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(2) Date of repair 26.11.86

(3) Initials of the Referencer Lvs

TAMIL NADU ARCHIVES

GOVERNMENT OF TAMIL NADU

Public works **DEPARTMENT**

G.O. No. / B.P. No.	248-49-W	Press. / Mis.
Dated	2.2-1880	197.

S.h.M.

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

PUBLIC WORKS DEPARTMENT.

248-W
1

2nd February 1880, No. 248 W.

General.
Establishment.

Read the following paper:—

No. 2-A. From Major D. H. TRAIL, R.E., Officiating Examiner of Public Works Accounts, to the Secretary to Government, Public Works Department, dated Madras, 29th January 1880, No. 264 W.

WITH reference to G.O., No. 2,865 W., dated 13th November 1879, in which it has been decided by Government that Chapter XX, Section III (apparently Section 111 is intended) of the Civil Pension Code does not bar the employment by Local Fund Boards of pensioners reduced from the Public Works Department under recent orders, I have the honor to submit the following remarks for consideration and further orders.

2. The ruling contained in Section 111, Civil Pension Code, apparently refers only to persons voluntarily quitting the service on *retiring pension*, and cannot therefore, it is thought, be held to apply to the officers and subordinates recently retired on reduction of establishment on *compensation pensions*. These officers and subordinates clearly seem to come under the operation of the rule in Section 107 of the same chapter, and with reference to this ruling they can draw pay on re-employment by Local Fund Boards in addition to their pensions, provided the sum total does not exceed the pay they were in receipt of before retirement.

3. Doubts also exist on the following points, regarding which the views of the Government in the Pension Department, and, if necessary, the order of the Government of India, should be obtained, for the guidance of this office:—

(1) With reference to Government of India Resolution No. 2,620-2,641 E.G., dated 21st November 1879, whether the retiring bonus of an officer admissible under Government of India Resolution No. 2,079, dated 31st July 1879, is payable to him on his obtaining immediate employment under a Local Fund Board.

(2) Whether an officer permitted to retire under the terms of Government of India's Resolution quoted above, and who takes up an employment under a Local Fund Board, can contribute for pension under Sections 45 and 46 of the Civil Pension Code.

(3) Whether service on the newly constituted Local Funds establishments is qualifying for pension, *vide* Section 39 of the Civil Pension Code.

4. The favor of early orders is requested.

No. 2-B. ORDER THEREON, 2nd February 1880, No. 248 W.

ORDERED that the Government of India be addressed.

(Here enter No. 249 W., dated 2nd February 1880).

(True Extract.)

Major, R.E.,
Ag. Under Secy. to Govt., P.W.D.

Exd. S. T. Austin.
Spare Copies

GENERAL.
ESTABLISHMENT.

Govt. of {1880} Madras.

PUBLIC WORKS.

To

Dated February 2nd.

Issued

Read. Encl.

G. O., 2nd February 1880, No. 248 W.

FEBRUARY.

Nos. 2-A—2-B.

Officers and Subordinates retiring from the Public Works Department and accepting employment under Local Fund Boards.—The Government of India addressed on certain points raised by the Examiner of Public Works Accounts regarding —.

248-99
2

PUBLIC WORKS DEPARTMENT.

General.
Establishment.

No. 249 W.

No. 2-C.

FROM

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
Public Works Department,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
Financial Department.

SIR,—I am directed to request the very early orders of the Government of India on the questions raised by the local Examiner of Public Works Accounts in his letter of the 29th January 1880, No. 264 W.

2. This Government are of opinion that the ruling contained in their Proceedings of the 13th November 1879, No. 2,865 W., is correct, and that the concluding clause of Section 110 of the Pension Code warrants the interpretation, the Local Funds concerned being those constituted by Madras Act IV of 1871, and practically of the nature of Municipal institutions administered by local Boards controlling the expenditure on local purposes of funds raised by local rates, which can in no wise be applied to other purposes, but are strictly fettered by law. But if it be held otherwise by the Government of India, I am to submit that, under the peculiar circumstances, a special exception may be made in the cases of officers who retired under the terms of the Government of India Resolution of the 31st July last, No. 2,079, Department of Finance and Commerce. The concession will in no wise lessen the relief to the public treasury, and its refusal will in no wise benefit Local Funds as the Board administering them must in any case employ similar agency at equal cost to the funds.

