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## MADRAS RECORD OFFICE.

Government of Madras.

Public Works DEPARTMENT.

Cons. Co. U.S.T.

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| G.O. No. | 2700   | Press<br>Mis. |
| 125-26   |        |               |
| Dated    | 11-11- | 1859.         |

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*Proceedings of the Madras Government, Public Works Department,  
for the month of November 1859.*

No. 125. Read the following letter from Lieutenant-Colonel J. H. BELL, Chief Engineer; to J. D. BOURDILLON, Esq., Secretary to Government, dated 16th November 1859, No. 7293.

On the 28th ultimo, Mr. A. P. Kemp, late a Supervisor in the Department Public Works, preferred his claim for arrears of pay during his suspension, viz. from 23rd August to 11th October 1858, on the following grounds.

1st. That three punishments (contrary to British law) suspension, imprisonment and removal from the Department Public Works were awarded to him for one offence, for which he was tried at the Supreme Court, and found guilty on the 11th October 1858.

2nd. That in accordance with Extract Minutes Consultation, No. 1899\* Military Department, dated 9th June 1857, he should have been dismissed immediately on the charge being preferred, to prevent any subsequent claim for salary on the same being proved, and that as this course was not adopted, and as he was only suspended, he considered himself entitled to the  $\frac{3}{4}$  of his pay undrawn from the date of his suspension to that of his conviction.

2. To enable the Government to pass orders on Mr. Kemp's claim, it may be necessary to give a summary of his case. On the 1st July 1858, a charge of forgery was preferred against Mr. Kemp by one of his contractors. The case was at first investigated at the Police office, and the magistrate considering that there was sufficient evidence, committed him for trial at the Supreme Court. At the Session of October 1858, he was accordingly tried, and on the 11th idem was convicted.

3. Mr. Kemp was suspended first on the 1st July 1858, and the Government approved of the suspension in the Extract Minutes Consultation marginally quoted. As, however, the order directing the suspension was by an oversight not communicated to Mr. Kemp, application was made to Government on the 20th September for the grant to him of his full salary up to the 23rd August, (the date of his committal for trial), and on the 27th September 1858, No. 1994, the Government in accordance with the officiating Chief Engineer's recommendation, sanctioned the measure. Immediately on Mr. Kemp's conviction, (11th October 1858), application\* was made to Government for his removal from the Department Public Works, which in Extract Minutes Consultation No. 2265, dated 27th idem, was authorized.

4. From the foregoing summary, the Government will observe, that Mr. Kemp's statement that three punishments were inflicted on him for one offence, is altogether groundless and incorrect, as on his committal for trial, no other course was open for adoption, but his immediate suspension. On his conviction for the offence with which he was charged, the Court awarded its sentence, and this necessarily led to his removal from the Department Public Works.

5. With reference to the 2nd ground on which Mr. Kemp's application is based, it is to be observed, that the order contained in Extract Minutes Consultation, Military Department, No. 1899, dated 9th June 1857, was clearly superseded by one of a subsequent date, viz. Extract Minutes Consultation, No. 2384, dated 24th December 1857, Public Works Department, which ruled that, "persons not in the military service of Government, employed in the Department Public Works, who shall for any cause be suspended from the exercise of their functions, shall, during such suspension, be entitled to receive  $\frac{1}{4}$  only of their regulated salaries; the grant of any additional amount being reserved for the consideration of Government on the decision come to, regarding the offence for which their suspension may have taken place."

6. Under these circumstances, and as the result of Mr. Kemp's trial on the charge preferred against him, was most unfavorable to himself, I informed him on the 3rd instant, that I was altogether precluded from recommending the grant of any portion of the salary forfeited by him during his suspension.

7. On the 8th instant, in a communication addressed to me, Mr. A. P. Kemp again prefers a claim for arrears of pay, and states that he has "called on Mr. P. B. Gardon, Solicitor at Law

Proceedings of the Madras Government, Public Works Department,  
for the month of November 1859.

"to prosecute the Government for the amount due to him." I have, therefore, thought it best to lay the papers before Government for their orders; but in doing so, I would beg to observe, that as the Extract Minutes Consultation, No. 2384, dated 24th December 1857, Public Works Department, was published for general information in the Fort Saint George Gazette, and that as Mr. Kemp was a Government servant at the time of its publication, he was amenable to that as well as to the other rules laid down by Government; I therefore, beg to express my opinion, that under the circumstances above represented, Mr. Kemp is in no way entitled to the portion of his salary forfeited during his suspension.

No. 126.

ORDER THEREON, 19th November 1859, No. 2700.

Ordered to be referred to the Government Solicitor for early report whether Mr. Kemp is entitled in law to claim full pay during the time that he was under suspension. The Chief Engineer will be requested to furnish Mr. Boyson with any papers that he may require to enable him to form an opinion on the case.

(Signed) J. D. BOURDILLON,  
Secretary to Government.

Central Office of P.W.  
Fort Saint George

16 November 1859.

7293

Chief Engineer  
Public Works Department

Public

On the 28th Nov. 1858, Mr. Kemp, late a Subaltern in the Department Public Works, preferred his claim for arrears of pay during his suspension, viz. from 27th August to 11th October 1858, on the following grounds:-

1st That 3 punishments (contrary to British Law) suspension, imprisonment and removal from the Department Public Works were awarded to him for one offence, for which he was tried at the Supreme Court, and found guilty on the 11th October 1858.

