



The Orissa Gazette

EXTRAORDINARY

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LAW DEPARTMENT

ERRATUM

The 19th December 1942

In the Collective Fines (Third Amendment) Ordinance, 1942 (Ordinance No. LXIII of 1942), published in an extraordinary issue of *Orissa Gazette*, dated the 12th December 1942, under Law Department notification No. 14361-L.(C.), dated the 12th December 1942, in line 2 of section 2 for the word "section" read "sub-section".

By order of the Governor

W. W. DALZIEL

Secretary to Government

NOTIFICATION

The 19th December 1942

No. 14751—Mis.(C)-25/42-L.(C).—The following Ordinance promulgated by the Governor-General is republished for general information :—

By order of the Governor

W. W. DALZIEL

Secretary to Government

New Delhi, 12th December 1942

ORDINANCE No. LXIV OF 1942

AN

ORDINANCE

further to amend the Indian Soldiers (Litigation) Act, 1925

WHEREAS an emergency has arisen which makes it necessary further to amend the Indian Soldiers (Litigation) Act, 1925, for IV of 1925 the purposes hereinafter appearing ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the 26 Geo. 5, c. 2 Governor-General is pleased to make and promulgate the following Ordinance :—

1. (1) This Ordinance may be called the Indian Soldiers (Litigation) Amendment Ordinance, 1942.

(2) It shall come into force at once.

Amendment of section 3, Act IV of 1925

2. To section 3 of the Indian Soldiers (Litigation) Act, 1925 (hereinafter referred to as the said Act), the following *Explanation* shall be added, namely :—

“ *Explanation*—For the purposes of this section and with effect from the 3rd day of September 1939 a soldier who is or has been a prisoner of war shall be deemed to be or to have been serving under war conditions.”

Amendment of section 6, Act IV of 1925

3. Section 6 of the said Act shall be renumbered as sub-section (1) of that section and the following sub-section shall be added, namely :—

“(2) If it appears to the Court before which any proceeding is pending that an Indian soldier though not a party to the proceeding is materially concerned in the outcome of the proceeding, and that his interests are likely to be prejudiced by his inability to attend, the Court may suspend the proceeding and shall give notice thereof in the prescribed manner to the prescribed authority.”

Amendment of section 9, Act IV of 1925

4. In section 9 of the said Act, for the word and figure “ section 6 ” the words, brackets and figures “ sub-section (1) of section 6 ” shall be substituted.

Amendment of section 10, Act IV of 1925

5. In section 10 of the said Act—

(a) in sub-section (1)—

(i) the words and figures “ whilst he was serving under war conditions or at any time after the 1st day of April 1925 ” shall be omitted ;

(ii) between the words “ the soldier ” and the words “ may apply ” the words “ or, if he is dead, his legal representative ” shall be inserted ;

(b) for sub-section (2) the following sub-section shall be substituted, namely :—

“(2) The period of limitation for an application under sub-section (1) shall be ninety days from the date of the decree or order, or, where the summons or notice was not duly served on the soldier in the proceeding in which the decree or order was passed, from the date on which the applicant had knowledge of the decree or order ; and the provisions of section 5 of the Indian Limitation Act, 1908, shall apply to such applications.”

Substitution of new section for section 11, Act IV of 1925

6. For section 11 of the said Act the following section shall be substituted, namely :—

Modification of law of limitation where Indian soldier or his legal representative is a party

“ 11. In computing the period of limitation prescribed by sub-section (2) of section 10 of this Act, the Indian Limitation Act, 1908, or any other law for the time being in force, for any suit, appeal or application to a Court, any party to which is or has been an Indian soldier, or is the legal representative of an Indian soldier, the period during which the soldier

has been serving under any special conditions, and, if the soldier has died while so serving, the period from the date of his death to the date on which official intimation thereof was sent to his next of kin by the authorities in India, shall be excluded :

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption. ”

Substitution
of new section
for section 12,
Act IV of
1925

7. For section 12 of the said Act the following section shall be substituted, namely :—

Power of
Court to refer
questions to
prescribed
authorities

“ 12. If any Court is in doubt whether, for the purposes of section 10 or section 11, an Indian soldier is or was at any particular time serving under special conditions, or has died while so serving, or as to the date of such death or as to the date on which official intimation of such death was sent to his next of kin by the authorities in India, the Court may refer the point for the decision of the prescribed authority, and the certificate of that authority shall be conclusive evidence on the point. ”

Amendment
of section 14,
Act IV of
1925

8. Section 14 of the said Act shall be renumbered as sub-section (1) of that section and the following sub-section shall be added, namely :—

“(2) Where under this section, the Provincial Government has directed that all or any of the provisions of this Act shall apply to any class of persons in the service of His Majesty, the powers vested in the Central Government by section 3 and section 13 shall be exercised in respect of that class of persons by the Provincial Government.”

LINLITHGOW

Viceroy and Governor-General