

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No.	485	Press Mis.
Dated	27.8.	1859

B. No. 9-10

4/5

Not to be folded or roughly handled

*Proceedings of the Madras Government, Financial Department,
from 27th August to 2nd September 1859.*

No. 9. Read the following letter from W. HUDLESTON, Esq., Secretary to the Civil Fund; to T. PYCROFT, Esq., Chief Secretary to Government, Fort Saint George, dated 25th August 1859, No. 231.

1. I am directed by the Trustees and Managers of the Civil Fund to report for the information of Government, that since the publication of the decree of the Privy Council in the Appeal suit from the decision of the local Supreme Court in the Original suit of A. Robertson *versus* East India Company and the Trustees of the Civil Fund, they have received from Mr. Daniel Elliott late of the Civil Service, a claim for the refund of his surplus subscriptions to the Annuity Fund beyond the half value of the Annuity assigned to him in 1857, with Interest at 5 per cent from the date on which he ought to have received the refund, *viz.*, that of his resignation of the Service being 30th April 1858.

2. The amount standing at Mr. Elliott's credit in the accounts of the Fund on that date was Rupees 1,74,732-14-11, and the half value of his Annuity of £1,000 calculated in the prescribed manner was Rupees 46,517, the net surplus of which with Interest Mr. D. Elliott claims the refund, being Rupees 1,28,185-14-11.

3. The Privy Council's Decree on which Mr. Elliott bases his claim, affirms the right to refund of all Subscribers who had acquired that right before the revised Rules of 1853 were passed, and the special argument used in it as shewing that Mr. Robertson had acquired such a title is, that in the year 1852 he had accepted the Annuity on condition that the excess of his payments should be refunded to him.

4. Mr. Elliott asserts and the Trustees cannot but admit, that his case is precisely similar in all its bearings to that of Mr. Robertson, and that the chain of reasoning which holds good in the one, must hold equally good in the other.

5. Like Mr. Robertson, Mr. D. Elliott in 1852, before the adoption of the Rules of 1853, proffered his acceptance of an Annuity from 1st May 1853, on the condition that the refund claimed by him was allowed, which conditional acceptance was rejected by the Trustees. Like Mr. Robertson, Mr. Elliott protested against the new Rules being held to apply to his case, and declined in any way to countenance their adoption, and similarly he eventually accepted the Annuity, with a special reservation of all his rights to a refund.

6. He calls upon the Trustees to draw an order on the Treasury for the amount due to him, or to take the necessary steps to procure such an order from the Government, and the Trustees beg to draw attention to the circumstance, that in the original decree in Mr. Robertson's case, they were held to have acted wrongly in not drawing such an order on that occasion, without reference to any supposed course of action, in regard to it, on the part of Government.

7. The balance of the unappropriated capital of the Annuity Fund on 1st May 1858, the date of Mr. Elliott's resignation of the Service, was Rupees 9,01,072.

8. The Civil Auditor's Statements to 30th April last have not yet been received, but so far as the Trustees can judge, the balance in the Sub-Treasurer's hands at this date of the unappropriated capital must be at least Rupees 5,62,429, so that they have Funds from which to meet this demand, without applying to Government for assistance.

9. In their position however as Trustees of the interests of Government in the Fund, as well as of those of the Service, they are unwilling to take any decisive step in the present matter without first placing Government in full possession of the facts, and affording them an opportunity for issuing such instructions, as they may think fit.

10. They have only further to remark that Mr. Elliott claims "interest at 5 per cent per annum according to the Judgment of the Supreme Court of Madras, affirmed by the Privy Council," and calculated at this rate to 31st Instant, the Interest will amount to Rupees 8,515-11-8, which added to the original excess shewn in paragraph 2 to be Rupees 1,28,185-14-11, will make the total sum demanded, Rupees 1,36,731-10-7.

11. The Trustees expect to receive by next Mail Notice of the appointment of Mr. Elliott's Attorney in Madras, they therefore direct me to request
Since received.
W. H. an early reply to enable them to decide on their course of action.

