M.R.O. 14—13,000—27-6-24

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1724 Press ~~Mis.~~

449. 450

Dated 25-7-1865.

Not to be folded or roughly handled

No. 449. Read the following Proceedings of the Board of Revenue, dated 13th July 1865, No. 3,983.

Read the following letter from W. DONALD, Esq., Chief Assistant Civil Paymaster in charge, to R. A. DALYELL, Esq., Acting Secretary to the Board of Revenue, dated Fort Saint George, 9th June 1865, No. 14 :—

SIR,

1. With reference to the Proceedings of the Board of Revenue, No. 2,943 of 3rd instant, I have the honor to state that in one only of the four instances alluded to was the refund that of a fine on a public servant, and that was inadvertently passed by this Department without Government sanction.

2. The other three cases mentioned were refund of revenue.

3. The Order of Government, No. 903, dated 20th April 1861, referred to by the Board, has not been understood to apply to fines upon Government Servants, and this view is borne out by the fact that a refund of fine of this kind was only recently sanctioned in Government Order, No. 528, dated 5th April 1865, which would not have been granted if the Board's reading were correct.

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1. In his letter, dated 5th April 1865, the Collector of Madras requested sanction for the refund of 5 Rupees, being the amount of fine imposed upon Sama Row, the Talook Serishtadar of Ponneri. The refund was sanctioned in the Board's Proceedings, dated 21st April 1865, but the Civil Paymaster requires the special sanction of Government. The Board sanctioned the refund under the authority granted in the Order of Government, dated 20th April 1861, No. 903, extending to the Revenue Department the Order in the Judicial Department, dated 8th March 1861, No. 309. In paragraph 6 of this Order, it is distinctly stated that the Officer who has the power to remit a fine should also have authority to order its refund.

2. The attention of the Civil Paymaster was drawn to this Order, and he was requested to explain why he considered the special sanction of Government necessary. In the letter recorded at the head of these Proceedings, the Chief Assistant Civil Paymaster contends that the Order of Government referred to by the Board has not been understood to apply to fines inflicted upon Government Servants, but only to refunds of revenue. Under these circumstances, the Board request the special sanction of Government for the refund of Rupees 5 to the Serishtadar. They request that the Government will be pleased at the same time to pass their decision on the question on which the Board are at issue with the Civil Paymaster.

No. 450. ORDER THEREON, 25th July 1865, No. 1,724.

Miscellaneous.

1. The rule laid down by Government is that all Courts competent to remit fines are competent to order their refund, and that the Board is further competent to order the refund of sums improperly credited to Government, provided in both cases that the refund be made not more than two years after the amount was carried to credit.

2. The Board in their appellate capacity exercise *quasi* judicial functions, and have the same power as Courts to order refunds of fines remitted.

3. They are competent to order the refund in the present case.

(True Extract.)

(Signed) W. HUDLESTON,
Acting Secretary to Government.

To the Board of Revenue.
,, the Accountant General.
,, the Examiner of Claims.

Exd. S. T. Augustin.

No. 3,983.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 13th July 1865.

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2. The other three cases mentioned were refund of revenue.

3. The Order of Government, No. 903, dated 20th April 1861, referred to by the Board, has not been understood to apply to fines upon Government Servants, and this view is borne out by the fact that a refund of fine of this kind was only recently sanctioned in Government Order, No. 528, dated 5th April 1865, which would not have been granted if the Board's reading were correct.

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(A true Copy and Extract.)

W. Walker

Acting Secretary.

To W. Hudleston, Esq., Acting Secretary to Government, R. D.

Copy to E. G. R. Fane, Esq., Collector of Madras.

Copy to F. Lushington, Esq., Accountant General.

Ed. J. Wright.

13. March/61 A 286-287
20 April 362-363
5 — 165- 36-37. Pucca

Rev: 1865. Department
Proceedings for July.

No. 1957.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 13th July 1865.
Dan D/17 Dan
Rec'd 18th.

No 3,983.

Requesting special sanction of Government for refund of a fine of 5 Rupees imposed by Collector on Taluk Serishtadar of Ponneri in Madras District, and soliciting orders on question raised as to Board's authority to sanction such refunds.

No 1724-25 July
With Order

No 1449 & 450

22nd July/65 Rec'd

30th 1724.

The sole Question
by Govt is that all
consultant Remissions are
consultant & order their refund
and that the Bd is for the
consultant order the refund
of sums in pursuance credited
Govt. Jurisdiction in the case
that the Remissions be made Bd
more than 2 years after the
am.t was carried Credit

The Bd in their application & exercise quasi judicial functions
& have the same powers (not
Order refund of fines remitted

They are consultant & order the
refund in the present case —

14th Bd's Proc dated 24th July
6 Rec'd 25th
3 Exam.d & claim'd

S. R.
25th July/65.