C.F. 73.

Date taken out.	For what purpose.			Initials of clerk taking the paper or of attender.	Date returned.	Initials of attender.
	Department.	C. No.	Year.			

Public Works (1897) Department.

G.O., No. 306/W

DATED 3 Novr 1897

[Despatch Abstract.]

Lt Col. A.W. Smart R.E., Supdg. Engineer on Special duty: Refusing with remarks the request~~ing~~ contained in letter from — that the appointment of Mr de Winton as Chief Engineer be cancelled, and that he may not be superseded.

Saw
3-11-97

[P.W. 25. / 5,000—30-11-96.]

Indexed.

BACK PAPERS.

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

FURTHER PAPERS.

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

DEPARTMENT.

B [40/500] [illegible]

Papers to be read in proceedings :—

Again G.O., dated 189 , No.

Again G.O., dated 189 , No.

Current No. 10050 of 1897, dated 9-10-97, from Col. A. W. Smart R.E.

" " 10051 " 1897, " 10-10-97, " — do —

" " " 189 , " : "

No 3061 W, 3.11.97

ORDER.

H. E. the Governor in Council observes that Colonel Smart is incorrect in his supposition, which has possibly been based on misleading statements in a public journal that Govt. has not the power to ~~as regards the~~ ~~power of Govt. to~~ make the appointment in question.

The request contained in Para 2* of his letter No. 754 is therefore refused

C.W.

2.11.97

+ W. For orders whether this may be altered to para 2, which apparently contains the request which is refused — vide pencil marked with slip — as two letters are read in the Pro., it is proposed to insert "No. 754" after the word "letter". 5/11/97

S.A.W.

E. A.

altered

To Col. A. W. Smart R.E.
Supy Engr. on Special Duty.

5/11/97

[43/509]

Public Works **DEPARTMENT.**

C. No.s. 10,050 and 10,051, and letter from the Suptg. Engineer, VI Circle, No. 1869 T.C. dated 12th October 1897.

~~*HIS EXCELLENCY THE GOVERNOR.*~~
THE HON'BLE SIR HENRY BLISS, K.C.I.E.
THE HON'BLE MR. GROSE, C.I.E.

SUBJECT.

Protests against the promotion of Mr. deWinton to the rank of Chief Engineer.

FOR ORDERS.

These protests are based on the assumption that the Government has not power under the rules of the Public Works Department to promote an officer holding the substantive rank of Executive Engineer, 1st grade, to the rank of Chief Engineer.

2. The Rules relied on are contained in Government of India, P.W. Code, Volume I, Chapter I, para 80.

Rule 1 directs that recommendations should be made annually of those Executive Engineers 1st grade considered fit for promotion to Superintending Engineer.

Rule 6 directs that similar recommendations should be furnished of officers who are already Superintending Engineers in regard to their fitness for promotion to the post of Chief Engineer.

3. The Government of India, P.W. Code was adopted by the Government of

I think it will be sufficient to tell these officers that they are incorrect in their supposition, which has possibly been based on misleading statements in a public journal.

A.G.H 22.10.97

Recd 26.10.97.

HB 29/10/97

JG 29/10/97

~~G.A.W.~~
S.A.W.

H.E. 16.10.97

of Madras in 1892-vide G.O.No.*6 W. dated 4th January 1892, and it was therein stated that the procedure of the Government of India would be adopted in all cases where there is not a distinct practical reason against it.

*(Flag - C.)

4. The protesting officers claim that the Rules above quoted imply that only an officer who is already a Superintending Engineer can be promoted to the rank of Chief Engineer, and as Mr. deWinton's substantive rank was only Executive Engineer 1st grade, he was ineligible for such promotion.

5. It is, however, clearly laid down in para 78 of Chapter I, Volume I of the P.W. Code, that in the selection of officers for permanent promotion, seniority is not in itself a sufficient ground on which to base a claim, and that no one is to be brought forward, who is not "decidedly deserving of promotion on the ground of good service, the convenience of the public service being paramount to all other considerations".

6. It has now to be considered whether the wording of para 80 of the same Chapter of the Code limits the principle enunciated in para 78 in such manner that an Executive Engineer

of the 1st grade is wholly barred from promotion to the class of Chief Engineer.

