 91 must be applied to the case.

A. T. PRINGLE—15-7-02.

I agree. When acting recently in the Home department of the Government of India several instances of books written by public servants came under my notice, and in no case had the previous or subsequent sanction of the Government been obtained, nor was it ever thought that such sanction was necessary. The public interests can be sufficiently protected by the power which the Government undoubtedly possesses of interfering in the case of any officer who neglects his public duties for the sake of private work.

2. The question is a general one and should, I think, be dealt with in Public. If that department agrees the paper may be transferred to it; or it can be recorded in this department.

H. A. STUART—17-7-02.

To the Public department.

PUBLIC DEPARTMENT.

The point raised involves an interpretation of article 91, Civil Service Regulations, and this Government is not competent to issue orders on the general question. Although rule 60 of the Public Servants' Manual permits officers in the service of Government to contribute to the public press under certain restrictions, there is nothing to show that the acceptance of remuneration for such work is not governed by the provisions of article 91, Civil Service Regulations.

Under rule (3) in Financial memorandum No. 1701, dated 2nd November 1901, the matter should be dealt with in Financial.

C. S. SIMPSON—21-7-02.

It has, so far as is known, never been the practice, and probably was never intended, to forbid Government officers from writing and publishing books, intended for sale, without the sanction of Government. Such a case as Mr. Stone's may reasonably be regarded as not coming under article 91, Civil Service Regulations, at all. The publisher cannot properly be called Mr. Stone's employer: it is really Mr. Stone who employs the publisher. Nor can Mrs. Sinclair, who apparently owns

the copyright of the first edition of these histories, be called Mr. Stone's employer: he merely, so to speak, purchases his materials from her. There is, it is submitted, no reason, so far as Public is concerned, to differentiate between Mr. Stone's case and that of Mr. Sewell's books, Mr. Rice's volume of occasional essays, Mr. Cotton's contributions (doubtless paid for) to the press, or even Major Grant's (Dr. Grant's) recent musical compositions. The matter is not, it is submitted, one on which it is necessary or desirable to pass any general orders. Unless Educational has special reasons for keeping under its supervision the writing of educational text-books by officers of the Educational department, it would seem best to let the present question drop.

A. R. KNAPP—22-7-02.

May, in the circumstances, be passed.

G. S. FORBES—4-8-02.

I agree.

J. T[HOMSON]—8-8-02.

As no general rule is to be issued in Public, the papers may be returned to Educational for record.

C. S. SIMPSON—11-8-02.

A. R. KNAPP—12-8-02.

Yes.

G. S. FORBES—15-8-02.

To the Educational department.

EDUCATIONAL DEPARTMENT.

The papers may be recorded in this department and the Director of Public Instruction told (d.o.) that this has been done. A

A. T. PRINGLE—18-8-02.

H. A. STUART—18-8-02.

[G.O., No. 591, Educational, dated 23rd September 1902.]

Demi-official from A. T. PRINGLE, Esq., Assistant Secretary to Government, to the Director of Public Instruction, dated 23rd September 1892.

The Government have decided to pass no orders on your demi-official of the 9th July last regarding Stone's application for permission to receive Rs. 1,105 for Sinclair's histories.

Their consent was not required.

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Educational Department.

502.591 /
D.O. No. 999 23-9-02 50

My dear Stuart,

The Government have decided to pass no orders on your D.O. of the 9th July last regarding Stone's application for permission to receive Rs. 1,105 for Sinclair's histories.

Their consent was not required.

Yours sincerely,

P.T.T.

23-9-2.

A. T. P.

23 -9- 2.

This D.O. is rather belated.

A.T.P.

READ AGAIN G.O., No. 260, dated 2nd May, 1902.

" " " " _____, " _____, 190 .

READ ALSO:—

C. No., From the, No., dated 190

” ” ” ” ” ” ” 190

” ” ” ” ” ” 190

ORDER No 591, dated 23-9-1902

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28/9/2

23-5

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ENCLOSURES TO G.No.

ORDER OF GOVERNMENT.

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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