M.R.O. 1—20,002—12-8-65.

(1) Number of Pages 6

(2) Date of repair 11.10.68

(3) Initials of the Referencer

MADRAS RECORD OFFICE

GOVERNMENT OF MADRAS

Revenue DEPARTMENT

G.O. No.	2312	~~Press~~
~~B.P.~~ No.		Mis.
Dated	29.10.1875	196 .

Not to be folded or roughly handled

Pensions.

Read the following papers :—

No. 107. From Colonel J. MACDONALD, Secretary to Government, Military Department, Bombay, to Colonel H. K. BURNE, C.B., Secretary to the Government of India, Military Department, Simla ; dated Bombay Castle, 13th July 1875, No. 2816.

Referring to Act XXIII. of 1871, which exempts pensions from seizure, attachment or sequestration by the process of any Court of Law, the Controller of Military Accounts enquired in November last, whether he was debarred from directing the recovery of overpayments made to an officer or other, either before or after he shall have come on pension, or any other proved public demands from his pension.

2. The Government Solicitor, to whom a reference was made on the subject, expressed the following opinion :—

" I am of opinion that the demands referred to by the Officiating Controller of Military Accounts in his letter, No. 1262, dated the 9th instant, cannot be deducted (otherwise than by consent) from any pensions granted or continued by Government on political considerations, or on account of past services or present infirmities, or as a compassionate allowance.

" 2. Such pensions are, by Act 23 of 1871, Section 11, exempted from liability to seizure, attachment or sequestration by process of any court in British India at the instance of a creditor for any demand against the pensioner, or in satisfaction of a decree or order of any such court ; seeing then that they cannot be touched in satisfaction of demands in regard to which a decree or order of a court has been made, it follows, *á fortiori*, that they are not liable to seizure in satisfaction of demands in respect of which there has been no decree or order of any court."

3. The Controller of Military Accounts has now brought to notice that the opinion of the Government Solicitor is at variance with the subjoined decision of the Secretary of State (Financial Department Despatch, No. 54, dated 16th April 1874,) upon the question whether Act VI. of 1849 precluded Government from effective recoveries from pensions :—

" Under the Act in question, an officer's pension is exempted from seizure, attachment or sequestration by process of any court within the said (Indian) territories, but that has not been regarded, nor do I consider that it can be regarded, as depriving the Government of the power of obtaining the settlement of any claim against an officer on account of stamp duty on his commission, or of any other retrenchment to which he is justly liable."

4. As the question is one which affects the three Presidencies, I am desired to submit it for the orders of the Government of India.

From Colonel H. K. BURNE, C.B., Secretary to the Government of India, Military Department, to the Secretary to Government, Military Department, Bombay ; dated Simla, 4th September 1875, No. 82-S. (*Pensions.*)

I am directed, in reply to your letter, No. 2816, dated the 13th July 1875, to state, for the information of His Excellency the Governor in Council, that the decision of the Right Honorable the Secretary of State for India (Financial Despatch, No. 54, dated 16th April 1874,) quoted, should be acted on in regard to any claim by Government against an officer.

Proceedings of the Madras Government, Military Department, 7th October 1875.

MILITARY DEPARTMENT, FORT WILLIAM, 30TH SEPTEMBER 1875.

No. 841. (*Pensions.*)

Copy of the above forwarded to the Secretary to Government, Fort Saint George, Military Department, for the information of the Honorable the Governor in Council.

(By order,)

(Signed) E. COLLEN, Lieutenant,
Asst. Secy. to the Govt. of India.

No. 108. ORDER THEREON, 7th October 1875, No. 4876.

Communicated to the Controller of Military Accounts,—also to the Financial and Public Works Departments.

(True Extract.)

(Signed) A. C. SILVER, Colonel,
Secretary to Government.

To the Controller of Military Accounts.
" Financial Department.
" Public Works Department.

Exd. A. Raitt.

Order in the Financial Dept, 26 October 1875
No. 2882

Communicated to the Revenue and Pension Departments, and to all Heads of Offices and Departments.

(True Extract)
Chas Sneider
Under Secretary.

To
The Revenue Department Vol
" Pension Department.

Govt. of {1875} Madras.

MILITARY.

To

THE CONTROLLER OF MILY. ACCOUNTS.

&c., &c., &c

Dated October, 7th.

Recd. *Encl.*

G.O., 7th October 1875, *No.* 4876.

S.

OCTOBER.

Nos. 107-108.

Communicating decision of Government of India in respect to the recovery of claims by Government against officers.

India in respect to the recovery of claims by Government against officers.

Rev: 1875: Dept.
N. 4217

Rev: Fin. Dept.
N. 2082
3 Sheets

Dated 26:
Rec'd 28th } Oct/75

Comg Rev: Mily Dept. on decisions of the Govt of India in respect to the recovery of claims by Govt against Offrs.

No 2312. 29 October 1875

With Mr. G

No 2312

Commd to the Board of Revenue, Settlement & Survey, and Board of Revenue

1 Spare Copy
1 do. of Govt of India
1 do. Supdt of Census
1 do. Offg Director of Statistics

Dy Secy
Rec'd 8 Nov
Dy Secy
Rec'd
Dy Secy