3. The ruling in the Civil Pension Code, Section 111, was clearly introduced with the view of preventing officers in Government employ throwing up their appointments in order to obtain service under Local Funds while continuing to draw pensions from Government. The section is in short intended to form a safe-guard in the interests of the State.

4. But the circumstances are now the very reverse of those with reference to which the ruling was introduced. The officers who retired under the terms of the July Resolution did so under a certain amount of pressure. The Local Governments were compelled by State exigencies to get rid of their services, and are not only perfectly willing but anxious that their old employés should obtain work under Local Fund Boards or elsewhere.

5. I am to state that His Grace the Governor in Council does not concur with Major Trail in thinking that Section 107 of the Civil Pension Code is here applicable. On the contrary, he holds that the Government should be entirely indifferent whether the sum total of the pay drawn by the officers in question under Local Funds and of their pensions does or does not exceed the pay they were in receipt of before their retirement.

6. Such a rule would be very inapplicable to the case of comparatively young officers who have had to retire, as it would shut off all prospect of their advancement.

7. The concessions of the July Resolution, which were plainly intended to be liberal would at once cease to have that character, were such a condition as that contained in Section 107 tacked on to them.

8. On the points raised in the third paragraph of Major Trail's letter, this Government consider that on the principle adopted as above in the matter of pensions, the retiring bonus is equally payable to a person obtaining immediate employment under a Local Fund Board; that such person cannot contribute for future pension from Government, and that such employment can in no way qualify for such pension.

9. This Government in fact regard employment under Local Fund Boards constituted under Act IV of 1871 as absolutely non-Governmental and *quasi* Municipal, the only material difference between Madras Acts III and IV of 1871 being that the area of application is in one case a town and in the other a district.

10. The Government of India have already declared that service under Municipalities is non-Governmental. The Government have in neither case any voice in the appointment of the executive establishments.

I have the honor to be,

Sir,

Your most obedient servant,

Major, R.E.,
Ag. Under Secy. to Govt., P.W.D.

Fort St. George,
2nd February 1880.

Exd. S. T. Austin.
Spare Copies

248-49
3.

GENERAL.
ESTABLISHMENT.

Govt. of {1880} Madras.

PUBLIC WORKS.

To

THE SECRETARY TO THE
GOVERNMENT OF INDIA.

Dated February 2nd.

Issued

Recd. *Encl.*

G. O., 2nd February 1880, *No.* 249 W.

FEBRUARY.

No. 2-C.

REQUESTS very early orders on certain points raised by the Examiner of Public Works Accounts regarding officers and Subordinates retiring from the Public Works Department and accepting employment under Local Fund Boards.

248-49
A

FROM MAJOR D.H.TRAIL R.E.,

OFFG. EXAMINER, P.W.ACCOUNTS,

MADRAS.

TO THE SECRETARY TO GOVERNMENT,

PUBLIC WORKS DEPARTMENT.

NO.264.W. MADRAS, 29TH.JANUARY 1880.

SIR,

WITH REFERENCE TO G.O.NO.2865.W.DATED 13TH.NOVEMBER 1879, IN WHICH IT HAS BEEN DECIDED BY GOVERNMENT THAT CHAP.XX.SEC.III (APPARENTLY SECTION III IS INTENDED) OF THE CIVIL PENSION CODE DOES NOT BAR THE EMPLOYMENT BY LOCAL FUND BOARDS OF PENSIONERS REDUCED FROM THE P.W.DEPARTMENT UNDER RECENT ORDERS, I HAVE THE HONOR TO SUBMIT THE FOLLOWING REMARKS FOR CONSIDERATION AND FURTHER ORDERS.

