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MADRAS RECORD OFFICE.

Government of Madras.

Pension DEPARTMENT.

G.O. No.	733	Press ~~Mis.~~
Dated	25-11-	1876.

Not to be folded or roughly handled

PENSION DEPARTMENT.

Pensions and Gratuities.

No. 733.

FROM

THE SECRETARY TO THE GOVERNMENT OF
FORT ST. GEORGE,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
FINANCIAL DEPARTMENT.

SIR,

With reference to your Under-Secretary's letter of the 17th July 1876, No. 1565, I am directed to submit the following circumstances for the consideration and orders of the Government of India.

2. In this letter, the Madras Government are informed, in reply to a reference made on the subject, "that a compensation pensioner who has been re-employed is not entitled to a separate pension or gratuity for his subsequent service," and it is observed "that the ruling in Financial Department's Notification, No. 2789, dated 2nd December 1875, is not a new ruling. Before the date of that notification there was no rule by which a compensation pensioner re-employed could be allowed gratuity or pension for the second stage of service, and the notification in question merely affirmed a practice which was already in force."

Section 91 of the Pension Code runs thus: "An officer who has obtained a *compensation gratuity*, if re-employed in qualifying service, may either retain the gratuity, in which case his former service will not count for future pension or gratuity, or he may refund it and count his former service."

Section 92: "An officer who has obtained *compensation pension*, if re-employed, may retain his pension in addition to his pay provided that the sum total shall not exceed the pay of the appointment upon abolition of which the pension was given. If his re-employment is in qualifying service he may either retain his pension (subject to the proviso above stated) in which case his former service will *not* count for future pension or he may cease to draw any part of his pension and count his previous service. Pension intermediately drawn need not be refunded."

The notification of the Government of India of the 2nd December 1875, No. 2789, is to the effect that "An officer who having been discharged with a pension or gratuity if subsequently re-employed may under no circumstances count his new service for a separate pension or gratuity."

3. I am directed to submit that, so far as regards this Presidency, this notification is virtually a new ruling, and that if its provisions are enforced, without at least giving such Government servants, who may be affected by it, the opportunity of rectifying their position taken under a misconception of the rules, much hardship must ensue. It has been the general impression in the Madras Presidency that, under Sections 91 and 92, an officer was at liberty to refund his gratuity or abandon his pension or not. If he did not refund his gratuity or abandon his pension then the only consequence was that he could not count the previous service, but that he would be entitled to either a second pension or gratuity as the case might be for his subsequent service taken by itself. It is true the Code does not make special provision for such cases, but the natural interpretation of the words in Section 91 "in which case his former service will not count for future pension or gratuity" would be, as this Government read it, that subsequent service would count by itself.

4. It is observed that the letter of the Government of India (17th July 1876) refers only to compensation pensioners, but the notification of 2nd December includes receivers of gratuities as well. As the case now stands a man may, for example, have served Government for twelve years, then been discharged with a compensation gratuity, have been again employed and served Government for (say) twelve years. Under the ruling of the Government of India, if he failed to refund the gratuity for the first service, he would be entitled to neither pension nor gratuity for the latter service.

5. As it is understood that there are servants of Government who would be injuriously affected by this rule, I am instructed to request that the Government of India will be pleased to modify the notification of 2nd December 1875 in the case of receivers of gratuities, or to give them the option of refunding; and in the case of pensioners that they may cease to draw their pensions, if they find it their interest to do so.

6. I am directed to add that in 1869 persons affected by Notification, Government of India, 8th September 1869, were permitted to refund their gratuities and three months' time was allowed. This notification provided that no receiver of gratuity could regain the service for which he had received gratuity unless he refunded the gratuity at once on re-employment. It is, however, observed that this notification is silent as to subsequent service not counting by itself for pension or gratuity.

