M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 273	Press ~~Mis.~~
171-172	
Dated 16-11-1869.	

Not to be folded or roughly handled

No. 171. Read the following Proceedings of the Madras Government in the Military Department, dated 25th October 1861:—

Read the following letter from Lieutenant-Colonel T. McGOUN, Controller of Military Finance, to Colonel H. MARSHALL, Secretary to Government, Military Department, dated Fort Saint George, 22nd October 1861, A.

SIR,

1. In returning the letter from pensioned Serjeant Clarke with its accompaniments, referred for my report on the 8th instant, I have the honor to state that Military Pensioners are assessed for Income Tax by the Examiners of the Pay Department under the same conditions as Effective Soldiers.

2. In the letter from the Government of India to the Officiating Military Auditor General, Calcutta, No. 82, dated 3rd August 1860, communicated with Order of Government, No. 2,971 of the 17th August 1860, it was stated that Military Pensioners were exempted from payment of Income Tax under Section 127 of Act XXXII of 1860, which exempts from payment of the tax all Officers and Soldiers who are not in receipt of the pay and allowances of a Captain of Infantry.

Supplement to "Fort Saint George Gazette," 7th September 1860, page 2.

3. By Act XXXIX of 1860, Clause 7, it was ruled that Section 127 of Act No. XXXII did not extend to Officers and Soldiers in Civil employment. It was considered that this ruling applied equally to Military Pensioners, who are stated to have been exempted because "a pensioned Soldier or "Sailor is still a Soldier or Sailor and as such "exempted by law," consequently all Military Pensioners who are in Civil employ under Government, have been required to pay Income Tax upon the whole of their receipts Pensioned Serjeant Clarke being employed in the office of the Inspector General of Ordnance and Magazines on a salary of Rupees 110 per mensem has no claim to exemption from payment of Income Tax, which would be levied from an Effective Soldier similarly employed.

Decision of the Governor General of India, No. 13, page 855, "Fort Saint George Gazette," 2nd November 1860.

4. The Pay Department has not considered itself justified in levying the tax upon any other Pensioners than those in the employ of Government, as it was presumed that the Civil Assessor would levy the tax from all in receipt of income from private sources.

Referred to the Revenue Department with the letter from pensioned Serjeant J. Clarke, for consideration and order.

(Signed) H. MARSHALL, Colonel,
Secretary to Government.

No. 172. ORDER THEREON, 16th November 1861, No. 2,173.

The Governor in Council is of opinion that the Controller of Military Finance has stated the case correctly as regards the liability of Pensioned Serjeant Clarke to pay Income Tax on his pension.

(Signed) C. G. MASTER,
Deputy Secretary to Government.

Madras 6th July 1861.

To

Captain G. Proudfoot

In charge of Payment of Pensions

in Fort St. George.

Sir

In the matter of a deduction of Rupees 12. 6 – Twelve and annas Six made from my retiring Pension of Rupees 30/ Thirty due to me for the month of May last past, I have to request you will be good enough to cause the same to be refunded to me – should you however be unable to do this on your own authority, I beg that this my protest against any deduction from my Retiring Pension on account of the Income Tax may be submitted to the proper authorities, or if needs be, to the local Executive Government.

There is no Individual that will yield more readily than myself to any deduction on account of the Income Tax or for any other purpose on behalf of Government, provided that such deduction is duly authorized by Legislative Enactment, but in the absence of such required authority I must very decidedly object to my being singled out for a deduction from my Military Pension which is not equally exacted from others receiving the same Pensions from Government. The ground on which I claim exemption from the Income Tax are as follows.

1st That while act No. XXXII of 1860 authorizes the deduction on account of Income Tax from Pensions and annuities payable to Commissioned Officers of the Army or Navy, no mention whatever is made therein for such payments from Pensions payable to non-commissioned officers and Privates.

2nd That deductions on account of Income Tax can I think

be made only by special assessors appointed by Local Government and I have yet to learn if this appointment has been conferred by the Local Government on the Officer incharge of the payment of Pensioners in Fort St. George.

3 That by the Resolutions of the Government of India in the Military Department No. 82 dated 8th August 1860 Military Pensioners are declared exempt from the Income Tax and this decision has been further confirmed by the orders of the Govr. Genl. of India in council declaring Military and Naval Pensioners to be exempt from the Income Tax "bylaw" See Fort St. George Gazette of 2nd November 1860 page 855.

I find it difficult to comprehend that after the ruling by the very highest authority in India that any Officer should on his responsibility authorize a deduction on account of Income Tax from my Military Pension to be made for the first time after the Income Tax act has been in operation for 11 Eleven months.

