(1) பக்கங்களின் எண்ணிக்கை 12

(2) புதுக்கித் திருப்பிய நாள் அக்டோபர் '90

(3) ஆதாரங்குறிப்பவர் சுருக்கொப்பம்

தமிழ்நாடு ஆவணக் காப்பகம்.

தமிழ்நாடு அரசு

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P. W. D. துறை

அரசாணை எண். —
மு. கோப்புத் தாள் எண். 3439 W

அச்சகம்
பலவகை

நாள் : 19 - 12 - 1891 19 .

மடிக்கவோ கண்டபடி கையாளவோ கூடாது

6 Sheets

G.P.

இவண, கா-1—18,006—15-6-87.

N.B.—In any future communication on this subject, the number and date of this letter should be quoted; and the communication should be addressed to the Examiner, Public Works Accounts, Madras, and not to any officer by name.

[C. No. 1041/1.]

3439/1

From

MAJOR C. H. P. CHRISTIE, R.E.,

EXAMINER OF P. W. ACCOUNTS, MADRAS,

To

The Secretary to Government,

Public Works Department.

No. 1929.

Madras, 2 April 1891.

Sir,

With reference to office note correspondence ending with your No.1254 C.of 6th.March 1891,I have the honor to ask that the Government may be pleased to define more clearly,or to take such action as may be necessary to secure a clearer definition of,the duties & responsibilities of the Examiner,and of his position in relation to the Secretary to Government.

2. And at the outset I wish to disclaim any desire to arrogate to myself any power or right of interference which it is not the intention of the code to give to me. In-deed from my point of view the question is not about any right or privilege of the Examiner,but rather about his duties and responsibilities and the means by which he is to discharge them. I do not regard it as a privilege,but very much the contrary,to have to interfere at all in the way of questioning or criticising the actions either of the Government or of any inferior authority. The less my responsibility,the better I shall be pleased; but,seeing that some degree of responsibility unquestionably does attach to me,in respect of orders and actions of the Government regarding matters of certain classes,I am anxious that the nature & extent of such responsibility,and the way of discharging it,should be stated as clearly as may be possible.

3. According to the P.W.Codes,as I read them,five positions more or less distinct,are assigned to the Examiner.In para 340 of the

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Madras Code (Para II2 chapter III, volume I of the Government of India Code) he is stated to be the responsible adviser of the Government, & in para 345 of the Madras Code as amended by standing orders Nos. 222 and 785 (para II7, chapter III, volume I of the Government of India Code) he is described as financial assistant to the Secretary to Government and as independent auditor on behalf of the Government of India or of the Secretary of State. That is to say, as I read the codes, the Examiner is stated to be

(I) responsible adviser of the Government

(2) financial assistant to the Secretary to the Government

(3) auditor on behalf of the Government

(4) auditor on behalf of the Government of India

(5) auditor on behalf of the Secretary of State.

and the points which I ask to have made clear are

(a) Is the Examiner under any (and if so what) circumstances the responsible adviser of "the Government" as distinguished from "the Secretary to the Government"? and if so

(b) What form of correspondence should be adopted when addressing the Government in that capacity ? and

(c) When and how is his responsibility discharged.

(d) Similarly, how, in the last resort, is the Examiner to discharge his responsibilities as auditor on behalf of the Government, when the Chief Engineer and Secretary considers himself justified in over-ruling him ?

4. With regard to the first point it may be said that it is not the intention of the codes to distinguish between the Examiner as responsible adviser of the Government and the Examiner as financial assistant of the Secretary to the Government; that para 345 of the Madras code (Government of India Code, volume I, chapter III, para II7) contains an exhaustive statement of the Examiner's functions; and that the latter part of the second sentence of para 340, instead of referring to a position different from that referred to in the first sentence of the same para, simply explains the manner of discharging the responsibility mentioned in the first sentence.

5. But if that is the intention, it seems to me that, as regards

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para 340, the language used is inappropriate. It is hardly usual to talk of a deputy or an assistant as being "in close communication with" his chief. That is a form of expression usually applied to those who (as regards the matter in question at any rate) are mutually independent; and the very use of such an expression implies, I think, the fact of such mutual independence. Moreover if the intention of para 340 (as a whole) is to state that the Examiner is financial assistant of the Secretary to Government and responsible as such to the Secretary only, it would seem to be not merely useless, but actually misleading, to say, (as the first sentence does) that he is the responsible adviser of the Government, drawing a distinction, several times repeated in the subsequent paragraphs between the Government and the Secretary to the Government.

