

MADRAS RECORD OFFICE.

Government of Madras.

DEPARTMENT.

Financial

G.O. No. 412

Press
~~Mis.~~

Dated 20. 8.

1860

B/nr. 53-54

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Not to be folded or roughly handled

[Signature]

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*Proceedings of the Madras Government, Financial Department,
20th August 1860.*

No. 53. Read the following letter from W. HUDLESTON, Esq., Secretary Civil Fund, to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 11th August 1860, No. 231.

1. I am directed by the Managers of the Civil Service Annuity Fund to acknowledge the receipt of the Proceedings of Government No. 358, Financial Department, dated 18th July 1860, communicating to them the opinion of the Advocate General relative to Mr. Prendergast's application for a refund of his subscriptions to the Fund.

2. There is no question that the assumptions of fact on which that opinion proceeds, are correct. The Managers are not aware of the existence of any thing bearing on the case beyond the Extracts furnished with their letter of 23rd June 1860. The Rules of 1853 were drawn up by the Home Government, were submitted by their orders for the vote of the Service, were specially intended to be, and were adopted as being, in entire supersession of and substitution for the Rules of 1825, at the instance of the Home Government. There is no one portion of the Rules of 1825 which is now operative.

3. Under these circumstances, and as the prohibition contained in the Rules of 1825 of the refund of subscriptions provided by the Deed of 1814 in such cases as Mr. Prendergast's has been excluded from the amended Rules of 1853 as drafted by the Home Government, the Managers of the Civil Service Annuity Fund consider that there can be no question of the correctness of the opinion, that such cases may be treated on their merits, even should it not be held that the Deed of 1814 still applies in all cases not specially provided for by the Rules of 1853.

4. The refund now sought by Mr. Prendergast is expressly distinguished in all the Deeds connected with the Civil Service Funds, from the *benefits* which those Funds are designed to provide: it is simply the restoration of the bare amount of the deductions made by Government from the salary of the individual without any choice on *his* part, for a specific purpose, which purpose is now frustrated. Further the special purpose of the deductions is to relieve the Government of a part of the cost of pensioning the Members of their Civil Service; but in the present and similar cases the claim to pension is lost, the reason of the deduction therefore disappears, and the amount deducted ought to be restored.

5. The withholding of this refund forms no part of the penalty to which Mr. Prendergast subjected himself, and to which he has been condemned; and the granting it appears to the Managers a bare act of justice. This would violate no rule, because, as already remarked, the refund is no "benefit," being a mere payment of money retained, without interest.

6. For the foregoing reasons, the Managers beg to recommend, that they be authorized to refund to Mr. Prendergast's Agents the amount of his subscriptions to the Civil Service Annuity Fund, being Rupees 29,352-8-5, without interest, as already reported. With Mr. Smyth's opinion before them, they would have considered themselves competent to make the refund at once, had not that opinion contained a special reference to the Home Government.

No. 54. ORDER THEREON, 20th August 1860, No. 412.

Resolved that a copy of the above letter and of the previous correspondence on the subject be forwarded to the Right Honorable the Secretary of State for India, with the opinion of Government, that, under the circumstances explained, Mr. Prendergast's application should be acceded to, and the Managers of the Civil Service Annuity Fund be authorized to repay to that Gentleman's Agents the amount of his subscriptions to the Fund without interest, or Rupees (29,352-8-5) twenty-nine thousand three hundred and fifty-two, Annas eight and Pice five.

(Signed) T. PYCROFT,
Chief Secretary.

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Financial Dept.

Pro: of the Madras Govt.

Read the following letter
from the Secretary to the Civil Fund.

Here enter 11 August 1860. No. 231)

Order thereon, 20th August 1860, No. 412.

Well

Me

Resolved that a copy of the
above letter and of the previous
correspondence on the subject be
forwarded to the R. H. the Secretary
of State for India, with the
opinion of Govt, that, under
the circumstances explained,
Mr. Prendergast's application
should be acceded to, and the
Managers of the Civil Service
Annuity Fund be authorized
to repay to that gentleman's
Agents the amount of his subscriptions
to the Fund without interest,
or Rs. 29,352 " 8 " 5. Twenty
nine thousand three hundred and
fifty two, annas eight and
pice

price five.

JP

To the Managers of the Civil
Service Annuity Fund } Dist. 24th

Annual Letter to Cong^d 24th Aug^r
No 21 of 1800.
Replies to 2730th of November
ch^d 79 of 1800.

Am^l 1860 Dep^{ty} A
No 412

Pa. of York

Rece^d 20 Aug^r 1800

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