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MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.	<i>375</i>	Press Mis.
Dated	<i>19-7-</i>	<i>18 77.</i>

Not to be folded or roughly handled

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1✓
GOVERNMENT OF MADRAS.

PENSION DEPARTMENT.

19th July 1877, No. 375.

Pension.

Read the following paper:—

*From E. J. SINKINSON, Esq., Officiating Under Secretary to the Government of India,
Financial Department, to the Secretary to Government, Pension Department,
dated Simla, 30th June 1877, No. 1555.*

In reply to your letter, No. 733, dated 25th November 1876, I am directed to refer you to Notification, No. 1609, dated 29th June 1877, published at page 335 of Part I of the *Gazette of India* of this day. The Government of Madras can apply the revised rule to the cases to which you allude.

ORDER THEREON, 19th July 1877, No. 375.

Communicated to the Accountant-General in continuation of G.O. in this Department, dated 25th November 1876, No. 732, together with a copy of this Government letter to Government of India, dated 25th November 1876, No. 733.

(True Extract.)

Acting Under Secy. to Govt.

To the Accountant-General.

Exd. J. Wright.

The 2nd December 1875.

"6. Saving as provided in Rules 1 and 2, an Officer who, having been discharged with a pension or gratuity, is subsequently re-employed, may, under no circumstances, count his new service for a separate pension or gratuity. If pension or gratuity is admissible at all in respect to such new service, it is admissible only for the new service combined with the old, the whole being counted as one service."

GOVERNMENT OF MADRAS.

PENSION DEPARTMENT.

9th May 1876, No. 277.

Pensions.

Read the following papers :—

From E. RULE, Esq., Officiating Accountant-General, to the Hon. W. HUDLESTON,
Chief Secretary to Government, dated Fort St. George, 4th April 1876,
No. 11.

Audit Department.

I have the honor to submit for the consideration of Government the case of a Clerk of my establishment who was lately removed from service owing to old age and infirmity. He is a Compensation Pensioner discharged on reduction of establishment in 1866. On his re-employment in 1869 he was allowed to retain his pension as his pay with pension did not exceed the pay of the appointment on the abolition of which he was pensioned. His second service in qualifying grades amounts to six years, for which he claims a gratuity irrespective of the pension he is drawing for his former service. As I am uncertain whether this claim is admissible, Section 92 of the Civil Pension Code not being explicit on the point that a Compensation Pensioner can be allowed a gratuity for any subsequent service, I request that a reference may be made to the Government of India on the subject.

2. Rule 6 at the end of Chapter XX it is thought does not apply to the case of this individual inasmuch as he had retired before the promulgation of that ruling on the 2nd December 1875.

3. I have also to request orders as to whether Rule 6 above alluded to is to be held applicable to all servants that may retire subsequent to its promulgation though they re-entered Government service previously, or to such only as may thereafter be re-employed in qualifying grades.

No. 247.

It is observed that nothing can be done in the case of this man until a formal application for gratuity is before Government; on the receipt of such the questions raised by the Officiating Accountant-General can be disposed of.

OOTACAMUND,
20th April 1876.

(Signed) H. B. GRIGG,
Acting Under Secy. to Govt.

No. 40.

Report of the Accountant-General.

Certified that service in superior grades has been duly proved for six years, four months, and six days; and that a superannuation gratuity not exceeding Rupees 150, equal to six months' pay, will be admissible under Section 57 of the Civil Pension

Code (the calculations have been duly verified) should the Government of India declare that this case falls under Section 92 of the Code. This application is submitted with reference to G.O., No. 247, of the 20th instant, and the attention of Government is respectfully solicited to this office letter, No. 11, of the 4th idem.

FORT ST. GEORGE,
22nd April 1876.

(Signed) E. RULE,
Officiating Accountant-General.

ORDER THEREON, 9th May 1876, No. 277.

The questions put by the Accountant-General will be submitted as suggested for the decision of the Government of India.

(True Extract.)

H. B. GRIGG,
Acting Under Secy. to Govt.

To the Accountant-General.

Exd. J. Wright.

Pensions.

PENSION DEPARTMENT.

No. 278.

FROM

THE HON. D. F. CARMICHAEL,
Secretary to the Government of Fort St. George,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,
FINANCIAL DEPARTMENT.

Sir,

As suggested by the Accountant-General, copy of whose letter* is appended,

I am directed to submit for the decision

* Procs., dated 9th May 1876, No. 277. of the Government of India the ques-

tion: whether, a Compensation Pensioner who has been re-employed, and who retires on superannuation before the Ruling of the 2nd December last was promulgated— can be allowed a gratuity for his subsequent service.

I have the honor to be,

Sir,

Your most obedient servant,

OOTACAMUND,
9th May 1876.

Secretary to Government.

Exd. T. O'Connor.

Obdt. of 1876 *Exd. T. O'Connor.*

PENSION.

To

THE ACCOUNTANT-GENERAL.

Dated May 9th.

Issued

Recd.

G.O., 9th May 1876, No. 277.

Encl.

MAY.

Pensions.—Intimating that the question of a Compensation Pensioner who has been re-employed being allowed a gratuity for his subsequent service will be submitted for the decision of the Government of India.

1876.
FINANCIAL DEPARTMENT.

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

Dated 9th May 1876.

Issued

Recd.

No. 278.

Enclosure

Pensions.—Inquiring whether a Compensation Pensioner, who has been re-employed, can be allowed a gratuity for his subsequent service.

Proceedings of the Madras Government, Pension Department,
25th November 1876. No. 732.

Pensions and Gratuities.

Read again Proceedings of Government, Pension Department, dated 9th May 1876, Nos. 277 and 278.