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6. And as regards para 345, I do not think the intention of the code can be clearly understood without taking into account the history of this and the two following paragraphs. These three paragraphs, and the corresponding paragraphs of the Government of India Code (paras II7, II8 and II9 of chapter III, volume I) are of comparatively recent origin. They are not to be found in the 1878 edition of the Government of India Code, [redacted]. They were introduced for the first time in the edition of I886, and the only object of introducing them was, I believe, to bring about the adoption, in the great majority of cases, of a style of correspondence which, in the opinion of the Government of India, would tend to ease the relations between the two offices, the Examiners and Secretariat: in all cases in which the Examiner acted as an officer of the local government the comparatively easy and familiar office-note form of correspondence was to be adopted, the severely official form being reserved for cases in which the Examiner is obliged to assume an independent, and to some extent hostile, attitude. In fact paragraph 345 of the Madras Code (Government of India code para II7 of chapter III, volume I) was not introduced for the purpose of defining the position and functions of the Examiner, but those functions, as long ago expressly or implicitly stated & defined, were incidentally recapitulated so far as seemed necessary for the immediate purpose. This recapitulation was unquestionably incomplete in one particular, as has been already recognized by the Government,

namely in that it omitted all mention of the Examiner's position as auditor on behalf of the local Government,an omission which has been supplied,as far as the Madras Code is concerned,by standing order No. 222 of 30th.November 1887;and therefore it may very well be that it is still incomplete in that it omits all reference to the Examiner as responsible adviser of the Government.

7. Again it may be said that it is not necessary to distinguish between the Examiner as responsible adviser(if he is so)of the Government,and the Examiner as auditor on behalf of the Government,and that the two positions are practically the same.But this would ,I think,be a mistake. As auditor on behalf of Government the Examiner can only have occasion to interfere when the actions of officers or authorities other than Government are in question;whereas as responsible adviser of Government (supposing him to be so)he would seldom,if ever, desire to interpose except when the action of Government was,or was likely to be,in question. Indeed the case which has given rise to this correspondence was a case in point: the Government passed a certain order in connection with which there could not,by any possibility,be any question of my intervening as auditor on behalf of the Government;but Government gave certain reasons for the order,which reasonsshowed that the Government had either been insufficiently informed or else had misapprehended the information put before it,and, with a view to discharging the responsibility which,under para 340 of the Madras Code,appeared to attach to me,I desired to bring the mistake to the notice of the Government. Therefore it is,I think, quite necessary to distinguish between the Examiner as responsible adviser, and the Examiner as auditor;but even if the distinction could be ignored I should be no better off as regards my principal difficulty ; for the contention,I understand,is that the Secretary to the Government is entitled to deal at his discretion with all office note correspondence,and to place it before the Government,or to withhold it from the Government,as he pleases;and that only by adopting the official letter form can the Examiner make sure that his representations will be placed before the Government.

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8. This brings me naturally to the third point(c) of my para 3; but,before I deal with that point,it may be convenient that I should say the little that I have to say about the second point(b), which is that,apart from the implication which the adoption of this or that form of correspondence carries with it,it is a matter of absolute indifference to me what form of correspondence is prescribed. If the Examiner is,under any circumstances,the responsible adviser of the Government; and if it is considered desirable to prescribe that, when acting in that capacity,he should address the Government by official letter,I am quite willing that it should be so,if only it is so laid down in the code;though I think it would be more convenient,if only for the sake of uniformity,to adhere to the principle which seems to have guided previous rulings as to official procedure,and to use the office-note form of correspondence in all cases in which the Examiner acts as an officer of the local Government. But as the code now stands the adoption of the official-letter form has a special meaning, and I must protest against being asked to use a form of correspondence which distinctly implies that I am adopting an attitude of independence(acting as independent auditor on behalf of the Government of India) when as a matter of fact I am doing nothing of the sort.

9. With regard to the third and fourth points (c) and (d) of para 3 above,with regard that is to the point at which the Examiner's responsibility terminates when he is acting on behalf of the local Government,it is obvious that much depends on the precise meaning of the expression "the Government".At what point is a question to be considered as having come "before Government"? When it reaches the Secretary to Government? or only when it is laid before the Honorable Member in charge of the Department? And again,what constitutes a disposal of the question"by the Government"? Without referring to these points I cannot well make my position plain,or explain in what respects I think that the code requires to be made clearer.

10. According to one view,a view which,if I may venture to express an opinion on the matter,I am disposed to think the correct one,— a view at any rate which I should certainly not have presumed to challenge if it had been adopted — a question is actually "before the

Government" when it reaches the Secretary to the Government. But that is not the view that has been taken in the case which has given rise to this reference. In that case it was not contended that, the case being actually before the Government, the Secretary was empowered to dispose of it, on behalf of Government, in virtue of a general authority delegated to him. The actual contention was that it was within the discretion of the Secretary to refuse to place the matter before Government, which of necessity implied that, in his opinion, it had not already reached the point of being "before the Government".

