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MADRAS RECORD OFFICE.

Government of Madras.

Public work DEPARTMENT.

G.O. No. 2176	Press ~~Mis.~~
477-80	
Dated 20. 7.	18 67.

Not to be folded or roughly handled

*Proceedings of the Madras Government, Public Works Department,
20th July 1867*

No. 479. Read the following Proceedings of the Government of India, in the Public Works Department, (Railway), dated Simla, 27th June 1867, No. 541R:—

Rate of charge for extra postal trains.

Read again—

From Solicitor to Government, dated 15th October 1866.
From Home Department, No. 143, dated 8th January 1867, and enclosures.
To do. „ 97R, „ 30th „ 1867.
To Local Governments, „ 98-101R, of same date.

Read—

From Government of Bengal, No. 407G, dated 22nd February 1867.
From do. Bombay, „ 603, „ 26th March „
From do. Madras, „ 1,015, „ 2nd April „
From do. Punjab, „ 67-52, „ 22nd „ „

OBSERVATIONS.—The replies to Public Works Department Nos. 98-101R., with which copy of correspondence with the Home Department, relative to the question of the correct principle on which the rate to be charged by Railway Companies for extra postal trains was forwarded to the Local Governments for opinion, have been under the consideration of the Governor General in Council: and it is found that the rate proposed is in every case excessive.

2. The Advocate General's opinion, which has been read, is to the effect that the Government has full power under the contract with guaranteed Railway Companies to require the mails to be carried by extra trains free of charge; therefore the agreement to pay at all for this service, must be considered a concession on the part of the Government.

3. The Governor General in Council has, however, already recorded the opinion that it would be improper to cause loss to the Railway Companies by the performance of this extra service for the State, and it now requires to be explained that, under this decision, it will not fall to Government to pay any part of the expenses of the Companies which may not be affected by this extra service, but only such as may be due to it over and above the outlay incurred in the ordinary business of the Companies.

4. In this view what the Government should consent to pay for would appear to be comprised in the following:—

I.—Extra remuneration over and above their ordinary wages paid to servants of the Company for extra duties performed for this special purpose.

II.—Actual cost of fuel, grease, and any petty stores consumed.

III.—Expenditure on repairs to engines and vehicles due to their employment on this service.

For the purpose of arriving at the amount of these charges, the engine and vehicle mileage respectively may, it is thought, be added to that of the mileage for ordinary purposes, and the workshop expenditure divided over the whole, excluding however any expenditure for supervising establishments, to the gratuitous services of which the Government has claim in respect to work done for the Postal Department.

Proceedings of the Madras Government, Public Works Department.
20th July 1867.

IV.—Expenses of maintenance of way specially due to the extra service.
In arriving at this, the mileage of the extra trains may, perhaps, similarly be added to the ordinary mileage, and no portion of supervising expenses admitted.

V.—Expenses in the Electric Telegraph Department due to the extra trains.
The charges on this account would probably be solely those for stores, and for maintenance of telegraph, and may be best arrived at perhaps from the average expenses per train mile on these accounts.

5. The extra service it is now in contemplation to require is very limited, and will not require additions to the rolling stock of the Companies beyond the ordinary reserve, and therefore they will be put to no extra expense on this account.

6. In regard to the previous notice desired in some of the communications for extra trains, the Governor General in Council observes that it would obviously be useless, when there are trains running at shorter intervals, to require the Post Office Department to give twenty-four or even twelve hours' notice. Three hours, it appears to the Governor General in Council, would be quite enough at Calcutta or Bombay, but six might be allowed as a rule.

7. Intimation to the above effect should be conveyed to the Railway Companies under the control of the Local Governments, and an estimate of the probable charges per train mile, computed in the manner indicated, should be submitted at an early date with any observations the Local Government may desire.

8. The Great Indian Peninsula Railway Company should be required by the Government of Bombay to continue the extra trains in connection with the Mails from Europe, for which allowance will be made on the terms herein stated from the 1st July 1866. The Agent of this Company will perceive that, under Clause 20 of the contract with the Company, the Government claims full right to dictate the terms of payment.

ORDER.—Ordered that a copy of the foregoing observations, together with a copy of the Advocate General's opinion referred to, be forwarded to the Local Governments noted on the margin for information and guidance.

Madras.
Bombay.
Bengal.
Punjab.

Also that copy be forwarded to the Financial Department in continuation of No. 97R., of 30th January 1867, addressed to the Home Department.

(Signed) C. H. DICKENS, Colonel, R. A.,
Secretary to the Government of India.

From the Advocate General, to the Secretary to Government of India, Public Works Department,
dated 15th October 1866.

1. In reply to your letter No. 1,007R. of the 6th instant, relative to the conveyance of Mails and Troops by other than ordinary trains, I would, in the first place, observe that the right of the Government to have Mails conveyed free of charge, and Troops conveyed at the lowest fares is, under the 20th Section of the Contract, absolute; and, therefore, whatever arrangement may be come to between the Government and a Railway Company, in the subject of remuneration for such conveyance, must, so far as it introduces any different terms from those specified in the section,

Proceedings of the Madras Government, Public Works Department.
20th July 1867.

be regarded merely as a matter of fair and equitable concession on the part of the Government, which the Railway could not compel, however proper it might in itself be.

