

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.

560

Press

~~Mis.~~

Dated

30. 9. 1889

B.M. 29-30

3/3

Not to be folded or roughly handled

12

*Proceedings of the Madras Government, Financial Department,
from 24th September to 4th October 1859.*

No. 29. Read the following letter from THOMAS SYDNEY SMITH, Esq., Advocate General ; to the Chief Secretary to Government, Fort Saint George, dated 27th September 1859.

With reference to my opinions, dated 3rd and 12th September instant, respecting the Civil Fund, and the claims on it to refunds, under the late decision of the Privy Council, it appears to me that it may be well to call the attention of the Trustees more particularly to an important paragraph at the conclusion of the Judgment, page 39 and 40 of the Printed Report, as a guide to them in future cases.

2. The part I refer to is in these words " upon this point, therefore, the question, as their Lordships view it, is, whether the respondent had or had not, before the revised rules were passed, acquired a title to the refund of the excess of his subscriptions ; and their Lordships are of opinion that he had, for in the year 1852 he had accepted the annuity on condition that the excess of his payments should be refunded to him. The Trustees, it is true, refused to receive this conditional acceptance, but in their Lordship's Judgment, for the reasons already given, it was an error on their part not to have done so, and the respondent cannot, as their Lordships think, be affected by this erroneous Judgment of the Trustees. They think, therefore, that the respondent's title to the refund was complete in 1852, and was consequently unaffected by the revised rules of 1853."

3. It is clear therefore that the Privy Council gave their Judgment in favor of Mr. Robertson *solely* on the ground that he had claimed and accepted his Annuity in 1852, before the revised rules of 1853 abolishing refunds were passed.

4. No one therefore who did not claim his Annuity before the passing of the Revised Rules of 1853, can find any thing in the Privy Council's Judgment upon which now to found any claim to a refund.

No. 30. ORDER THEREON, 30th September 1859, No. 560.

Ordered to be communicated to the Trustees of the Civil Fund in continuation of the Advocate General's opinion furnished to them under date the 17th Instant, No. 524.

(Signed) T. PYCROFT,
Chief Secretary.

728 September 159 N. 524

Fin. L. to Eng. 21st

Oct. No. 24 of 1859

Replied to 29th March 1851 of 68

Replied to 15th Jan. No. 41 of 68

Forwarded to the
Court of Auditors 1st Jan.
1851 N. 39

Pro of Gov. 4 Oct
Financial. 1859. Sept 26

From the Advocate General,
Madras.

of 27
4 20 Sept 59.

No. 173.

With reference to his opi-
nions of 3. & 12. with respect
ing the Civil Fund, and the
claims on it to Refunds,
under the late decision of the
Privy Council, states that
it may be well to call the
attention of the Trustees more
particularly to an important
Paragraph at the conclusion
of the Judgments, as a guide
to them in future Cases. —
Quotes the para. —

With an Order

29 & 30

Order thereon. 30 Sept. 1859. No. 560.

Ordered to be com-

unicated to the Trustees of
the Civil Fund in continuation
of the Advocate General's opinion
furnished to them under date
the 14th Instant. No. 524.

W. W.

J. P.

To the Trustees of the Civil Fund. Disp. 30th