Read also the following letter from D. BARBOUR, Esq., Under Secretary to the Government of India, Financial Department, to the Secretary to the Government of Madras, Pension Department, dated Simla, 17th July 1876, No. 1565:—

In reply to your letter, No. 278, dated 9th May 1876, I am directed to state that a compensation pensioner who has been re-employed is not entitled to a separate pension or gratuity for his subsequent service.

2. I am to observe 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.

Copy forwarded to the Accountant-General, Madras.

No. 98. ORDER THEREON, 25th November 1876, No. 732.

Communicated to the Accountant-General, with reference to G.O., dated 9th May 1876, No. 277. The Accountant-General is informed that a special reference has been made to the Government of India on the subject.

(True Extract.)

Ag. Under Secy. to Govt.

To the Accountant-General.

Exd. J. Wright.

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."

Oct. 11 1876

PENSION.

To
THE ACCOUNTANT-GENERAL.

Dated November, 25th.

Issued

Recd.

G.O., 25th November 1876, No. 732.

NOVEMBER

Pensions and Gratuities.—Communicating the letter from the Government of India stating that a compensation pensioner who has been re-employed is not entitled to a separate pension or gratuity for his subsequent service, and observing that the ruling in Financial Notification, No. 2789, of the 2nd December 1875, is not a new ruling, and he informed that a further reference has been made to Government of India on the subject.

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

Letter to the Government of India, dated 18th September 1869, No. 434.
Letter from the Government of India, dated 15th October 1869, No. 4122.

Letter to Government of India, No. 252, 16th August 1867.
Letter from Government of India, No. 2116, 8th April 1868.

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.

Exd. J. Wright.

1876.

FINANCIAL DEPARTMENT.

From
The Secretary to Government,
Fort 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.

Recd. Nov 29. 1876. 11/11/76

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PENSIONS, GRATUITIES, &c.

Simla, the 29th June 1877.

No. 1609.—The Governor-General in Council directs the publication of the following Addenda and Corrigenda to the Codes of the Financial Department:—

CIVIL PENSION CODE.

SUPPLEMENT C.

SECTION 3, RULE 3 (PAGE 106).

Add the following:—

"A Chaplain of the Church of Scotland serving in the Bengal Presidency, who wishes to obtain pension from the authorities in India, must submit his application to the Government of India in the Home Department, if he is not Senior Chaplain, through the Senior Chaplain of the Church of Scotland. A Chaplain of the Church of Scotland serving in Madras or Bombay must submit his application to the Government of Madras or Bombay, as the case may be, if he is not Senior Chaplain, through the Senior Chaplain of his Presidency."

RULE 7 (PAGE 55).

Substitute the following for this Rule:—

7. Except as provided in Rules 1, 2, and 3, an officer who, having been discharged with a pension or gratuity, is subsequently re-employed, may not count his new service for a separate pension or gratuity. Pension or gratuity is in any case admissible only for the new service combined with the old, the whole being counted as one service. Provided, however, that if a gratuity received for the earlier service has not been refunded, gratuity for the subsequent service on condition that the amount of such gratuity, or the present value of such pension calculated according to Table A in Appendix E, plus the amount of the previous gratuity, shall not exceed the amount of gratuity, or the present value of the pension calculated according to Table A in Appendix E, that would have been admissible had the gratuity received for the earlier service been refunded. If the amount of such gratuity, or the present value of such pension, plus the amount of the previous gratuity, exceeds the amount of gratuity, or the present value of the pension that would have been admissible if the gratuity received for the earlier service had been refunded, the excess must be disallowed.

Examples to the Proviso:—

1. A. B., after a service of eight years, received a gratuity of Rupees 4,800. A. B. was re-employed but did not refund the gratuity. After serving for five years, A. B. becomes eligible for an invalid gratuity of Rupees 3,000. If A. B. had refunded the gratuity for the earlier service, he would have been entitled to a gratuity of Rupees 7,200. As the gratuity admissible for the new service, plus the gratuity received for the earlier service, exceeds the gratuity which would have been admissible to A. B. if the gratuity had been refunded, A. B. is

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No. 1555

GOVERNMENT OF INDIA.

FINANCIAL DEPARTMENT.

To THE Secretary to the Government of Pension Department

Simla, the 30th June 1877.

SIR,

In reply to your letter No. 733, dated 25th Novr 1876, I am directed to refer you to Notification No. 1609, dated 29th June 1877, published at page 335 of Part I of the Gazette of India of this day. The Government of Madras can apply to revised rule to the cases to which you allude—

I have the honor to be,

SIR,

Your most obedient Servant,

J. J. Munro

As Under Secretary to the Govt. of India.

recd
29/6

Form B.O. 28: Nov 1876 No 7328
733.

Received 1877 Dep't of

from
The Offg: Under Secy the
Genl: of the
Ind. Dept
J. 1875

Index 30 June 1877
Recd 13 July 1877

Referring to notice
entire No 1609 dated 29th
June 1877 published
at page 335 of Road I
of the Gazette of India
the Genl: of the Ind. Dept
and apply the same
rule to the cases to
which they relate.

Not

Order No 19 July 1877 No 375.

Communicated to the
Accountant General in continuation
of B. O. in this department dated 29th
November 1876 No 7322. - together
with a copy of the Ind. Dept. 25th Nov. 76-73

WCC

To the Accountant General
the order of B. O. No 7322 of 15th Nov 76

V. Chetty
Govt. of 1877 Madras.

PENSION.

To

The Accountant General

Dated

19th July 1877

Despd.

24th July

G.O.,

19th July 1877, No. 375.

Nos.

Letter from the Govt.
of India, referring to
Notification No. 1609
of 29th June 1877 pub.
lished at page 335 of
Part I of the Gazette
of India, Communica-
ted.