7. This is a matter for the consideration of Government, and in arriving at a decision, it may be well to take into account the intentions of the Government of India as expressed in their Observations preliminary to the introduction of the existing Code rules. These will be found in the Government of India Resolution No.*2591.G. dated 6th October 1888. It will be seen that the intention is that for promotion to the "higher posts" of the Department, in which category that of Chief Engineer is included, only one roster containing the names of Executive Engineers, 1st grade, is prescribed. It thus seems evident that when an officer is selected for this roster, he is thereby eligible for promotion to any of the "higher posts" of the Department. So far as can be judged, there is nothing whatever in the Code rules quoted by Colonels Smart and Boddy, which directly negatives this position.

*(Flag - B.)

8. It may be added that Mr. deWinton's promotion was actually

made from the rank of Superintending Engineer, sub. pro tem, and that he has been acting as a Superintending Engineer from December 1895.

W. 15.10.97

sa

pri

such

-7R 1-11-97

Public Works (1897) Department.

CURRENT No. 10050

Order

From

Col. A.W. Smart R.E.
Superintending Engineer
on special duty
Tanjore

No. 754 and 755

Dated 9th October 1897

Received 11-10-97

Enclosures

Spare copies

SUBJECT.

Requests that his letter No $\frac{730}{2.10.97}$ may be replaced by letter No $\frac{754}{9.10.97}$ and to submit the latter before the Governor in Council for orders.

0L5543

BACK PAPERS.

G.O.	No.	Department.	Date.
1607	D	d/	7-10-97 ✓
~~3445~~	~~6W~~	~~„~~	~~30-10-88~~
1550	W	„	23-6-94 ✓
6	W	„	4-1-92 ✓
822	W	„	19-3-89 ✓
3966	W	„	19-12-88 ✓
3445	6W	„	30-10-88 ✓

FURTHER PAPERS

G.O.	No.	Department.	Date.

-7R 1-11-97.

No 754

8

Office of Superintending Engineer
Cauvery completion Estimate
Kumbakonum Dated 9^{d} October 1897.-

From

Colonel. A. W. Smart R. E
Superintending Engineer
on Special Duty
Tanjore.

To

The Chief Engineer and
Secretary to Government
Public Works Department
Madras.

Sir,

With reference to the appointment of Mr de Winton, Superintending Engineer Sub Pro tem (owing to my deputation) to the post of acting Chief Engineer, in which post I presume it is proposed to confirm him when Colonel. Campbell R. E retires, I have the honour to Submit that the Government has not the power to make the appointment for the following reasons

1) The appointment is against the whole tenour of the India

India Code rules by which this Government is bound. It is true that the lists directed to be prepared of Executive Engineers 1st grade fit for promotion to Superintending Engineer and of Superintending Engineers (i.e. permanent Superintending Engineers) fit for promotion to Chief Engineer have not to be submitted to the Government of India but this Government is all the same bound by those rules and takes the place, as it were, of the Government of India. The rules were published and circulated in the Department by G.O. No 822.W dated 19th March 1889 and were alluded to and emphasised in G.O. No 1550.W dated 23rd June 1894. As these orders have not been withdrawn by this Government, it is clear that the Government is bound by the India Code Rules.

Mr de Winton as a

Superintending

Superintending Engineer Sub Pro tem. cannot under the rules be placed in the list of Superintending Engineers fit for promotion to Chief Engineers and until he is so placed he is not eligible as a Chief Engineer, as he still remains in the list of Executive Engineers till he has been confirmed as a Superintending Engineer. On my return to circle charge on December 14th, Mr de Winton reverts to his substantive appointment as Executive Engineer, I grade and is therefore afortiori still less eligible for the post of Chief Engineer.

2) Mr de Winton owes his Sub pro tem step to the fact that I was placed on deputation and if it had not been for this, his name would not even have been mentioned in connection with the vacant appointment of Chief Engineer. I beg to submit that such

a

a method of appointment and supersession is not permissible under any rules whatever.

3) If this Government were really of opinion that not one of its six permanent Superintending Engineers were competent or fit they were bound under the orders of the Government of India to apply to them for a Senior officer from some other Province to take the place of the Chief Engineer in this and not to supersede all its Senior officers by a junior, who is after all only an Executive Engineer, I grade. This is a clear case in which the orders of the Government of India dealing with such cases are applicable.