7. The practice in this Presidency hitherto has been to allow persons who have received a compensation gratuity but who had not refunded that gratuity on re-employment, a further gratuity for the second stage of their service. In 1869 the Government of India sanctioned gratuity for the second stage of service

in the case of Panduranga Row, late Assistant Superintendent in the Salt Department, in South Canara. Again

in 1867 the Order of Government in the case of Custoor Rungiah Naidu, under

which pension had been allowed for second service independent of the first

for which gratuity had been paid was

not objected to on this ground. In fact as far as this particular case is concerned, the decision was pronounced quite correct.

I have the honor to be,
Sir,

Your most obedient servant,

FORT ST. GEORGE,
25th November 1876.

Secretary to Government.

Ed. J. Wright.

1876.

FINANCIAL DEPARTMENT.

From
The Secretary to Government,
Port St. George,
To
The Secretary to the Govt. of India,
Financial Department.

Dated 25th November 1876.

Issued

Recd.

No. 733.

Enclosure.

Pensions and Gratuities.—Requesting that the Government of India will modify their notification of 2nd December 1875, as regards its operation with reference to the recipients of gratuities or pensions in the Madras Presidency.

Rules for Orders

The following memorandum relates to the case of Officers who under Sec 91 & 92 of the Code, having received either compensation pensions or gratuities, have been again employed in the Gov. Service, but have continued to draw their pension, under Sec 92, - (the sum total of the pension & salary of the new appointment being less than the pay of the appointment upon abolition of which pension was given) - or have failed to refund their gratuities -

Section 91 reads. "An Officer who has obtained a compensation gratuity, if re-employed in qualifying service, may either retain the gratuity, in which case his former service will not count for future pension or gratuity, or he may refund it and count his former service." - The

Sec 92 - "An Officer who has obtained compensation pension, if re-employed, may retain his pension in addition to his pay, provided that the sum total shall not exceed the pay ~~the pay~~ of the appointment upon abolition of which the pension was given. If his re-employment is in qualifying service,

he may either retain his pension (subject to the proviso above stated) in which case his former service will count for future pension, or he may cease to draw any part of his pension and count his previous service - Pension intermediately drawn need not be refunded."

On 2 Dec 75 - the Gov. of India issued a Notification to effect that "an Officer who having been discharged with a pension or gratuity if subsequently re-employed may, under no circumstances, count his new service for a separate pension or gratuity."

In April last the Asst. General raised the question whether an officer who on re-employment had continued to draw his pension, but who had retired prior to the issue of this Notification, might be held entitled to gratuity for his subsequent service - also the general question whether this Notification was to apply to officers already re-employed or only to such as should re-enter Gov. Service after the date of its issue.

The questions raised were referred to the Gov. of India. They reply

that "a compensation pensioner who has been re-employed is not entitled to a separate pension or gratuity for

Leton printed with
Proc. Gov. 9th May 76
No 277.

his subsequent service" - also that "there was no rule by which a compensation pensioner re-employed could be allowed gratuity or pension for the second stage of service" & further that the Notification above referred to was no new ruling.

It is however submitted that the Notification of the 2nd Dec. is virtually a new ruling, at least as regards this Pensionary - and that if its provisions are enforced, without at least giving such Gov. servants, who may be expected to take this position taken by it, the opportunity of rectifying, ^{their position taken} under the misconception of the rules, such hardship must ensue - It seems to have been a general impression that under Sec 81 & 82, an officer was at liberty to refund his gratuity or abandon his pension or not - If he did not refund or abandon, then the only consequence was that he could not count the previous service - but that he would be entitled to either a second pension or gratuity as the case might be for his subsequent service taken by itself - It is true the Code does not make special provision for such cases, but the natural interpretation of the words in Sec 81 - "in which case his former

Service will not count for future pension or gratuity" would be that subsequent service would count by itself --

It is true ^{also} that the letter of the Govt of 2 Dec (17 Aug 76) - refers only to compensatory pensioners, but the Notification of 2 Dec. - includes recipients of gratuities as well -

as the case now stands a man may have served Govt for 12 years - then ^{being} discharged into a compensatory gratuity - again employed & served Govt for say 20 years - but - under the ruling of the Govt. of India, if he failed to refund the gratuity for the first service, he would be entitled to neither pension nor gratuity for the latter.

