M.R.O. 1—77,006—8-6-37.

(1) Number of pages 16

(2) Date of repair

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	Press Mis.
Dated	18 .

65-66 9/10

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department,
29th October 1866.

No. 65. Read the following letter from the Accountant General, Madras, to the Chief Secretary to Government, Fort Saint George ; dated Fort Saint George, 11th September 1866, No. 202.

Post Audit Department.

A question having been raised touching the construction to be placed on the rules touching the pay of men under suspension (Madras Gazette of 10th October 1865, page 530), I have the honor to refer it for decision. I refer it to you rather than to the Revenue Secretary, the addressee of the appeal, because the question is a more general one ; and, indeed, I only forward the appeal for form sake, as there is nothing requiring special notice in it. The objections raised by my office are really only one, and the questions for decision are (1) what is reinstatement without blame, and (2) who is the Head of the department competent so to reinstate ?

2. But as the persons claiming pay in the present case, and in others in which there has been some difficulty, have been persons made over to the Magistrate for trial and acquitted by him, I think a prior question may be raised : is not the departmental inquiry into a man's conduct concluded, and an unfavorable decision reached, before he is made over to the Magistrate ? Can he claim any allowances whatsoever while actually under trial ? In that case, a man against whom a felony is only not proven is better off than one whose misdeeds concerned the department only.

3. But, though he be held entitled to some subsistence while under criminal prosecution, does a mere acquittal operate as neither conveying censure nor admonition ? The legal acquittal only clears him of tangible crime, but in no way of the gross folly, negligence, or indiscretion which might be properly visited by censure or admonition.

4. Lastly, who is to declare a man reinstated without blame ? Mr. Melville holds the Head of the office has such power; Mr. Master is not clear ; the Board, in the case of a Sub-Magistrate, seems to have held its confirmation necessary to such a reinstatement. Mr. Melville's opinion seems to me unsound, and that approval should be sought from the authority which may have the revision of all the proceedings of the Officer suspending.

5. The foregoing questions have been raised in the Audit Department of this office, and, although, after a careful consideration of the subject, I am of opinion that a full acquittal by the chief Judicial or Magisterial authority must be held to over-ride any opinion or conclusion arrived at by the departmental authorities in the preliminary inquiry, there appears to me to be so much weight in the arguments adduced in the other side of the question, that I have deemed it only right to refer the points for the decision of Government.

No. 66. ORDER THEREON, 29th October 1866, No. 395.

The Governor in Council is clearly of opinion that when an Officer is acquitted of an offence by a Court of competent jurisdiction, he is entitled to reinstatement, provided the acquittal is *bona fide* on the merits of the case, and not in consequence of a mere technicality, a legal flaw in the evidence, collusion with the witnesses, or some similar circumstance.

2. Instances, however, will occasionally occur in which, notwithstanding a full acquittal, the reinstatement of the Officer is inexpedient, or the infliction of some punishment, such as fine or suspension, is necessary, in consequence of some neglect or minor dereliction of duty brought to light during the inquiry. Such cases should be referred for the special orders of the controlling authority of the Department.

3. The power of reinstatement without blame, after a full acquittal, rests with the Officer who possessed the orginal power of appointment ; but if this power of appointment is restricted, by being dependent on the sanction or veto of any higher authority, then the confirmation of the reinsatement by the latter is requisite.

4. An Officer under trial is entitled to the same pay as when under suspension.

(True Extract).

J. D. SIM,
Secretary to Government.

To the Accountant General.
To

Exd. J. H. Burns.

Post Audit

~~Book~~ DEPARTMENT.

5-
3-

No. 202.-

Fort Saint George.
Accountant General's Office,
11th September 1866.-

FROM THE ACCOUNTANT GENERAL
TO THE GOVERNMENT OF MADRAS.

TO THE Chief Secretary to Government
Madras.-

SIR,

A question having been raised touching the construction to be placed on the rules touching the pay of men under suspension (Madras Gazette of 10th October 1865 page 530) I have the honor to refer it for decision. I refer it to you rather than to the Revenue Secretary, the addressee of the appeal, because the question is a more general one, and indeed I only forward the appeal for form sake as there is nothing requiring special notice in it; the objections raised by my office are really only one, and the questions for decision are (1) what is reinstatement without blame? (2) who is the head of the department competent so to reinstate?

