Incl 9168

Govt. of {1885} Madras

PENSION.

21C

Issued

Recd. 22/10/85. Encl.

G.O., 6th October 1885, No. 1205.

No 2500 W of 23d October/85

B

Recorded.

Recorded

Dw.

Dis.

No 2500 W of 23d October 1885

OCTOBER.

Gratuity.

Granting a compensation — of Rs. 100 to Saiyid Dariah Sáhib, late maistry, Public Works department, Cuddapah division.

182/11

Dis 5/11/85

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper :—

From Lieutenant-Colonel J. L. L. MORANT, R.E., Superintending Engineer, II Circle, to the Chief Engineer for Irrigation, dated Dugarázpatnam, 15th August 1885, No. 993 K.S.

I trust you will allow me to address you on a subject which seems to point to the necessity of some special legislative action on the part of Government, as has been adopted throughout the whole of India except in Madras. I submit this case, as it has now come before me ; but it is a type of many others.

2. An inhabitant of the eastern portion of the Kistna delta, named Mandali Ramaswami, cut the river bank at Puligadda to let out water that he said was flooding his house, and closed the cut when the water had drained off. He was prosecuted as having committed mischief under section 426 of the Indian Penal Code before the Avinigadda Sub-Magistrate. The case was dismissed on the ground that the man had acted with no criminal intent. The decision was appealed against before the Collector of the District, who recorded an order in which occurs this paragraph :—

"It is no light matter (as the Deputy Magistrate seems to suppose) to interfere with the banks of a river like the Kistna. Serious consequences might have resulted from the act of the accused, and he should have been adequately punished by a substantial fine or by imprisonment. I cannot interfere with the acquittal, and can only refer it to the High Court."

The High Court declined to interfere with the decision in the following terms :—

"The facts found are that there was a disused channel, the bank of which has been 'settled to be' the bank of the Kistna, and that the accused, finding his premises submerged, cut a small hole in this bank, let the water run off his premises into the channel, and closed the bank again. It is not shown that his act—if done with due caution, and negligence is not alleged—was one likely to cause damage, and before a conviction of mischief could be had, it would be necessary to show, not only that the act was likely to cause damage, but that the accused knew this. We cannot therefore interfere. If a knowledge, that the act was likely to cause harm, had been established, it would have been necessary to consider whether the act was not excusable under section 81 of the Indian Penal Code."

3. I may perhaps be here allowed to interpolate that the river bank which was cut through is not a new one. It has been in existence for many years, and runs along the Swarnamukhi channel, one of great antiquity.

4. Of course the fear now is that this case may be taken as a precedent and lead the people of the delta to imagine that they may cut river and channel banks whenever it suits their convenience to do so. The consequences of such acts may well be very serious. Unauthorized breaches in banks are of frequent occurrence, and it is generally impossible to name the guilty parties. If when the culprit is caught and admits his offence he is to be allowed to escape, without even a caution to be careful in future, the matter becomes hopeless. Canal officers can no longer be held responsible for the security of river and canal banks, on the upkeep of which hang the revenue of the district, the prosperity of the inhabitants, and even the lives of those who live near them.

No. 83 E.W.

Transferred to the Chief Engineer, Department of Public Works, with a suggestion that the letter should be laid before the Select Committee on the Irrigation and Navigation Bill.

OOTACAMUND, *7th September* 1885. (Signed) J. O. HASTED, Colonel, R.E., *Chief Engineer for Irrigation.*

No. 616-E. +

+ abovesy - 9-10-85

Transferred to the Legislative department for consideration by the Select Committee on the Bill to provide for Irrigation and Navigation in the Madras Presidency.

OOTACAMUND, *18th September* 1885. (Signed) J. SHAW-STEWART, Col., R.E., *Secretary to Govt., P.W.D.*

ORDER—dated 28th September 1885, No. 136, Legislative.

Communicated to the Select Committee.

(True Extract.)

M. HAMMICK,
Ag. Asst. Secy. to Govt.

(True copy)
M Hammick
Ag Asst Secy to Govt.
Legislative Dept.