It is understood that there are many instances of Govt. who would be injuriously affected by this rule - It is therefore submitted that application

be made to the Govt. India, either to

modify the Notification of 2 Dec. in the case of recipients of gratuities, - or to give them the option of refunding - in the case of pensioners to allow them to draw their pensions, if they find it is better suited to do so.

G.O. No. 1061

In 1869, persons affected by Notification G.O. S. 8. 54. 69. were permitted to refund their gratuities, & 3 months time was allowed - This Notification provided that no ^{refusal} of gratuity could again

the service for which he had received gratuity - unless he refunded the gratuity at once

a new employment - It is desired that this Notification is silent as to subsequent service not counting by itself for pension or gratuity

Service in the absence of full employment

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Indian DEPARTMENT.

No. 733.

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,

Financial DEPARTMENT.

SIR,

With reference to your Under Secretary's letter of the 17th July 1896 No. 1565 I am directed to submit the following circumstances for the consideration and orders of the Government of India.

2. In this letter, the Madras Government are informed, in reply to a reference made on the subject, that a compensation pensioner who has been re-employed "is not entitled to a separate pension or gratuity for his subsequent service" and it is observed that the ruling in "Financial Department's Notification" No. 2789 dated 2nd December 1895 is not a new ruling. Before the

"the date of that notification
"there was no rule by which
"a Compensation pensioner
"re-employed could be allowed
"gratuity or pension for the
"Second stage of service, and
"the Notification in question
"merely affirmed a practice
"which was already in force."

Section 91 of the
Pension Code runs thus - "An
officer who has obtained a
Compensation gratuity, if
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or he may refund it and count
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Section 92. "An
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2 11
pension in addition to his
pay provided that the sum
total shall not exceed the
pay of the appointment up to
abolition of which the pension
was given. If his reemploy-
ment is in qualifying service
he may either retain his
pension / subject to the provisions
above stated / in which case
his former service will not
count for future pension or
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previous service. Pension
intermediately drawn need
not be refunded."

The Notification of
the Government of India of the
23 December 1875 No. 2789 is to
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with a pension or gratuity if
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been a general impression in
the Madras Presidency that
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abandon his pension or not.
If he did not refund ^{his gratuity}, or
abandon ^{his pension}, then the only
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for example

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5. As it is understood that
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625
of Pensioners that they may
be free to draw their pensions,
if they find it their interest
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5. I am directed to add
that in 1869 ~~Government~~
~~Notification~~ persons affected by
Notification Government of
India 8th September 1869 were
permitted to refund their
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of their service. In 1869 the
Government of India
sanctioned gratuity for the
second stage of service in
the case of Panduranga
Row late Assistant
Superintendent in the Salt
Department in South Canara
again in 1867 the order
of Govt. in the case of
Customs Revenue
Naidu, - ~~was held to~~
~~have been properly~~
~~correct, but he has~~
~~been employed after Sept.~~
~~1862 and under these~~
~~which~~ other persons had been
allowed for 12 months
twice independent
of the first for which
gratuity had been paid

Letter to the Govt of India
dated 15th September 1869 No 434
Letter from the Govt of India
dated 15th October 1869 No 4122.

Letter Govt. India No 252
16th August 1867

Letter Govt. India No 2116
8th April 1868

was not decided to be
this ground - In fact as
per in this particular case
(in which) the decision was
pronounced to be correct

Fort St. George
25 November 1876

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24/11/76

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No. 7324/333
Department (1876.) DEPARTMENT.

The Secretary to the
Government of India
General Department.

Dated 25th Nov 1876.

Regarding that
the Govt. of India will
sanction their application
of 27th Dec 1876. as
regards its operations
will be referred to the
responsibility of the
as Secretary in the
Chamber of Commerce.

Forwards print