2. THE RULING CONTAINED IN SECTION III CIVIL PENSION CODE APPARENTLY REFERS ONLY TO PERSONS VOLUNTARILY QUITTING THE SERVICE ON RETIRING PENSION, AND CANNOT THEREFORE IT IS THOUGHT, BE HELD TO APPLY TO THE OFFICERS AND SUBORDINATES RECENTLY RETIRED ON REDUCTION OF ESTABLISHMENT ON COMPENSATION PENSIONS. THESE OFFICERS AND SUBORDINATES CLEARLY SEEM TO COME UNDER THE OPERATION OF THE RULE IN SECTION 107 OF THE SAME CHAPTER, AND WITH REFERENCE TO THIS RULING THEY CAN DRAW PAY ON RE-EMPLOYMENT BY LOCAL

FUND BOARDS IN ADDITION TO THEIR PENSIONS, PROVIDED THE SUM TOTAL DOES NOT EXCEED THE PAY THEY WERE IN RECEIPT OF BEFORE RETIREMENT.

3. DOUBTS ALSO EXIST ON THE FOLLOWING POINTS, REGARDING WHICH THE VIEWS OF THE GOVERNMENT IN THE PENSION DEPARTMENT, AND IF NECESSARY THE ORDER OF THE GOVERNMENT OF INDIA SHOULD BE OBTAINED, FOR THE GUIDANCE OF THIS OFFICE.

(I) WITH REFERENCE TO GOVERNMENT OF INDIA RESOLUTION NO.2620-264I.E.G.DATED 2IST.NOVEMBER 1879, WHETHER THE RETIRING BONUS OF AN OFFICER ADMISSIBLE UNDER GOVERNMENT OF INDIA RESOLUTION NO.3079 DATED 3IST.JULY 1879 IS PAYABLE TO HIM ON HIS OBTAINING IMMEDIATE EMPLOYMENT UNDER A LOCAL FUND BOARD.

(II) WHETHER AN OFFICER PERMITTED TO RETIRE UNDER THE TERMS OF GOVERNMENT OF INDIA'S RESOLUTION QUOTED ABOVE, AND WHO TAKES UP AN EMPLOYMENT UNDER A LOCAL FUND BOARD, CAN CONTRIBUTE FOR PENSION UNDER SECTIONS 45 & 46 OF THE CIVIL PENSION CODE.

(III) WHETHER SERVICE ON THE NEWLY CONSTITUTED LOCAL FUNDS ESTABLISHMENTS IS QUALIFYING FOR PENSION, VIDE SECTION 39 OF THE CIVIL PENSION CODE.

4. THE FAVOR OF EARLY ORDERS IS REQUESTED.

I HAVE THE HONOR TO BE,

SIR,

YOUR MOST OBEDIENT SERVANT,

J. H. Trail MAJOR R.E.

OFFG. EXAMINER, P.W. ACCOUNTS.

29.1

Backets 2 A

268-49
5.

19-8-796 1581 FD
9-12- 3141 W Bins
20-1-80 150 W

P.W.D.
31 JAN 80
No 741

FROM THE EXAMINER P.W.ACCOUNTS,

MADRAS.

TO THE SECY. TO GOVT. P.W.D.

MADRAS.

NO. 264. W.

DATED 28TH. JANUARY 1880.

RECD.

Proc. of Govt. Dt 2nd Feb/80 No 248.

CERTAIN INSTRUCTIONS REQUEST
REGARDING OFFICERS & SUBORDINATES
RETIRING FROM THE P.W.D. AND ACCE
ING EMPLOYMENT UNDER THE LOCAL
BOARDS.