2. The question, as it seems to me, really comes round to this, whether the Government requirements, as to conveyance, may extend to the fixing the time at which the required trains is to be furnished, and, consequently, whether the Government can require their Mails and Troops to be carried by other than the ordinary trains. And I think it clear, under the language of the 8th Section of the Contract (that as to "Plants, Tolls, and Fares", that the Government have that right. Under that section, the Railway Company engage to run "so many trains, at such times, and at such rates of speed, and between such places, and with such accommodations, as the East Indian Railway Company shall from time to time, require." The effect to be given to these words is not, in my opinion, limited by that part of the Clause which describes the purpose for which such trains are to be run, viz., the purpose of carrying on "the business of common carriers of goods and passengers." For, as I take it, the Government may, at any time, require the Railway Company to run on such a day, at such an hour, a train containing such accommodation; and, at the same time, under the powers conferred by the 20th Section, notify to the Company that the train so supplied will be required for the conveyance of Mails or Troops.

3. On the whole, I am of opinion that the Government may require the Railway to furnish special trains, and that the Company cannot claim special rates.

No. 480. ORDER THEREON, 20th July 1867, No. 2,176.

RAILWAY, No. 33.

Communicated to the Consulting
Engineer for Railways for information
and guidance.

(True Extract.)

(Signed) J. H. M. SHAW STEWART, Major, R. E.,
Under Secretary to Government.

To the Consulting Engineer for Railways.
Public Department.

Exd. S. T. Augustin.

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Enclosure to letter Nos. 541-45 R., dated 27th June 1867.

Dated 15th October 1866.

From—T. H. COWIE, Esq., Advocate General,

To—Secretary to Government of India, P. W. Dept.

IN reply to your letter No. 1007R. of the 6th instant, relative to the conveyance of Mails and Troops by other than ordinary trains, I would, in the first place, observe that the right of the Government to have Mails conveyed free of charge, and Troops conveyed at the lowest fares is, under the 20th Section of the Contract, absolute; and, therefore, whatever arrangement may be come to between the Government and a Railway Company, on the subject of remuneration for such conveyance, must, so far as it introduces any different terms from those specified in the section, be regarded merely as a matter of fair and equitable concession on the part of the Government, which the Railway could not compel, however proper it might in itself be.

2. The question, as it seems to me, really comes round to this, whether the Government requirements, as to conveyance, may extend to the fixing the time at which the required trains is to be furnished, and, consequently, whether the Government can require their Mails and Troops to be carried by other than the ordinary trains. And I think it clear, under the language of the 8th Section of the Contract (that as to "Plants, Tolls, and Fares"), that the Government have that right. Under that section, the Railway Company engage to run "so many trains, *at such times*, and at such rates of speed, and between such places, and with such accommodations, as the East Indian Railway Company shall, *from time to time*, require." The effect to be given to these words is not, in my opinion, limited by that part of the Clause which describes the purpose for which such trains are to be run, *viz.*, the purpose of carrying on "the business of common carriers of goods and passengers." For, as I take it, the Government may at any time, require the Railway Company to run on such a day, at such an hour, a train containing such accommodation; and, at the same time, under the powers conferred by the 20th Section, notify to the Company that the train so supplied will be required for the conveyance of Mails or Troops.

3. On the whole, I am of opinion that the Government may require the Railway to furnish special trains, and that the Company cannot claim special rates.

70
No. 54/R.

GOVERNMENT OF INDIA.
PUBLIC WORKS DEPARTMENT.

Railway.

SIMLA, the 27th June 1867.

Rate of charge for extra postal trains.

READ again—

From Solicitor to Government, dated 15th October 1866.
From Home Department, No. 113, dated 8th January 1867, and enclosures.
To ditto No. 97R., dated 30th January 1867.
To Local Governments, Nos. 98-101R. of same date.

Read—

From Government of Bengal, No. 107G. dated 22nd February 1867.
From ditto Bombay, „ 603, „ 26th March 1867.
From ditto Madras, „ 1915, „ 2nd April 1867.
From ditto Punjab, „ 67-52, „ 22nd April 1867.

OBSERVATIONS.—The replies to Public Works Department Nos. 98-101R., with which copy of correspondence with the Home Department, relative to the question of the correct principle on which the rate to be charged by Railway Companies for extra postal trains was forwarded to the Local Governments for opinion, have been under the consideration of the Governor General in Council: and it is found that the rate proposed is in every case excessive.

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ORDER.—Ordered that a copy of the foregoing observations, together with a copy of the Advocate General's opinion referred to, be forwarded to the Local Governments noted on the margin for information and guidance.

Also that copy be forwarded to the Financial Department in continuation of No. 97R. of 30th January 1867, addressed to the Home Department.

W. D. Nichol Colonel, R. A.,
Secretary to the Govt. of India.

To
The Secy. to the Govt. of Madras
P.W. Dept. (Railway)

P. M. 1867
GOVERNMENT OF INDIA

PUBLIC WORKS DEPARTMENT

Railway

No. 25398

To

The Secy. of the

No. 541-R.

Dated Simla, the 27th June 1867.

Received *12th July 1867*

By

Rate of change
for extra postal train

No 2176-20 July 1867

Note see below

P. M. 1867

No 2176

Commd to the

Consulting Engineer for

Quichango for information

and assistance -

W. J.

W. J. 20 July 1867

W. J.

Not for file

in Public Dept.

Recd 20 July 1867

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