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12. I am further directed by the Trustees to state, for the information of Government, that they have received notice that a Power of Attorney has been executed by Mr. Robertson to Messrs. S. D. Birch and W. J. Maclean to recover the money awarded to him, under the late appeal to the Privy Council.

13. The excess subscriptions to be refunded to Mr. Robertson under that decree, is Rupees 39,014 with interest at 5 per cent, at which rate calculated to 31st instant, the total sum payable will be Rupees 47,467-0-6.

14. The formal demand for payment may be expected in a few days, and the Trustees are desirous of receiving any instructions that Government may think fit to issue, before taking any action in the matter.

15. The total amount of these two demands will be Rupees 1,84,198-11-1 as shewn in the margin, deducting which from the sum

<i>Mr. A. Robertson.</i>		
Total Subscription.....	Rupees	90,330- 8- 0
$\frac{1}{2}$ value of Annuity.....	"	51,316- 8- 0
Excess Subscription.....	"	39,014- 0- 0
Interest on do. at 5 per cent....	"	8,453- 0- 6
Total amount to be refunded ..		47,467- 0- 6

<i>Mr. D. Elliott.</i>		
Total Subscription.....	Rupees	1,74,732-14-11
$\frac{1}{2}$ value of Annuity.....	"	46,547- 0- 0
Excess Subscription ..	"	1,28,185-14-11
Interest on do. at 5 per cent.....	"	8,545-11- 8
Total amount to be refunded ..		1,36,731-10- 7
Grand Total, Rupees		1,84,198-11- 1

shewn in paragraph 8, as the present balance of the Unappropriated Capital of the Fund, there will remain an estimated net balance of only Rupees 3,78,231.

16. In conclusion the Trustees direct me to place Government in possession of the appended Statement shewing the excess of subscriptions paid by other Gentlemen retired from the service, which have not been refunded to them, and the similar excess paid by existing Members of the service calculated to 1st May last.

APPENDIX.

<i>Retired Members.</i>				
Mr. J. A. Hudleston.....	Rupees	11,671	11	7
Sir V. Stonhouse.....	"	47,378	3	6
" H. C. Montgomery.....	"	20,741	3	6
		79,791	2	7
<i>Members in the Service.</i>				
Mr. G. S. Hooper.....	Rupees	73,733	0	0
" J. Goldingham.....	"	35,525	3	7
" W. E. Underwood.....	"	37,248	11	8
" W. A. Morehead.....	"	18,046	5	11
" T. L. Strange.....	"	5,613	13	11
" G. L. Prendergast.....	"	8,951	1	4
		1,79,118	4	5
Grand Total Rs.		2,58,909	7	0

* Estimated at their ages
on 1st May 1859.

CIVIL FUND OFFICE,
25th August 1859.

(Signed) W. HUDLESTON,
Secretary.

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No. 10.

ORDER THEREON, 27th August 1859, No. 485.

Resolved that a copy of the above letter be forwarded to the Advocate General, who will advise Government of the course to be taken in respect to the claims made by Mr. Robertson and Mr. Elliott respectively.

The Decree of the Privy Council and short hand notes in the case of Robertson *versus* the East India Company have been communicated to the Trustees of the Civil Fund, from whom the Government Solicitor can obtain them.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. A. P. W. Begbie.

Letter
Council
26-8-59

Order thereon 27 August 1859 No 485.

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The Secy of the Privy
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them.

J.P.

Govt Solicitor

Trustees Civil Fund } (Supd 2/9/59)

240-11 (10)

Appendix

Religious Members

Mr. J. A. Henderson
 Dr. & Henderson
 " " " " " " " " " " " "

11,671 117
 47,578 36
 20,741 36
 49,791 27

Members in the Service

Mr. J. A. Henderson
 Dr. & Henderson
 " " " " " " " " " " " "

43,733 " "
 35,525 37
 37,248 118
 18,046 5 11
 5613 13 11
 8951 14
 149,118 45

Grand Total No.

258,909 12

Civil Fund Office
 25th August 1859

Wm. J. A. Henderson
 Secretary

* Estimated
 at this age
 in 1859

Wm. J. A. Henderson