Back No. 2A

Wm W Hudleston
Draft for approval
No: 248 W dt 2-2-80.
Ordered that the
Government of India
be addressed. PR

A.F. No 249 W dt
dt 2nd Feby 1880.
To the Secretary to the
Govt. of India.
P.W. Dept
Financial Dept.
Proc: of Govt dt 2nd Feb/80 No 248. W.
Sir
I am directed
to request the acct
early notice
the Government of
India in the questions
raised by the
Local Examiner of
P.W. Accounts in
his letter of the
29th January 1880.
No. 264 W.
The Government are

248-69
b

Back No 2C

of opinion that the ruling contained in their prayer of the 13th November, 1879, No. 2665 W. is correct that if it be held otherwise I am to submit that, under the peculiar circumstances a special exception should be made in the case of officers who retired under the terms of the Govt. of India's Resolution of the 31st July last, No. 2079, Dept. of Finance & Commerce.

3. The ruling in the Civil Pension Code, Section 111, was clearly introduced with the view of preventing officers in Govt. a

and that the concluding clause of Sec 110 of the Pensions Code warrants the interpretation

the Local Govt concerned being those constituted by Madras Act IV of 71. practically of the nature of Municipal Institutions administered by local Boards controlling the Expenditure on local purposes of funds raised by local rates - & cannot be applied to other purposes but are strictly fettered by law.

The commuting bill is two fold - first before the relief to the public treasury - & the second bill is wholly benefit to Govt - as the Govt. administering them must in any case employ similar agency at the cost of the funds.

Letter recd 2-2-79.
Replied with G.O. dated 28th ult
Do dated 10-2-80.

Back No. 24

248-45
7

93

Article

Employ throughout as their appointments in order to obtain trace under local Funds which containing & clear provident fund. The section is in short intended to form a safeguard in the interests of the State.

4. But the circumstances are not the same because of those with reference to which the ruling was introduced. The officers who retired under the terms of the July Resolution did so under a certain amount of pressure. The local Governments were ~~glad~~ to get rid of

Compelled by State exigencies

their services, and are perfectly willing that their old employer should obtain work under Local Fund Boards as elsewhere.

5. I am to state that the Secretary in Council does not concur with Major Teil in thinking that section 107 of the Civil Service Code is here applicable. On the contrary he holds that the Govt. should be entirely indifferent whether the sum total of the pay drawn by the officers in Execution under Local Funds and other pending dues or dues not exceed the pay they were in receipt of

248-89/98

before their retirement.

6. Such a rule would be very inapplicable to the case of comparatively young officers who have had to retire, as it would cut off all prospect of their advancement.

7. The Secretary of the Poly Revolutions which were plainly intended to be of a liberal character would at once cease to have that character were such a condition as that contained in Section 107 to be backed on to them.

8. I am also to report the decision of the Government of India

948-49
9

On the ~~subject~~ points
raised in the third
paragraph of
Major Seals letter.

31/1

31/1/80

This Govt. considers that in the principle adopted as shown in the matter of Fencing the returning Officer is equally payable to persons obtaining immediate employt. under a L.7.1.3d. - that such persons cannot contribute for future pensions from Govt. - that such employt. can in no way qualify for such pensions -

This Govt. in fact Expends employt. under L.7.18.3d. wholly under Art 4 of the absolutely non Govermental & quasi Municipal - the only material difference between Leaders Art 3.44 of 71. being that the area of application is in one case a Town & in the other a District.

The C.S. Laws already delegate

X

Art Service under Municipalities or Non Governmental - The Govt Laws in either case and voice in the appointment of the Operatives establishment.

20/1/26 B44 ✓

✓ Go 741

Govt. of (1880) Madras.

PUBLIC WORKS.

To

Dated

Issued

Rcvd. Encl.

G. O., 27 Feby 1880, No. 248/249 W

Nos.

Officers & Subordinates
retiring from the P. W. Dept
and accepting employment
under the Local Fund Boards

Whereby I addressed me
certain points raised by the
Govt Madras regarding —

Regrets My part/ orders
on certain points raised by the
Govt Madras regarding Officers
& Subordinates retiring from
the PW Dept and accepting
employment under Local Fund
Boards.