But as the persons claiming pay in the present case, and in others in which there has been some difficulty, have been persons made over to the magistrate for trial and acquitted by him, I think a prior question may be raised, is not the departmental enquiry into a man's conduct concluded, and an unfavorable decision reached, before he is made over to the magistrate? Can he claim any allowances whatsoever while actually under trial? In that case a man against whom

whom a felony is only not proven is better off than one whose misdeeds concerned the depart=ment only.-

But though he be held entitled to some subsistence while under criminal prosecution, does a mere acquittal operate as neither con=veying censure nor admonition? The legal acquittal only clears him of tangible crime, but in no way of the gross folly, negligence, or indiscretion which might be properly visited by censure or admonition.-

Lastly who is to declare a man reinstated without blame? Mr. Melville holds the head of the Office has such power, Mr. Master is not clear, the Board, in the case of a submagistrate, seems to have held its confirmation necessary to such a reinstatement; Mr. Melville's opinion seems to me unsound, and that approval should be sought from the authority which may have the revision of all the proceedings of the Officer suspending.-

The foregoing questions have been raised in the Audit Department of this Office and although after a careful consideration of the subject I am of opinion that a full acquittal by the chief judicial or Magisterial authority must be held to override any opinion or conclusion arrived at by the depart=mental authorities in the preliminary enquiry there appears to me to be so much weight in the argu=ments adduced in the other side of the question

that

that I have deemed it only right to refer the points for the decision of Government.-

I have the honor to be,

Sir,

Your most Obedient Servt

F. Cruchley

Accountant General.

W. Ruggles Brise

Financial Department.

D

Cancelled.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Accountant General.

(Here enter 11 September 1866 No. 202)

Order thereon

The Governor in Council observes that an accused party is entitled to the full benefit of his acquittal by a competent Court, and that the mere fact of his committal in the first instance to stand a criminal prosecution cannot be held to imply censure or admonition if the result of the trial is a full acquittal.

2 The head of an Office to whom it is competent to

Where the failure of a prosecution does not appear to have resulted from collusion between the witnesses and the Prisoner,

Rec. 18 Oct 66 11-12

Rec. 1866. Public Dept. No. 3579. From The Accountt General Madras.

No. 395

To The Chief Sec. to Govt Madras.

Dated 11th Recd 15th Sept. 1866.

No. 202.

No. 3579.

Returning General Statement of Sums arising out of an appeal from the Dy Collector of Coimbatore against a decision of this Office in regard to pay of a Peon and ordering the Defendant to be paid his pay &c. &c. as per original Proceedings.

Cigar
R 20 "
C 24 "
R 25 N

to appoint and dismiss the servants under his control without previous reference to any higher authority is clearly competent to declare a servant reinstated and to decide what allowance shall be passed to him under the Rules, subject of course to any orders which may afterwards be passed by the Departmental Head if the matter should come before him by way of appeal or otherwise.

E/R

To the Accountant General.

Financial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Accountant General (Here enter 11 September 66 No. 202)

Order thereon 29th Oct. 1866 No. 395.

The Governor in Council is clearly of opinion that when an Officer is acquitted of an offence by a Court of competent jurisdiction, he is entitled to reinstatement, provided the acquittal is bonâ fide on the merits of the case and not in consequence of a mere technicality, a legal flaw in the evidence, collusion with the witness or some similar circumstance.

2 Instances, however, will occasionally occur in which, notwithstanding a

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Financial 1866.

No. 395

PROCEEDINGS OF GOVERNMENT.

Dated 29th Oct. 1866

a full acquittal, the reinstatement of the Officer is inexpedient, or the infliction of some punishment, such as fine or suspension, is necessary in consequence of some neglect or minor dereliction of duty brought to light during the enquiry Such cases should be referred for the special orders of the controlling authority of the Department.

3 The power of reinstatement without blame, after a full acquittal, rests with the Officer who possessed the original power of appointment but if this power of appointment is restricted, by being dependent on the sanction or veto of any higher authority, then the confirmation of

of the reinstatement by the latter is requisite.

An Officer under trial is entitled to the same pay as when under suspension.

To the Accountant General with 3 enclosures dated 23/10
All Heads of Offices

186 . *Department.*

No.

Dated.

PROCEEDINGS OF GOVERNMENT.

Financial DEPARTMENT.

LIST showing the distribution of the ~~Proceedings~~ of Government, dated 29th October 1866

No. 395.

Revenue Department, for information ~~and guidance~~ and for communication to ~~Sub~~-Officers.	.....	do	.....	101
Public Works Department.	.....	do	.....	101
Military Department...	.....	do	.....	101

to that Department.

despd 31/10

Legislative Department. 1

Public.	Board of Examiners	.....	.....	3
	Principal Inspector General, Medical Department, for information ~~and guidance~~ and for communication to ~~the~~ Subordinate Officers.....	.....	.....	51
	Protector of Emigrants...	.....	.....	6
	Tamil Translator to Government ...	.....	.....	1
	Teloogoo do. to do... ...	.....	.....	1
	Malayalim do. to do... ...	.....	.....	1
	Canarese do. to do... ...	.....	.....	1
	Persian do. to do... ...	.....	.....	1
	Government Astronomer...	.....	.....	1
	Private Secretary to His Excellency the Governor...	.....	.....	1
	~~Officer in charge~~ of Government Central Museum.	.....	.....	1
	Chemical Examiner	.....	.....	1
	Superintendent of Stationery.....	.....	.....	1
	Superintendent of the Government Press	.....	.....	.....
	~~Municipal Commissioners~~...	.....	.....	.....
	~~Postmaster General~~...	.....	.....	.....
	~~Superintendent Electric Telegraphs~~.	.....	.....	.....