To the Select Committee on the Madras Irrigation and Navigation Bill.
„ Public Works department. ✓

Exd. T. O'Connor.

3 spare copies

No. 2505-Way 23rd October/85

B

Communicated to the Chief Engineer for Irrigation and the Supdt of Works in charge II Circle and to all Supg Engineers for information.

Act

Oct. 9. 1885

13-10-85

Supg Engineers ✓
Supdt Works in charge II Circle ✓
Chief Engineer for Irrign ✓

Despd 23.10.85.

Dec 4 8819

Govt. of {1885} Madras.

LEGISLATIVE.

Issued Oct 8th

Recd. 9/10/85. *Encl.* 3 P. Copies

G.O., 28th September 1885, No. 136.

No. 2505-Way 23-10-85

SEPTEMBER.

Irrigation and Navigation Bill.

Communicating to the Select Committee on the —, for consideration, papers from the Public Works department suggesting that some legislative action may be taken against the High Court's judgment declining to interfere with the Sub-Magistrate's decision for cutting the Kistna river embankment.

True Copy to be returned

With Order

6th October 1885, No. 1205, Pension.

GOVERNMENT OF MADRAS.

PENSION DEPARTMENT.

Read—the following papers:—

From the Superintending Engineer, III Circle, dated 29th June 1884, No. 650.

Certificate and report from D. C. GORDON, Esq., Examiner, Public Works Accounts, to the Under Secretary to Government, Pension department, dated Madras, 13th July 1885, No. 874—A.-R.

Certified that, should Government be pleased to consider that the applicant's services prior to October 1873 count towards pension and gratuity, qualifying service in superior grades will amount to 5 years 7 months and 21 days, and that a compensation gratuity, not exceeding Rs. (100) one hundred only, equal to five months' emoluments, at Rs. 20 per mensem, will be admissible under sections 104 and 113 (*a*), Civil Pension Code.

2. Should Government, on the other hand, be of opinion that it does not count as qualifying service, the applicant will be entitled to a gratuity not exceeding Rs. (60) sixty, equal to three months' pay at Rs. 20 per mensem, for a qualifying inferior service of 5 years, viz., from 1st March 1875 to 29th February 1880—*vide* sections 93, 104, and 121 (*a*) of the Civil Pension Code.

3. The calculations have been duly verified. The compensation gratuity, if sanctioned on the superior scale, is chargeable to Local Funds; if on the inferior scale, General (now Provincial) revenues.

4. With reference to section 134, rule 4, attention is solicited to section 69 of the Civil Pension Code (6th edition).

Official Memorandum to the Examiner of Public Works Accounts, dated 20th July 1885, No. 42.

Letter from the Examiner of Public Works Accounts, dated 2nd September 1885, No. 254 X.

Order—dated 6th October 1885, No. 1205, Pension.

Under sections 104, 105 and 113 (*a*) of the Civil Pension Code (6th edition), the Right Honorable the Governor in Council is pleased to grant to Saiyid Dariah Sáhib, late maistry, Public Works department, Cuddapah division, a compensation gratuity of Rs. (100) one hundred, equal to five months' pay, payable at Cuddapah, in consideration of his qualifying superior service of 5 years 7 months and 21 days up to 21st October 1873.

2. The amount of gratuity sanctioned will be debited to Local Funds.

3. The explanation furnished of the long delay in the submission of this application is very unsatisfactory.

(True Extract.)

Ag. Under Secy. to Govt.

To the Accountant-General, with register.
" Examiner of Public Works Accounts.
" Public Works department.
" Superintending Engineer, III Circle, with S.B.
" Collector of Cuddapah.

Exd. A. F. Aaron.

Incl 9168

Govt. of {1885} Madras

PENSION.

21C

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13-10-85

Supg Engineers ✓
Supdt Works in charge II Circle ✓
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Despd 23.10.85.

Dec 4 8819

Govt. of {1885} Madras.

LEGISLATIVE.

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