2. + Under these circumstances, I venture to ask that the appointment of Mr de Winton may be cancelled, and that the appointment may be given in the usual course.

The

-7R 1-11-97.

The only thing I ask is that I may not be superseded in the process.

3. I of course reserve to myself the right of appealing to the Government of India in case this Government refuses to cancel the appointment of Mr de Winton, on the merits of the case as well as on the points raised above. I have reason to believe that certain claims of mine, not to the Special appointment in question, but to non-supersession have been overlooked.

I have the honour to be,
Sir
your most obedient Servant

Col RE
Superintending Engineer
on Special duty.

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No 755

Office of Superintending Engineer
Cauvery Completion Estimate
Kumbakonum dated 9th October 1897
Despd 10th

From

Colonel. A. W. Smart R. E
Superintending Engineer
on Special Duty
Tanjore.

To

The Chief Engineer
General Buildings Branch
Madras

Sir,

With reference to my letter No 730 dated 2nd October 1897, I have the honour to ask that the letter I now write may be substituted for it and placed before the Governor in Council for their orders.

Cl 9895
Endt (Memo No. 1607 D 27·10·97)

I have the honour to be
Sir
Your most obedient Servt
A. W. Smart Col R.E
Superintending Engineer
On Special Duty

9895

-7R 1-11-97.

14

Public Works (1897) Department.

CURRENT No. 10051

Order

From

Col. A. W. Smart R.E.
Superintending Engineer
on Special Duty
Tanjore

No. 756

Dated 10th October 1897.

Received 11.10.97

Enclosures

Spare copies

SUBJECT.

Informs that this Government is bound by the India Code rules and requests to submit his letter No 754/9.10.97 and this before the Governor in Council for orders.

0L5543

-7R 1-11-97.

BACK PAPERS.

G.O.	No.	Department.	Date.
	1550	W Ry	23-6-94
	823	W.	19-3-89
	1607	D	7-10-97
	3966	W	19-11-88
	3445	W	30-10-88

FURTHER PAPERS.

G.O.	No.	Department.	Date.

16

No 756

Office of Superintending Engineer
Cauvery Completion Estimate
Tanjore 10th October 1897.

From

Colonel A. W. Smart R.E.
Superintending Engineer
on Special Duty
Tanjore.

To

The Chief Engineer
General Buildings Branch
Madras.

Sir,

D abstract [illegible] recd yet.
[illegible]

With reference to your No 1607 d. dated 7th October 1897, I have the honour to state that you are mistaken in thinking that this Government is not bound by India Code Rules. The orders of 1889 and 1894 quoted in my No 754 dated 9th Instant, have not been withdrawn from the Department and no matter what the nature of the communication between this and the India Government that you allude to, this Government is

bound

17

bound by the Code rules until they withdraw them. I request, therefore, that this letter and my No 754 dated 9th October 1897 may be at once placed before the Governor in Council for orders.

I have the honour to be
Sir
your most obedient Servt
Col RE
Superintending Engineer
on Special Duty

21

[43/504]

Public Works DEPARTMENT.

C. Nos. 10,050 and 10,051 and letter from the Suptg. Engineer, VI Circle, No. 1869 T. C. dated 12th October 1897.

HIS EXCELLENCY THE GOVERNOR.
THE HON'BLE SIR HENRY BLISS, K.C.I.E.
THE HON'BLE MR. GROSE, C.I.E.

SUBJECT.

Protests against the promotion of Mr. deWinton to the rank of Chief Engineer.

FOR ORDERS.

Mr. deWinton's promotion

These protests are based on the assumption that the Government has not power under the rules of the Public Works Department to promote an officer holding the substantive rank of Executive Engineer, 1st grade, to ~~that~~ the rank of Chief Engineer ~~(Departmental rank)~~.

2. Attention is invited to the fact that the expression "Chief Engineer" has two meanings:-

First: It is a grade in the Department, divided into three classes, 1st, 2nd and 3rd, and

Secondly: It is an administrative office, the holder of which is the head of the Public Works Department.