II. Then as to what constitutes a disposal by the Government? Supposing that a question is "before the Government" as soon as it reaches the Secretary; and assuming — what I should never for one moment think of doubting — that some authority, for the exercise of which he is responsible only to Government, is delegated to the Secretary, to dispose of matters on behalf of Government; what then constitutes such a disposal, that is to say such a disposal as will justify the Examiner in considering that his responsibility is discharged ? Is an office-note initialled by the Secretary a disposal by Government ? or must the disposal be in the form of an extract from the Proceedings of the Government, or a ~~G.O.~~ Government Order ? It would obviously be improper for me to do anything even remotely resembling an attempt to dictate the answer to these questions; but I believe it is tacitly assumed on all hands, and the assumption is acted on every day, that a disposal by Government does mean either an extract from the proceedings of Government, or a ~~G.O.~~ Government Order ; and I may perhaps without impropriety point out that there would be obvious inconvenience involved in the adoption of the other view, inasmuch as it would be practically impossible to tell whether any office note, initialled by any deputy or assistant Secretary is or is not equivalent to an order of Government. In the case, at any rate, which has occasioned this reference, it was never contended that the Secretary's office-note was a disposal by Government, such a contention being obviously incompatible with the view taken by the Secretary that the question never was before the Government at all.

I2. I can now, I think, make my position clear. I understand that according to Madras P.W.D.Code para 340, the Examiner is the

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responsible adviser of the Government, as regards certain classes of questions, and I understand that according to Code para 349, it may be the duty of the Examiner, acting as responsible adviser (because in para 349 there is obviously no question of audit) to urge his views upon the Government, addressing the Government directly if the Chief Engineer is unwilling to support them. That is the only construction that I can put on para 349: it is, or may be, part of the duty of the Examiner to bring forward proposals, e.g. proposals for economy and improvement of organization; in which case he is to bring them forward through the Chief Engineer if possible, but in spite of the Chief Engineer if necessary. Again, the Examiner being admittedly auditor on behalf of the Government (code para 345), he is presumably responsible to "the Government" for the due discharge of his duties as auditor.

I3. Now I wish to know whether the assumptions of the last para (I2) are correct or not? If they are not correct, then I ask that the code may be so modified as to make the real intention perfectly clear. But if they are correct, I further wish to know in what circumstances, at what stage, and by what procedure the Examiner's responsibility is effectually discharged, so as to justify him in ceasing to press his views; and in this case also I ask that the decision may be clearly set forth in the Code.

I4. I have said above that I take for granted that the Secretary to the Government is vested with some authority to dispose of matters on behalf of Government, but I trust I may be excused if I draw attention to certain inconveniences which may follow if this authority is extended to the suppression of the representations of the Examiner, whether acting as auditor or acting as responsible adviser of the Government. Speaking for myself, and confining myself to the consideration of cases in which the issue is as to the interpretation of some rule, or as to the application of a given rule in given circumstances, and putting aside questions of policy or expediency which are in quite another case, — speaking for myself and confining myself to this limited class of cases, I must say that I find it absolutely impossible to conceive of myself as holding, sincerely, and as a reasoned -out

conviction,one opinion in one capacity,and in another capacity a different opinion about one and the same question. And similarly,& with the same limitation,as regards the Chief Engineer and the Secretary to Government,so long as the two offices are held by one person.I cannot imagine the Chief Engineer holding one opinion,and the Secretary another opinion,about the same matter. If the Chief Engineer holds that certain representations of the Examiner are unreasonable,it is to my mind inconceivable that the Secretary,being the same person, should do otherwise than also hold the Examiner's representations to be unreasonable,and therefore,inasmuch as the Examiner,when acting as auditor on behalf of the Government,is directed (by code para 346) to use the office-note form of correspondence,it seems to me that, if it is within the discretion of the Secretary to suppress any office -note correspondence which he considers unreasonable,the practical result must be to deprive the Government of any independent auditor,i.e. any auditor independent of the Chief Engineer and head of the department, and to make the Chief Engineer and Secretary the real auditor. In order to this it is not at all necessary to suppose that the Secretary would suppress the Examiner's views whenever he considered them unreasonable,or even that he would do so in any considerable number of cases. It is quite sufficient that he should have the discretion;for the real auditor is the officer empowered to determine whether a question shall or shall not be brought to the notice of the supreme authority. I point out this apparent result; but I hasten to add that the decision on this point does not concern me. As I understand the matter it rests entirely with the Government to decide how and by whom audit shall be conducted,so far as it concerns the enforcement of local rules,and I,as representing the Government of India,have no concern in the matter: all that I ask is that the decision,whatever it may be,may be clearly set forth in the code.

