OF EFFECTING A RECOVERY OF THE OVER-

PAYMENT NOW, THE ONLY COURSE OPEN

B 11-7-78- 2838W

B
No. 2560W. dt 20th Octr/81

Recorded, in Con-
tinuation of Go. No 2838W
dt 11th July 1878.

Ag

Govt. of [1881] Madras.

FINANCIAL.

To

ALL DEPARTMENTS
OF THE SECRETARIAT.

Dated October, 3rd.

Issued

Recd. *Encl.*

G.O., 3rd October 1881, No. 1871.

OCTOBER

No. 2560 W dt 20th Octr/81

Entd. in Receipt Regr

Military Officers in Civil Employ.—Communicating endorsement of Government of India forwarding, for information and guidance, papers relating to the payment of passage-money to discharged non-commissioned officers of the army and soldiers who are employed in the Civil Department.

Ear P. W. & S

Regd
21/10

In the order

GOVERNMENT OF MADRAS.

FINANCIAL DEPARTMENT.

3rd October 1881, No. 1871.

Military Officers in Civil Employ.

Read the following paper :—

Proceedings of the Government of India in the Department of Finance and Commerce, dated Simla, 20th September 1881, *No.* 3020 [*Current No.* 2651].

Leave, &c.—Passage-money.

Read the following :—

From E. J. SINKINSON, Esq., Officiating Under Secretary to the Government of India, Financial Department, to the Chief Secretary to the Government of Madras, dated 13th June 1878, No. 840.

I am directed to acknowledge the receipt, in the Home Department, of your endorsement, No. 2842, dated the 3rd December 1877, forwarding a copy of the orders of the Government of Fort St. George, No. 413, dated the 24th January 1876, declaring that "all departments of the State employing discharged non-commissioned officers" of the army "and soldiers are required by" paragraph 225 of Part I of the Military Transport Regulations "to provide the men with free passage to England in the event of their falling into distress from loss of their situations;" No. 2669, dated the 14th November 1877, deciding that the Order, No. 413, of the 24th January 1876, applies to the case of Sergeant Froude, late of the 21st Fusiliers, on his discharge from the Madras Town Police, and that the charge for Sergeant Froude's passage to England must be met from the provincial assignment for Police; and No. 2841, dated the 3rd December 1877, deciding that the Order, No. 2669, of the 14th November 1877, does not need the confirmation of the Government of India.

2. In reply, I am desired to point out that if a non-commissioned officer or a soldier obtains his discharge from the army in order to take employment in any department of the State, it is not obligatory on that department to provide him with a passage to England in the event of his losing his employment; and that the meaning of the words "if at all" in paragraph 225 of Part I of the Military Transport Regulation is, that passage may be granted or refused according to the merits of each case when it is reported to Government.

3. I am desired, however, to add that the sanction of the Government of Fort St. George to the payment from provincial funds of the passage to England of Sergeant Froude is confirmed as a special case.

ORDERED, that a copy of the foregoing letter be forwarded to the Accountant-General, Madras, with reference to his letter to the Chief Secretary to the Government of Fort St. George, No. 1004, dated the 27th November 1877; and that copies of the foregoing letter, and of the papers therein referred to, be forwarded to the Home and Military Departments.

From the Government of India, to the Secretary of State for India, dated 24th June 1881, No. 162.

We have the honor to acknowledge the receipt of your Lordship's despatch, No. 91, dated 10th March 1881, asking for an explanation of the circumstances under which a refund of

Rs. 250, being the cost of his passage home, was authorised to Mr. John Mawhinney, late Inspector of Police at Shahabad, in Bengal.

2. In reply, we beg to state that Mr. Mawhinney was originally attached to the army, whence he got his discharge and secured an appointment in the Police Department. His last appointment was an Inspectorship of Police, which he lost on account of reduction of establishment, and for which reduction he was allowed a compensation pension. There was some delay in the disposal of his pension application (*vide* despatch No. 364, dated 9th November 1880). He eventually left the country at his own expense, but preferred a claim for the refund of Rs. 250, being the cost of a second-class passage, and the Government of Bengal recommended the grant under paragraph 225 of Part I of our Military Transport Regulations, which runs thus—

"Non-commissioned officers and soldiers who may have remained in India on discharge and obtained employment in the Police, Telegraph, Railway, or other department of, or connected with, the State should be provided with passages, if at all, by the department in which the men may have been serving."

3. The question of the exact effect of this Regulation was raised in 1878 with reference to a grant of passage-money which had been made under it by the Government of Madras. We then held that this rule, while it relieved the Military Department of all responsibility in cases of the kind mentioned therein, imposed no obligation on the Civil Department to provide a free passage to employés who had previously been in military service, its effect being to leave to the Government a discretion in the matter, so that passage might be granted or refused according to the merits of each case when it was reported to Government.

4. We also held that the concession should be granted only in exceptional cases of destitution, when the discharged employé was unable to leave India without such aid, and when the cost of his deportation might eventually fall on the Government under the Vagrancy Act.

5. On this view the rule could seldom or never authorise the refund of passage-money to a discharged Government servant who had already left the country. Mr. Mawhinney was therefore not entitled as of right or under the strict terms of the rule to the refund of passage-money proposed by the Government of Bengal. But, considering that he lost his appointment on account of reduction of establishment and not through his own misconduct, and that there had been some considerable delay in the disposal of his application for pension, we authorised, as a special case, on compassionate grounds, the grant to him of a refund of Rs. 250.

6. In submitting to your Lordship the foregoing facts of the case, we beg to state that, while admitting that a refund of passage-money can hardly ever be justified in such cases, we would recommend that the grant be allowed in the present instance, as Mr. Mawhinney has been distinctly informed that the refund would be made.

From the Secretary of State for India, to the Government of India, dated 11th August 1881, No. 240.

I have considered in Council your letter dated the 24th June, No. 162, furnishing an explanation of the circumstances under which a refund of the sum of Rs. 250, being the cost of his passage home, was authorised to Mr. John Mawhinney, late Inspector of Police at Shahabad, in Bengal.

2. As pointed out in your letter, Mr. Mawhinney is not entitled, under the rules, as of right to a free passage home; but in consideration of his having been informed that the cost of his passage to this country would be refunded to him, I have sanctioned the payment to him of the sum in question.

3. I have, however, to request that you will issue instructions that whenever a civil officer, who was formerly a non-commissioned officer or soldier, is granted a free passage home by the department in which he is employed, under paragraph 225 of Part I of your Military Transport Regulations, the cost of the passage may be paid in India, and not through this office.

ORDERED, that a copy of the foregoing papers be forwarded for information and guidance to the other departments of the Government of India, to the several Local Governments and Administrations, to the Comptroller-General, the several Accountants-General and Comptrollers, and to the Heads of Departments under the Finance Department.

(Signed) S. JACOB,
Offg. Under Secy. to the Govt. of India.

ORDER THEREON, 3rd October 1881, No. 1871.

Communicated to all departments of the Secretariat in continuation of Judicial Department Proceedings, No. 1313, dated the 29th June 1878.

(True Extract.)

Chief Secretary.

To all Departments of the Secretariat.

Exd. A. S. Rodgers.