2nd That in accordance with Extract Minutes Consultation of 1st 1859, viz. Department dated 9th June 1859, he should have been dismissed immediately on the charge being preferred, to prevent any subsequent claim.

Page 54 of Minute  
Circular Order

claim for salary on the same being proved, and that  
as this course was not adopted, and as he was only  
included, he considered himself entitled to the 3/4  
of his pay withdrawn from the date of his suspension  
to that of his conviction.

2 To enable the Government to pay orders  
on Mr. Kemp's claim, it may be necessary to give a  
summary of his case. On the 1<sup>st</sup> July 1858, a charge of  
forgery was preferred against Mr. Kemp by one of his  
Contractors. The case was at first investigated at the  
Police Office, and the Magistrate considering that there  
was sufficient evidence, committed him for trial at the  
Crown Court. At the close of October 1858, he was  
accordingly tried, and on the 11<sup>th</sup> Nov. was convicted.

3 Mr. Kemp was suspended first on the  
1<sup>st</sup> July 1858 and the Government approved of the  
suspension in the Extract Minutes Consultation marginally  
dated 1<sup>st</sup> July 1858. As however the order directing the suspension was  
by an oversight not communicated to Mr. Kemp, applica-  
tion was made to Government on the 21<sup>st</sup> September  
for the grant to him of his full salary up to the 23<sup>rd</sup>  
August, the date of his commitment for trial, and on  
the 2<sup>nd</sup> October 1858 the Government in accordance with  
the recommending Chief Engineer's recommendation sanctioned  
the

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the measure. Immediately on Mr. Kemp's conviction  
(11<sup>th</sup> October 1858) application was made to Government  
for his removal from the Department Public Works which  
in Extract Minutes Consultation No 2265 dated 27<sup>th</sup>  
Nov. was authorized.

4 From the foregoing summary, the Government  
will observe, that Mr. Kemp's statement that 3 punish-  
ments were inflicted on him for one offence, is altogether  
groundless and incorrect, as on his commitment for trial  
no other course was open for adoption but his immediate  
suspension. On his conviction for the offence with which  
he was charged the Court awarded its sentence, and this  
necessarily led to his removal from the Department  
Public Works.

5 With reference to the 2<sup>d</sup> ground on which  
Mr. Kemp's application is based, it is to be observed  
that the order contained in Extract Minutes Consultation  
Military Department No 1899 dated 9<sup>th</sup> June 1857  
was already superseded by one of a subsequent date viz  
Extract Minutes Consultation No 2384 dated 24<sup>th</sup>  
December 1857 (Public Works Department which ruled  
that persons not in the Military Service of Government  
employed in the Department Public Works who shall  
"for any cause" be suspended from the exercise of their  
functions;

functions shall during such suspension be entitled  
to receive  $\frac{1}{4}$  only of their regulated salaries, the grant  
of any additional amount being reserved for the con-  
sideration of Government on the decision come to, regarding  
the offence for which their suspension may have taken  
place.

Under these circumstances, and as the  
result of the Court trial on the charges preferred against  
him, was most unfavorable to himself, I informed him  
on the 3<sup>rd</sup> instant that he was altogether precluded from  
recommending the grant of any portion of the salary  
forfeited by him during his suspension.

On the 8<sup>th</sup> instant in a com-  
munication addressed to me, Mr. A. C. Kemp again  
presents a claim for arrears of pay, and states that  
he has "called" on Mr. P. H. Gordon, Solicitor at Law  
to prosecute the Government for the amount due to  
him. I have therefore thought it best to lay the  
papers before Government for their orders, but in do-  
ing so I would beg to observe that as the Extract  
Minutes of Consultation No. 2384 dated 24<sup>th</sup> Decr  
1857 Public Works Department was published for  
general information in the Port Saint George &  
Gazette, and that as Mr. Kemp was a Government  
servant

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servant at the time of its publication, he was amenable  
to that as well as to the other rules laid down by  
Government. Therefore beg to express my opinion that  
under the circumstances above represented, Mr. Kemp is  
in no way entitled to the portion of his salary forfeited  
during his suspension.

Port Saint George  
16<sup>th</sup> January 1859

have the honor to be,  
Sir,  
Yours most obedient servant,  
J. H. Bell

Lt. Col.  
J. H. Bell

Col. Bell  
Chief Engineer

The Secretary to Government  
Public Works Department

Dr. J. C. D. 1  
No. 100  
Nov. 20<sup>th</sup>  
1899.

Mr. J. B. Thompson  
 New York  
 Dear Sir,  
 I have the honor to acknowledge the receipt of your letter of the 14th inst. and in reply to inform you that the same has been forwarded to the proper authorities for their consideration. I am, Sir, very respectfully,  
 Yours,  
 J. B. Thompson

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With an order

Ms. A. 9. 2. 400-26

Contract to be completed

red to the Government Committee for early report whether a Mr. Stark is entitled in turn to claim full pay during the time that he was under duress. The Chief Engineer will be requested to furnish a Mr. Doyon with any papers that he may require to enable him to form an opinion on the case.

*John W. Lewis*  
*Esq.*  
 159,  
 10 - 16 The Chief Engineer  
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From David D. Hughes  
2/28 Nov 59 CR 310A

Ms. A. 9.2.5 v. 1.26.