I5. It may,however,be said; and judging from the previous office note correspondence it seems likely that it will be said,that in the last resort it is always open to the Examiner to address the Secretary to the Government by official letter,in which case(though I do not quite understand why) his representations will(as I understand)

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be sure to go beyond the Secretar and to be formally disposed of by the Government. But as to this I can only repeat that,without the approval of the Government of India,I cannot consent to assume the position of independent auditor on behalf of the Government of India for the sole purpose of pressing my views either as auditor or as responsible adviser of the local Government,and if the Government should be disposed to take this view I must ask that the question may be referred for the orders of the Government of India. If,however, Government should be pleased to rule that the official letter form is the form in which the Examiner should address the Government when acting as auditor or responsible adviser of the Government,and if this decision is embodied in the code,(cancelling the existing code rule as regards the Examiner qua auditor) then the adoption of the official letter form will cease to be an indication of an independent attitude, & my present objection to this form of correspondence will of course disappear.

I have the honor to be,

Sir,

Your Most Obedient Servant.

Major R.E.

Examiner P.W.Accounts Madras.

Public Dept No 401 & 24.4.65
" " 182 & 21.2.66
P.W. Dept. 49 & 5.1.77.
B " 2725 & 29.10.77
" " 2537 W & 4.11.80
A " 1519 W & 17.6.81
B " 180 & 24.10.71
" " 142 & 15.9.71
" " 24 & 2.9.72
" " 188 & 22.8.72
" " 23 & 6.8.72
" " 269 & 29.4.72
" " 103 & 12.4.73
" " 12 & 4.6.73
" " 140 & 24.10.73
" " 157 & 23.7.73
" " 1187 W & 18.8.80
" " 921 W & 10.4.80
" " 766 W & 23.3.80
" " 1736 W & 28.7.80
" " 2170 W & 16.9.80
A " 1705 W & 7.7.82
" " 2492 W & 23.8.82
B " 2543 W & 29.9.82
Public Dept. W 1647 & 30.11.82
P.W. Acct 416 W & 6.2.83
B " 765 W & 22.3.82
" " 2622 W & 16.11.80
Memo No 2610 & 1.6.83
P.W. Dept 1712 W & 1.7.83
" " 2227 W & 15.8.83
A " 2648 W & 21.9.83
" " 3066 W & 17.11.80
Memo No 5362 C & 20.12.90
" " 1234 C & 26.1.91
" " 195 C & 16.1.91
" " 782 C & 12.2.91
" " 1219 C & 10.2.91
" " 1234 C & 6.2.91

From

The Examiner P.W.Accounts,

Madras.

To

The Secretary to Government,

P.W.Department.

No. 1929.

Dated 2 April 1891.

Recd.

Examiner's position and relation with the Secretary to Government. Solicits orders regarding------

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N.B.—In any future communication on this subject, the number and date of this letter should be quoted; and the communication should be addressed to the Examiner, Public Works Accounts, Madras, and not to any officer by name.

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From

MAJOR C. H. CHRISTIE, R.E.,

EXAMINER OF P. W. ACCOUNTS, MADRAS.

To

The Secretary to Government,

Public Works Department.

No. 2497.

Madras, 29 April 1891.

Sir,

P.W.Acct. 3696

With reference to my letter No.1929 of 2nd.April 1891, regarding the duties and responsibilities of the Examiner, I wish to explain more fully a passage in that letter which, on reperusal, seems open to misinterpretation.

2. Towards the end of para 4, I have said in effect that the decision of Government on a certain point is no concern of mine, provided the decision is clearly set forth in the Code. If this had been the precise meaning that I wished to convey, there would apparently have been no justification for the earlier part of the same paragraph, the ostensible object of which would seem to be to influence a decision which, I say, does not concern me.

3. What I really desired to express was that, though the sense in which the Government might decide the point is no concern of mine, yet it does seriously concern me not only that the decision should be clearly recorded in the code, but that it should be stated in terms indicating a clear understanding of the import and consequence direct or indirect of the decision; and in order to this it seemed necessary to indicate certain consequences which might otherwise be overlooked, with the result that a decision might be recorded involving logically, from the Examiner's point of view, consequences not foreseen & not intended by the Government, & which the Govt. might afterwards repudiate.

I have the honor to be, Sir,

Obedient Servant.

Major R.E.

5,000—30-7-89.

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Recorded, no action being necessary.

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25.10.79-272
6.3.80-548
4.11.80-2537
12.6.87-1579
8.2.83-416
22.3.82-765
1.6.85-261
17.11.90-3066
20.12.90-3862C
16.1.91-195C
13.2.91-852C
10.3.91-1319C
6.3.91-1234C

Returned to Fd Branch 30-9-02

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19/12

From

The Examiner P.W.Accounts,

Madras.

To

The Secretary to Government,

P.W.Department.

No. 2497.

Dated 29 April 1891.

Recd. 30-4-91

Examiner's position and relation to Secretary to Government. Further explanation with reference to letter regarding-----

both orders