

(1) Number of pages 10(2) Date of repair 19-6-41(3) Initials of the Referencer Q

MADRAS RECORD OFFICE.

Government of Madras.

Pension DEPARTMENT.

G.O. No.

386Press
~~Mis.~~

Dated

24-7-

1877.

Not to be folded or roughly handled*Q*

GOVERNMENT OF MADRAS.

PENSION DEPARTMENT.

24th July 1877, No. 386.

Pension.

Read again—

Proceedings of Government, in the Pension Department, dated 28th June 1877, No. 337.

Read also the following paper :—

From L. C. PROBYN, Esq., Accountant-General, to the Chief Secretary to Government, dated Fort St. George, 11th July 1877, No. 413.

Audit Department.

With reference to the second paragraph of G.O., dated 28th June 1877, No. 337, Pension Department, I have the honor to request that His Grace the Governor in Council will be pleased to submit for the confirmation of the Government of India this ruling, as the Civil Pension Code does not admit of Serjeant Boyle reckoning as service towards pension the period during which he was out of employ.

2. If it had been determined to retain him in the service, on receipt of the report of the Medical Committee, there would of course have been no difficulty.

3. It may, perhaps, be possible to give him leave with retrospective effect and so to avoid the penalty which would otherwise be caused by the break in the continuity of his service. In this case, however, the period of leave itself would not count for pension.

ORDER THEREON, 24th July 1877, No. 386.

His Grace the Governor in Council resolves to maintain G.O., No. 337, dated 28th June 1877, intact.

2. The intention of Government is to neutralize the action in the Police Department in this case, and to replace Serjeant Boyle exactly in his former position, and to secure to him his full allowances for the period he was prejudicially affected by the permission accorded by Government for the submission of his application for pension. Serjeant Boyle had done nothing to justify dismissal, and cannot be punished by loss of pay for an official error. The Government have power to cancel orders passed under a misapprehension without reference to a higher authority, and are not concluded by the act of their officers in a matter which required their sanction.

(True Extract.)

Acting Under Secy. to Govt.

To the Accountant-General.

„ Inspector-General of Police.

„ Surgeon-General, Indian Medical Department.

Exd. J. Wright.

Audit DEPARTMENT.

No. 413

Fort Saint George,
Accountant General's Office,

11th July 1877.

FROM THE ACCOUNTANT GENERAL
TO THE GOVERNMENT OF MADRAS,

TO THE *Chief Secretary*
to Government
Pension Department.

SIR,

With reference to the second para of G.O.
dated 28th June 1877 No 337 Pension Depart.
I have the honor to request that His Grace the
Governor in Council will be pleased to submit
for the confirmation of the Government of India
this ruling as the Civil Pension Code does
not admit of Sergeant Boyle reckoning as
service towards pension the period during which
he was out of employ.

If it had been determined to retain him
in the service, on receipt of the report of the medi-
cal Committee, there would of course have been no
difficulty.

It may perhaps be possible to give
him leave with retrospective effect and so to avoid
the penalty which would otherwise be caused by the
break in the continuity of his service. In this case
however the period of leave itself would not count
for pension.

I have the honor to be

Sir
Yours obedient servant

W. B. Boyle
Accountant General

Chief Secy

Obdt. of 118771 Madras.

PENSION.

To
THE ACCOUNTANT GENERAL,

Ac.,

Ac.,

Ac.

Dated July, 24th.

Issued

Recd.

Encl.

G.O., 24th July 1877, No. 386.

JULY.

Pension. — Resolving to maintain intact G.O.
No. 387, dated 28th June 1877, respecting the
reinstatement of Sergeant J. Boyle in the Madras
Town Police Force.

Letter for the Act. Genl.
11th July 1877

Not say that the instructions
of the G.O. is to neutralize
the action of the Police Dept.
in this case. & to replace
Boyle exactly in his former
position. adding that
the Govt. cannot admit
that they are concluded
by the acts of their officers
in a matter that required
their discretion. Loff.

the Act. Genl. refers to the
final para of No 28th June 77
No 337, in the case of
Sergeant Boyle, & requests
that it may be referred to
the G.O.

It is submitted that the
order should be maintained
No. 15th March 1877 No 700
directed that Sergeant-
Boyle should be removed
to the Pension list - as Govt.
could not place him on
the Pension rolls until his
application had been
submitted in due form.
his name was put in the
Act. Dy. - the order
was in effect that he
should not be in his
Pension papers - Govt.
has cancelled that order

I think that the proper
plan will be to let Boyle
leave Ser. R. without
suspension during
the time he was
out of employe but
in this case I am
2877 117

Done: 28th June 1877 21st 337

Witness 1877 Dependent
from
The Accountant General
Charles
To
The Chief Secretary
to Government
Pension Dept.

Dated July 11th 1877
Recd. - 13th 1877

No 413

Regarding to submit
for the confirmation of the
Government of India the
being referred to in the
2nd para of G.O. No 337
dated 28th June 1877, in
the case of Sergeant Boyle.
O No. 386 of 1877

as its high ^{but} ~~that~~
the man is fit for service
& no longer liable of pecuniary
loss of app. &
lay until he is reinstated.
It is submitted that
Gov. have full power
to pass such an order
and to place him in
the position he held
in the public service before
it was passed & to see
that he does not suffer
from their action - This
right it is submitted,
they possess independently
of codes regulating
branches of administration.

If however it is held
that this is not a case
in which their power
should be exercised, then
it is submitted that under
Sec. 46 Public Code -
the time may be regarded

I think Sec. 46
is intended to
be used in such
cases as this
where the person
has been removed
from the service
and the Board
has the power
to restore him
to the service
without any
loss of pay for any
time he has been
absent - Gov. has
power to dismiss
him from service
but cannot be
compelled to do so
if he is satisfied
that the person
is fit to resume
his position.

* followed by his statement

as being passed under
suspension - in which case
unless it is adjudged as a
specific penalty of Gov.
it cannot be treated as such.

- To follow the course suggested
the Gov. is to make
the man suffer for the action
of Gov. - and to a fair
degree than necessary, as
with any official removal
the employment
of him is suspended.

It is much to be regretted
that if the
order of his removal is reported
in the public papers, then
the man is exposed to
the loss of his position as
significant continuing in
service until his pension is
granted.

Order thereon 24 July 1877
pp. 386.

his Grace the Lord in Council

resolves to maintain No.

No 537 - 28th June 1877, intact.

- The intention of Gov. is

to neutralize the action of

the Police Dept in this case

& to replace Mr. Brophy

exactly in his former position

& to secure to him his proper

full allowances for the

period, he was improperly

deprived of the permission

accorded to him for

the submission of his

application for pension.

Mr. Brophy had done

nothing to justify dismissal

and cannot be permitted

to lose pay for an

official error - The

Gov. have power to

cancel orders passed

under a misapprehension

without reference to

a higher authority, &

an act which is not

of their officers in
a matter which
required their
sanction

24.7.7

Ord. 19/7/77
R 24/7/77

To the Accountant General
" Encl. Genl. of Police
" Encl. Genl. of Police

6/11/77
G.O. of 1877 Madras.
PENSION.

To The Accountant Genl.

Dated 24th July 1877

Despd. 7th " " "

G.O. 24th July 1877, No. 386.
Nos.

Resolving to maintain
intact G.O. No. 337, dated
28th June 1877, in respect
-ing the re-instatement
of Sergeant J. Boyle
in the Madras Town
Police Force.

the Accountant Genl.
" Cash. Genl. of Police
" Surgeon Genl. & District Surg.

19/7/77
R 29/7/77