M.R.O. 1—77,006—8-6-37.

(1) Number of pages 12

(2) Date of repair 1-11-60.

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	2082	Press / Mis.
1875-196.		195-196
Dated	26-10-1875.	

7/8

Not to be folded or roughly handled

Pensions.

No. 195. Read the following Proceedings of Government in the Military Department, dated 7th October 1875, No. 4876 :—

Read the following papers :—

From Colonel J. MACDONALD, Secretary to Government, Military Department, Bombay, to Colonel H. K. BURNE, C.B., Secretary to the Government of India, Military Department, Simla ; dated Bombay Castle, 13th July 1875, No. 2816.

Referring to Act XXIII. of 1871, which exempts pensions from seizure, attachment or sequestration by the process of any Court of Law, the Controller of Military Accounts inquired in November last, whether he was debarred from directing the recovery of overpayments made to an officer or other, either before or after he shall have come on pension, or any other proved public demands from his pension.

2. The Government Solicitor, to whom a reference was made on the subject, expressed the following opinion :—

" I am of opinion that the demands referred to by the Officiating Controller of Military Accounts in his letter, No. 1262, dated the 9th instant, cannot be deducted (otherwise than by consent) from any pensions granted or continued by Government on political considerations, or on account of past services or present infirmities, or as a compassionate allowance.

" 2. Such pensions are, by Act 23 of 1871, Section 11, exempted from liability to seizure, attachment or sequestration by process of any court in British India at the instance of a creditor for any demand against the pensioner, or in satisfaction of a decree or order of any such court ; seeing then that they cannot be touched in satisfaction of demands in regard to which a decree or order of a court has been made, it follows, *á fortiori*, that they are not liable to seizure in satisfaction of demands in respect of which there has been no decree or order of any court."

3. The Controller of Military Accounts has now brought to notice that the opinion of the Government Solicitor is at variance with the subjoined decision of the Secretary of State (Financial Department Despatch, No. 54, dated 16th April 1874,) upon the question whether Act VI. of 1849 precluded Government from effective recoveries from pensions :—

" Under the Act in question, an officer's pension is exempted from seizure, attachment or sequestration by process of any court within the said (Indian) territories, but that has not been regarded, nor do I consider that it can be regarded, as depriving the Government of the power of obtaining the settlement of any claim against an officer on account of stamp duty on his commission, or of any other retrenchment to which he is justly liable."

4. As the question is one which affects the three Presidencies, I am desired to submit it for the orders of the Government of India.

From Colonel H. K. BURNE, C.B., Secretary to the Government of India, Military Department, to the Secretary to Government, Military Department, Bombay, dated Simla, 4th September 1875, No. 82-S. (*Pensions.*)

I am directed, in reply to your letter, No. 2816, dated the 13th July 1875, to state, for the information of His Excellency the Governor in Council, that the decision of the Right Honorable the Secretary of State for India (Financial Despatch, No. 54, dated 16th April 1874,) quoted, should be acted on in regard to any claim by Government against an officer.

MILITARY DEPARTMENT, FORT WILLIAM, 30TH SEPTEMBER 1875.
No. 841. (*Pensions.*)

Copy of the above forwarded to the Secretary to Government, Fort Saint George, Military Department, for the information of the Honorable the Governor in Council.

(By order,)
(Signed) E. COLLEN, Lieutenant,
Asst. Secy. to the Govt. of India.

Communicated to the Controller of Military Accounts—also to the Financial and Public Works Departments.

(True Extract.)
(Signed) A. C. SILVER, Colonel,
Secy. to Govt., Mily. Dept.

No. 196. ORDER THEREON, 26th October 1875, No. 2082.

Communicated to the Revenue and Pension Departments, and to all Heads of Offices and Departments.

(True Extract.)

Officiating Chief Secretary.

To the Pension Department.
,, the Revenue Department.
,, all Heads of Offices and Departments.

Exd. J. Wright.

Govt. of {1875} Madras.

FINANCIAL.

To

THE PENSION DEPARTMENT,

&c., &c., &c.

Dated October, 26th.

Issued

Recd.

G.O., 26th October 1875, No. 2082.

OCTOBER.
Nos. 195-196.

Pensions.—The decision of the Government of India in the Military Department in respect to the recovery of claims by Government against pensions, communicated.

DEPARTMENT.

List showing the distribution of the Proceedings of Government, dated 26 Oct 75 No. 2082

Revenue Department, for information and for communication to Subordinate Officers				...
Public Works Department	do.	do.	...	...
Military Department	do.	do.	...	...

JUDICIAL.	Honorable the Judges of the High Court, for information and for communication to Subordinate Officers ...	...	...	...	...
	Inspector-General of Madras Police	do.		do.	
	Inspector-General of Jails	do.		do.	
	Magistrates of the Town Police Court ...	...	...	...	...
	Do. of the Egmore Police Court	...	...	...	...
	Judges of the Madras Court of Small Causes	...	...	...	...
	Advocate-General	...	...	...	...
	Government Solicitor	...	...	...	...
	Administrator-General	...	...	...	...
	Coroner of Madras	...	...	...	...
	Inspector-General of Registration ...	...	...	...	...