3. In this correspondence, the appointment of the office of "Secretary" is not impugned. It thus seems to be admitted that any officer, whatever his Departmental rank, can be appointed to hold this office. The only question

therefore

2. The Rules which bo are contained in Govt of India P. W. Code Vol. I Chap I Para 80.
Rule 1. directs that recommendations should be made annually of those Ex Engrs 1st grade whom ~~the local Govt~~ considered fit for promotion to Supdg Engrs.
Rule 6 directs that similar recommendations should be furnished of officers who are already S. Es in regard to their fitness

therefore, is whether it is within the power of the Government of India, or as regards the Madras Presidency, of the Local Government, × to promote an Executive Engineer, 1st grade, to the Chief Engineer class.

5 4. It is however clearly laid down in para 78 of Chapter I, Volume I of the P.W. Code, that in the selection of officers for permanent promotion, seniority is not in itself a sufficient ground on which to base a claim, and that no one is to be brought forward, who is not "decidedly deserving of promotion on the ground of good service, the convenience of the Public Service being paramount to all other considerations".

5. It has now to be considered whether the wording of para 80 of the same Chapter of the Code limits the principle enunciated in para 78 in such manner that an Executive Engineer of the 1st grade is wholly barred from promotion to the class of Chief Engineer.

6. This is a matter for the consideration of Government, and in arriving at a decision, it may be well to take into account the intentions of the Government of India as expressed in their Observations preliminary to the introduction of the existing Code rules. These will be found in the Government of India Resolution * No. 2591G. dated 6th October 1888. It will be seen that

* (Flagged B.)

× ~~vide India's letter No 3134 G d/ 6 Dec 88. Flag G~~ for promotion to the post of Chief Engineer.

3. The Govt of India P.W. Code has adopted by the Govt of Madras in 1892 - vide G.O. No 6 W. dated 4 Jan 92, & it was therein stated that the procedure of the Govt of India wd be adopted in all cases where there is not a distinct practical reason against it.

4 The protesting officers claim that the Rules above quoted imply that only an officer who is already an S.E. can be promoted to the rank of C.E. & as Mr de W's substantive rank was only Ex. Eng. 1st grade. he was ineligible for such promotion

that the intention is that for promotion to the "higher posts" of the Department, in which category that of Chief Engineer is included, only one roster containing the names of Executive Engineers, 1st grade, is prescribed. It thus seems evident that when an officer is selected for this roster, he is thereby eligible for promotion to any of the "higher posts" of the Department. So far as can be judged, there is nothing whatever in the Code rules quoted by Colonels Smart and Boddy, which directly negatives this position.

7. It may be added, ~~though not perhaps material to the present argument~~, that Mr. deWinton's promotion was actually made from the rank of S.E. sub. pro tem., and that he has been R.S. acting as a S.E. from Dec. 1895 W.

C.W. 14-10-97.

15-10-97

18

Clw 10050, 10051 &

W

~~C.A.W.~~

3061W

3-11-97

[illegible]

The written instructions do not warrant any papers being sent to H.E.'s camp. But in the Chief Secretariat urgent papers are, it is understood, sent to H.E.'s camp.

For orders.

15.10.97

15 Oct 97.

Send this to camp

16.10.97

No 16071 D 7/10/89

I think Col. Herbert
may be informed that the
whole number being 80 is
not sufficient to [illegible]
under Lord [illegible] letter to
[illegible]. Any changes as is
not considered advisable to take
the matter to the [illegible]
[illegible] to Col. Herbert
to apply of the [illegible]
Col. Herbert's argument is clear
as the numbers [illegible] from
[illegible] to the S. S.
[illegible] & [illegible] considerable
[illegible] S. S. [illegible]
& in [illegible] [illegible] to be
considered with other [illegible]
[illegible] Col. [illegible]

5/10/89

W

Colonel Savart's letter
No. 730 of 2 Oct 97

It is submitted that the paras of the Code quoted do not restrict the action of the Govt. in the manner contended for, and that the Govt. is not bound to make any reference to the Govt. of India at the mere request of any officer.

If any officer considers he has a personal grievance, he can appeal by petition.

Para 78. Chap I. Vol I of the Code is more directly applicable to the present case.

Moreover, the rules under para 80 are not wholly applicable to Madras. vide India's letter flagged W

R. S.
5 Oct 97