Irrespective of all I have advanced above I am informed that deductions on account of the Income Tax act are made from the Military Pensions of those persons only who hold other Employments under Government and not from those who receive equal and even higher salaries in other offices. This invidious distinction I feel confident was never contemplated by the Legislative council as it would be unjust and impolitic to levy a tax from a few Military Pensioners only which is not Exacted from others receiving the same Pensions from Govt. and who are in receipt of equal or higher salaries than those from whom such deductions are made.

I am
Sir
Your Obedient Servant
/Signed/ James Clark
Pensioned Serjeant.

No. 95

Office of Examiner Pay Department
Fort Saint George 16th August 1861.

From

Major I. Stewart
1st Examiner Pay Department

To

Colonel W. P. Macdonald
Paymaster Presidency

Sir

In returning the correspondence noted in the Margin received with your Letter No. 5480 of the 9 Instant, relative to the levy of Income Tax on the Pension of Pensioned Serjeant Jas Clark now employed as a clerk in the office of the Inspector General of ordnance and Magazines I have the honor to acquaint you that the Pensions of all Military Pensioners in the Civil employ of Government are considered liable to Income Tax as is fully explained in my letter to your address No. 122 under date the 10th April last.

I have the honor to be
Sir
Your Most Obedient Servant
/Signed/ I. Stewart Major
1st Examiner Pay Department.

Original letter from Captain Proudfoot C.V. in Charge of Pensioners dated Madras 19 July 1861 No. 75 Copy of letter from Pensioned Serjeant Clark to the address of Captain Proudfoot dated Madras 6th July 1861.

/A true Copy/
G Proudfoot Lieut.
In Charge of Pensioners

No. 122 Officer of Examiner Pay Department
Fort Saint George 10th April 1861.

From

Major J. Stewart
Deputy Military Auditor General and
1st Examiner Pay Department

To

Colonel W. P. Macdonald
Paymaster Presidency

Sir

With reference to the reply of Pensioned conductor Stevens to the objection taken on account of Income Tax leviable from his Pension in your accounts for October 1860. I have the honor to observe that Pensioners are exempted from the operation of act XXXII of 1860 under the spirit of section XXVII of that act which exempts from the Tax all officers non Commissioned officers &c. whose pay and allowances are less than that of a Captain of Infantry but by clause VII of act XXXIX of 1860 it is declared that such exemption does not extend to officers and Soldiers in Civil employ Mr Stevens being employed in a civil capacity under Government cannot upon this principle be exempted from the Tax

I have the honor to be &c

(Signed) J Stewart Major
Dy Mily Aud Genl &
examiner Pay Dept

(True Copies)
W. P. Macdonald
Payr Presy

To
Captain Proudfoot
in Charge Pensioners
Madras
for information.

A true Copy
Lieut
Pensioners

Decision of Govt of India communicated in their circular 17th August 1860 No. 409.

the Office of the Inspector General of Ordnance and Magazines on a Salary of Rupees 110 per mensem has no claim to exemption from payment of Income Tax, which would be levied from an Effective Soldiers similarly employed -

4 The Pay Department has not considered itself justified in levying the Tax upon any other pensioners than those in the employ of Government as it was presumed that the Civil Auditor would levy the Tax from all in receipt of Income from private sources -

I have the honor &c

Office of Comptr of Military Finance
Fort St. George 22d October 1861
(Signed) T. McGoun
Comptr of Mily Finance

Referred to the Revenue Department, with the letter from Pensioned Sergeant J. Clarke, for consideration and Order -

(Signed) H Marshall Colo
Secretary to Govt

To The Revenue Department -

X Ro Forces

Military Pen: 17th August/60

Order No 2071

" 318-319

Act XXXIX of 1860.

Gazette Pay-885 & 2 Rows/60.

No 171 & 172

C. [illegible] 815

17 Revenue 1861 Oct.

1 Secs of Govt Fort St George.

No. 2556.

Proceedings of the Madras Govt in the Military Dept.

Dated 25th Octr 1861.

Recvd 29th "

E-3-

from Mily Dept 25th Decr/61

No.

Dec 1861

C No 2884

Referring the letter from the Controller of Military Finance &c stating that Pensioned Sergeant Clarke has no claim to exemption from payment of Income Tax.

Military Order

No 2173 — 16 November

No-2173

The Governor in Council is of opinion that the Controller of Military Finance has stated the case correctly as regards the liability of Pensioned Sergeant Clarke to pay Income Tax on his Pensions.

Dec 1861

Fort St George

16th Nov 1861

4 Copies to the Mily Dept with 3 Reports

Dispd 18th

C & D.