M.R.O. 14-5,450-22-10-25.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 3057 — Press ~~Mis.~~

234. 235

Dated 12 — 11 — 1866.

Not to be folded or roughly handled

3057

KD

Proceedings of the Madras Government, Revenue Department, 12th November 1866.

No. 234. Read the following Proceedings of the Madras Government in the Financial Department :—

Passing orders on a letter from the Accountant General, submitting for decision certain questions raised touching the construction to be placed on the rules relating to the pay of men under suspension, published in Madras Gazette of 10th October 1865, page 530. } (Here enter 29th October 1865, No. 395.)

No. 235. ORDER THEREON, 12th November 1866, No. 3,057.

Miscellaneous.

Ordered to be communicated to the undermentioned authorities :—

Board of Revenue.
Director of Revenue Settlement.
Superintendent of Revenue Survey.
Inám Commissioner.
Conservator of Forests.
Superintendent of Government Chinchona Plantations.

(True Extract.)

(Signed) J. D. SIM,
Secretary to Government.

To the Board of Revenue,
„ the Officiating Director of Revenue Settlement,
„ the Superintendent of Revenue Survey,
„ the Officiating Inám Commissioner,
„ the Officiating Conservator of Forests,
„ the Superintendent Government Chinchona Plantations, } With Proceedings Financial Department, No. 395.

Exd. S. T. Augustin.

Proceedings of the Madras Government, Financial Department,
29th October 1866.

No. 65. Read the following letter from the Accountant General, Madras, to the Chief Secretary to Government, Fort Saint George ; dated Fort Saint George, 11th September 1866, No. 202.

Post Audit Department.

A question having been raised touching the construction to be placed on the rules touching the pay of men under suspension (Madras Gazette of 10th October 1865, page 530), I have the honor to refer it for decision. I refer it to you rather than to the Revenue Secretary, the addressee of the appeal, because the question is a more general one ; and, indeed, I only forward the appeal for form sake, as there is nothing requiring special notice in it. The objections raised by my office are really only one, and the questions for decision are (1) what is reinstatement without blame, and (2) who is the Head of the department competent so to reinstate ?

2. But as the persons claiming pay in the present case, and in others in which there has been some difficulty, have been persons made over to the Magistrate for trial and acquitted by him, I think a prior question may be raised : is not the departmental inquiry into a man's conduct concluded, and an unfavorable decision reached, before he is made over to the Magistrate ? Can he claim any allowances whatsoever while actually under trial ? In that case, a man against whom a felony is only not proven is better off than one whose misdeeds concerned the department only.

3. But, though he be held entitled to some subsistence while under criminal prosecution, does a mere acquittal operate as neither conveying censure nor admonition ? The legal acquittal only clears him of tangible crime, but in no way of the gross folly, negligence, or indiscretion which might be properly visited by censure or admonition.

4. Lastly, who is to declare a man reinstated without blame ? Mr. Melville holds the Head of the office has such power; Mr. Master is not clear; the Board, in the case of a Sub-Magistrate, seems to have held its confirmation necessary to such a reinstatement. Mr. Melville's opinion seems to me unsound, and that approval should be sought from the authority which may have the revision of all the proceedings of the Officer suspending.

5. The foregoing questions have been raised in the Audit Department of this office, and, although, after a careful consideration of the subject, I am of opinion that a full acquittal by the chief Judicial or Magisterial authority must be held to over-ride any opinion or conclusion arrived at by the departmental authorities in the preliminary inquiry, there appears to me to be so much weight in the arguments adduced in the other side of the question, that I have deemed it only right to refer the points for the decision of Government.

No. 66. ORDER THEREON, 29th October 1866, No. 395.

The Governor in Council is clearly of opinion that when an Officer is acquitted of an offence by a Court of competent jurisdiction, he is entitled to reinstatement, provided the acquittal is *bona fide* on the merits of the case, and not in consequence of a mere technicality, a legal flaw in the evidence, collusion with the witnesses, or some similar circumstance.

2. Instances, however, will occasionally occur in which, notwithstanding a full acquittal, the reinstatement of the Officer is inexpedient, or the infliction of some punishment, such as fine or suspension, is necessary, in consequence of some neglect or minor dereliction of duty brought to light during the inquiry. Such cases should be referred for the special orders of the controlling authority of the Department.

3. The power of reinstatement without blame, after a full acquittal, rests with the Officer who possessed the orginal power of appointment ; but if this power of appointment is restricted, by being dependent on the sanction or veto of any higher authority, then the confirmation of the reinsatement by the latter is requisite.

4. An Officer under trial is entitled to the same pay as when under suspension.

(True Extract).

J. D. SIM,
Secretary to Government.

To the Accountant General.
To the Revenue Department.
For information and for communication to Officers subordinate to that Dep.
Exd. J. H. Burns.

Rev = 1866. Nº 2284
Pro. of Govt for November
Nº 3889.
Proceedings in the
Financial Department

Dated 29th Octr.
Received 1st Novemr.
1866.
Nº 395.

Passing orders on a
letter from the Accountt Genl
submitting for decision
certain questions raised
touching the construction
of the Rules on the rules
relating to the pay of Pensn
under suspension pub-
lished in Madras Gazette
of 10th Octr. 1865, page 530.

Nº 3057. in Form

Withdrawn Order

Nº 3057.

Ordered to be communicated
to the undermentioned authorities.

Board of Revenue
Director of Revenue Settlement &c
Superintendent of Revenue Survey
Inam Commissioner
Conservator of Forests
Supt. of Govt. Chin. Plantations.

14 Collr. Bd of Revt
13 — Offg Bd of Revt (Collrs)
10 — Supt. Revt Survey
6 — Offg Inam Commr.
4 — Conr of Forests
1 — Supt. Govt Chin Plantations

with Ord. Nº 395 Dec. 12th 12th Novr 66.

A.234 & 235