Public Works (1897) Department.

G.O., No. 3080 W

DATED 3 Nov 1897

[Despatch Abstract.]

Lt Col O. V. Bodr R.E. S.E. VII Circle, Refusing with remarks the request contained in the Chief Engineer's letter that the appointment of Mr Abbinston be cancelled.

Sa. W
3.11.97

[P.W. 25. 5,000—30-11-96.]

Indexed. 8/11

PERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

[40/500]

DEPARTMENT.

Papers to be read in proceedings :—

Again G.O., dated 189 , No.

Again G.O., dated 189 , No.

Current No. 1067 of 1897, dated 12.10.97, from Lt. Col. O. V. Bodley R.E.

" " " 189 , " " "

" " " 189 , " " "

No. 3060 W.S. 3.11.97

ORDER.

H.E. the Governor in Council observes that Lt. Colonel Bodley is incorrect in his supposition, which has possibly been based on misleading statement in a public Journal that the Govt. has ~~no power~~ no power to make the appointment in question.

The report contained in the last para of this letter is therefore approved

2.11.97

S.A.W. C.S. E.

To Lt. Col. O. V. Bodley R.E. 5/11/97

Supdg Engr VI Circle.

PERS.

Public Works (1897) Department.

CURRENT No. 10675

Order

From
The Supty: Engineer
Tirunelveli

No. 1869 TC.

Dated 12 October 1897.

Received 27-10-97

Enclosures "

Spare copies

SUBJECT.

W. B. De Winton Esquire:—
Submitting that, for the reasons stated within, it is beyond the powers of the Madras Govt to promote —— as notified in the Fort St. George Gazette of the 5 October 1897 and requesting to place this letter before His Excellency the Governor in Council with a request that that appointment may be cancelled

W.

BACK PAPERS.

No.	Date.

FURTHER P...

No.	Date.

No: 1869 T.C.

Supdg Engineer office, VI Circle
Trichinopoly. 12th October 1897.

From

Lt Col. A. V. Boddy R.E.
Superintending Engineer
VI Circle

To.

The Secretary to Government,
Public Works Department.
Madras.

Sir,

In the Fort St. George Gazette dated October 5th, 1897, I see that Mr: De Winton, Executive Engineer, 1st grade and Superintending Engineer, III Class Sub. pro. tem., has been promoted to the grade of Chief Engineer, 2nd Class, temporary rank.

By this promotion I find myself superseded and I have the honor to protest against being so superseded. I must say that

I cannot think that all the circumstances bearing on my own claims to be, at least, not superseded have been brought forward for consideration, but I do not wish to raise this point, at present, for on a careful study of the rules under which such promotions should be made, I am firmly convinced that the promotion of Mr: De Winton is illegal.

Mr: De Winton is an Executive Engineer, 1st grade permanent, and has been promoted to Superintending Engineer III class sub. protem. in a vacancy caused by the appointment of Colonel Smart R.E. to special duty under the Chief Engineer for Irrigation in connection with the completion estimates for the Cauvery Delta. The regulations under which Mr: De Winton was promoted to Superintending Engineer III class sub. protem are as embodied in articles 110 to 114, Chapter V of the Civil Service Regulations.

Under article 110, the status of Mr: De Winton is that of an acting officer and he has no lien on the appointment of Superintending Engineer III class. Should the promotion notified in the Gazette of October 5th be given effect to, Mr: De Winton will, under article 110 Civil Service Regulations, be entitled only to the salary of his Substantive appointment, namely, Executive Engineer 1st grade, together with such acting allowances as may be passed to him; that is, Mr: De Winton will be an Executive Engineer acting as a Chief Engineer, and I contend that on this account the promotion of Mr: De Winton has been made in

Note

This is not so. Mr. de Winton having been promoted to Chief Engineer, 2nd class, temporary rank, is entitled to the "pay of the appointment" under article 136, third sentence of the C.S. Regulations

contravention of the rules of the De-
-partment by which its officers are
governed, and that therefore the
appointment must be cancelled.

The rules by which this Depart-
-ment is governed and by which
promotions of the officers of this
Department are made are contained
in the Public Works Code, Govern-
-ment of India. That Code was
accepted† by the Government of
Madras in 1891, and the introduction
of that Code into the Madras Pre-
-sidency was notified to the officers
of the Public Works Department in
G.O. No: 6 W dated 4th January 1892,
and the rules of that Code still
continue to be applicable to the
Madras Presidency.

In paragraph 80, Chapter I,
Volume I of the Code, rules are
laid down for the guidance of
Local Governments in the prepara-

†; Accepted but Subject to the proviso that the practice of the Govt of India will be adopted in all cases where there is not a distinct practical reason for not doing so - vide Foolnote, page 2 of the P.W. Code. Volume I.

-tion of registers of recommendations
regarding officers of the rank of
1st grade Executive Engineers and
above.

Rule 1 directs the careful pre-
-paration of recommendations con-
-cerning all Executive Engineers
in the 1st grade whom the Local
Government considers fit for pro-
-motion to Superintending Engi-
-neers.

Rule 6 directs that recommen-
-dations be furnished of officers
who are already Superintending
Engineers, in regard to their fitness
for promotion to the Post of Chief
Engineer.

What the Government of Mad-
-ras has done in the Gazette Noti-
-fication of 5th October 1897, is to
promote an Executive Engineer 1st
Grade to the post of Chief Engineer,
2nd Class and this is clearly not

permissible.

In Go. No: 1550 W dated 23 June 1894 the Government of Madras took the place of the Government of India in so far as the reports on Executive Engineers were concerned, and I believe, though I am unable to find the authority for it, that the Government of Madras also takes the place of the Government of India in dealing with reports on officers already Superintending Engineers.

But the Government of Madras cannot reserve to itself powers in excess of the limits which the Government of India has thought fit to place on its own powers, and so it cannot promote an Executive Engineer to be a Chief Engineer, and therefore it has not the power to promote Mr: De Winton, Executive Engineer 1st grade and Superintending Engineer, III Class Sub: pro tem. to be a Chief Engineer II Class.

I have therefore the honor to request that you will place this letter with as little delay as possible before His Excellency the Governor in Council with my most respectful request that due consideration may be given to the reasons I have brought forward to show that it is beyond the powers of the Govt. of Madras to promote Mr: De Winton as notified in the Gazette, and that, on reconsideration of all the facts of the case, the appointment of Mr: De Winton may be cancelled.

I have the honor to be
Sir,
Your most obedient Servant

J. F. Boddy Lt Col. R.E.
Supg Engineer, VI Circle