despd 2/11/66

Judicial.	Hon'ble the Judges of the High Court			
	~~Judges of the Court of Sudr and Foujdaree Udalut~~, for information ~~and guidance~~ and for communication to ~~the~~ Subordinate Officers...	.....	.....	101
	Inspector General of Madras Police...	..... do.	..... do.	36
	Inspector General of Jails	..... do.	..... do.	36
	Commissioner of Police	.....	.....	3
	Magistrate of Police, 1st District.....	.....	.....	1
	Do. of Do. 2d Do.....	.....	.....	1
	Do. of Do. 3d Do.....	.....	.....	3
	Judges of the Madras Court of Small Causes.....	.....	.....	1
	Advocate General.....	.....	.....	1
	Government Solicitor...	.....	.....	
	~~Government Pleader~~...	.....	.....	
	~~Administrator General~~.	.....	.....	
	~~Chief Clerk of the Insolvent Debtors' Court~~	.....	.....	1
	Coroner of Madras	.....	.....	
	~~Sheriff of Madras~~...	.....	.....	
	~~Clerk of the Council for making Laws~~	.....	.....	
	~~Registrar of the Supreme Court~~	.....	.....	
	~~Clerk of the Crown~~...	.....	.....	6

despd 2/11/66

Registrar General of Assurances

Political.	Resident of Travancore and Cochin...	.....	.....	6
	Government Agent at Chepauk.....	.....	.....	1
	Government Agent at Tanjore.....	.....	.....	1
	Political Agent at Poodoocottah.....	.....	.....	1
	Collector in charge of the Special Agent's Department at Cuddalore.	.....	.....	1
	Officer in charge of the Stipend Pay Office at Vellore.	.....	.....	1

despd 2/11

Ecclesiastical.	The Right Reverend the Bishop of Madras..... ...	.....	.....	1
	~~Venerable Archdeacon of Madras~~.....	.....	.....	.....
	~~Senior Chaplain of the Church of Scotland~~	.....	.....	.....

Registrar of the Diocese

C 24 Oct
R 25 "

Marine.	Superintendent of Marine for information ~~and guidance~~ and for communication to ~~the~~ Subordinate Officers.	.....	.....	.....	.....	 26
Financial.	Mint Master...	.....	.....	.....	.....	 3
	Assay Master	.....	.....	.....	.....	 1
	~~Deputy Auditor and~~ Accountant General..... ...	.....	.....	.....	.....	 3
	~~Civil Paymaster~~ Examiner of Claims...	.....	.....	.....	.....	 3
	~~Secretary, Government Savings' Bank~~	.....	.....	.....	.....	.....
	Commissioner of the Department of Issue of Paper Currency.....	.....	.....	.....	.....	 3
Railway.	~~Consulting Engineer for Railways...~~	.....	.....	.....	.....	
Educational	Director of Public Instruction.....	.....	.....	.....	.....	 26
	Commissioner of the Uncovenanted Service Examination.	.....	.....	.....	.....	 3
Revenue.	Revenue Board for information and for communication to the Subordinate Officers					
	Director of Revenue Settlement.....	.....	do.	.....	do.	.....
	Superintendent of Revenue Survey..	.....	do.	.....	do.	.....
	Commissioner of Inam...	.....	do.	.....	do.	.....
	Conservator of Forests....	....		.....		.....
	Reporter of External Commerce...	.....		.....		.....
	Commissioners of Income Tax.....	.....		.....		.....
	Superintendent Government Gardens, Ootacamund	....		.....		.....
	Superintendent of Stamps...	.....		.....		.....
Pub. Works.	Chief Engineer, Department Public Works	.....	do.	.....	do.	.....
	Commandant of Engineers...	.....		.....		.....
	Consulting Engineer, Irrigation and Canal Company			.....		.....
Military.	Controller of Military Finance.....	.....	do.	.....	do.	.....
	Adjutant General of the Army.....	.....	do.	.....	do.	.....
	Quarter Master General of the Army.		do.	.....	do.	.....
	Deputy Adjutant General Her Majesty's Forces..		do.	.....	do.	.....
	Deputy Quarter Master General do.		do.	.....	do.	.....
	Inspector General of Ordnance and Magazines.....		do.	.....	do.	.....
	Superintendent Gun Carriage Manufactory			.....		.....
	Superintendent Gun Powder do.			.....		.....
	Military Accountant...			.....		.....
	Paymaster Presidency...			.....		.....
	Examiner of Medical Accounts			.....		.....
	Brigade Major.....			.....		.....
	Fort Adjutant...			.....		.....
	Commissary General		do.	.....	do.	.....
	Examiner of Commissariat Accounts			.....		.....
	Judge Advocate General			.....		.....
	Superintendent of Family Payments and Pensions.			.....		.....
	Superintendent and Agent for Army Clothing			.....		.....
	Military Secretary to His Excellency the Commander-in-Chief...					.....
	Barrack Master, Presidency			.....		.....