PUBLIC.	Surgeon-General, Indian Medical Department, for information and for communication to Subordinate Officers ...	...	...	...	...
	Sanitary Commissioner ...	...	...	...	...
	Health Officer	...	...	...	...
	Committee for the Examination of Assistants ...	...	...	...	...
	Private Secretary to His Excellency the Governor		...	...	...
	Government Astronomer	...	...	...	...
	Superintendent, Government Central Museum ...		...	...	...
	Chemical Examiner	...	...	...	...
	Superintendent of Stationery ...	...	...	...	...
	Supervisor of the Government Press ...	...	...	...	..
	Protector of Emigrants		...	...	...
	Tamil Translator to Government ...		...	...	...
	Teloogoo do. to do. ...		...	...	...
	Malayalim do. to do. ...		...	...	...
	Canarese do. to do. ...		...	...	...
	Hindustani do. to do. ...		...	...	...
	Postmaster-General		...	...	...
	Superintendent, Electric Telegraphs ...		...	...	...
	Examiner of Medical Accounts ...		...	...	...

Chemical Exr, Assay Dept

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

ECCLESIASTICAL.	The Right Reverend the Bishop of Madras	...	...	...	...
	Venerable Archdeacon of Madras ...	...	...	...	...
	Senior Chaplain of the Church of Scotland	...	...	...	...

MARINE

Master Attendant, Madras, for information and for communication to Subordinate Officers.

FINANCIAL

Accountant-General ... ...
Commissioner of Paper Currency ... ...

EDUCATIONAL.

Director of Public Instruction ... ...
Commissioner for the Uncovenanted Civil Service Examinations ... ...

Pensions.

Read the following papers :—

No. 107. From Colonel J. MACDONALD, Secretary to Government, Military Department, Bombay, to Colonel H. K. BURNE, C.B., Secretary to the Government of India, Military Department, Simla ; dated Bombay Castle, 13th July 1875, No. 2816.

Referring to Act XXIII. of 1871, which exempts pensions from seizure, attachment or sequestration by the process of any Court of Law, the Controller of Military Accounts enquired in November last, whether he was debarred from directing the recovery of overpayments made to an officer or other, either before or after he shall have come on pension, or any other proved public demands from his pension.

2. The Government Solicitor, to whom a reference was made on the subject, expressed the following opinion :—

" I am of opinion that the demands referred to by the Officiating Controller of Military Accounts in his letter, No. 1262, dated the 9th instant, cannot be deducted (otherwise than by consent) from any pensions granted or continued by Government on political considerations, or on account of past services or present infirmities, or as a compassionate allowance.

" 2. Such pensions are, by Act 23 of 1871, Section 11, exempted from liability to seizure, attachment or sequestration by process of any court in British India at the instance of a creditor for any demand against the pensioner, or in satisfaction of a decree or order of any such court; seeing then that they cannot be touched in satisfaction of demands in regard to which a decree or order of a court has been made, it follows, *á fortiori*, that they are not liable to seizure in satisfaction of demands in respect of which there has been no decree or order of any court."

3. The Controller of Military Accounts has now brought to notice that the opinion of the Government Solicitor is at variance with the subjoined decision of the Secretary of State (Financial Department Despatch, No. 54, dated 16th April 1874,) upon the question whether Act VI. of 1849 precluded Government from effective recoveries from pensions :—

" Under the Act in question, an officer's pension is exempted from seizure, attachment or sequestration by process of any court within the said (Indian) territories, but that has not been regarded, nor do I consider that it can be regarded, as depriving the Government of the power of obtaining the settlement of any claim against an officer on account of stamp duty on his commission, or of any other retrenchment to which he is justly liable."

4. As the question is one which affects the three Presidencies, I am desired to submit it for the orders of the Government of India.

From Colonel H. K. BURNE, C.B., Secretary to the Government of India, Military Department, to the Secretary to Government, Military Department, Bombay ; dated Simla, 4th September 1875, No. 82-S. (*Pensions.*)

I am directed, in reply to your letter, No. 2816, dated the 13th July 1875, to state, for the information of His Excellency the Governor in Council, that the decision of the Right Honorable the Secretary of State for India (Financial Despatch, No. 54, dated 16th April 1874,) quoted, should be acted on in regard to any claim by Government against an officer.

Proceedings of the Madras Government, Military Department,
7th October 1875.

MILITARY DEPARTMENT, FORT WILLIAM, 30TH SEPTEMBER 1875.

No. 841. (*Pensions.*)

Copy of the above forwarded to the Secretary to Government, Fort Saint George, Military Department, for the information of the Honorable the Governor in Council.

(By order,)

(Signed) E. COLLEN, Lieutenant,
Asst. Secy. to the Govt. of India.

No. 108. ORDER THEREON, 7th October 1875, No. 4876.

Communicated to the Controller of Military Accounts,—also to the Financial and Public Works Departments.

(True Extract.)

Secretary to Government.

To the Controller of Military Accounts,
" Financial Department. With 5 Spare Copies
" Public Works Department.

Exd. A. Raitt.

Final Recoveries from Pensions Dept

Govt. of {1875} Madras.

MILITARY.

To

THE CONTROLLER OF MILY. ACCOUNTS.

&c., &c., &c.

Dated October, 7th.

Recd. 23rd do

No. 2447

Encl.

G.O., 7th October 1875, No. 4876.

S. Copies 5.

OCTOBER.

Nos. 107-108.

Communicating decision of Government of India in respect to the recovery of claims by Government against officers.

With Order

20 Oct 1875 No 2082.

Copy communicated to the Revenue Secretary and all Heads of Offices & Depts.

by Order

Asst Secy to Govt

Copy communicated to the Revenue Dept. 27/10

Asst Secy to Govt

29/10/75

Govt. of Madras. 1875

Jewel

G. O. 26th Oct. 1875. No. 2092

Nos. 195 196.

Pensions. The decision of the Govt of India in the Mily Deptt in respect to the secrecy of claims by Govt against pensions, Communicated.