

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 159	Press ~~Mis.~~
Dated 24. 4	1860.

B.N. 17-18

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Not to be folded or roughly handled

(1)

*Proceedings of the Madras Government, Financial Department,
for the month of April 1860.*

No. 17. 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 14th April 1860, No. 90.

To Government, 13th October 1859.
From do. 22nd " "
To do. 25th " "
From do. 4th November "
To do. 5th " "
From do. 11th " "
To do. 3rd September "
From do. 17th " "
To do. 30th " "
From do. 30th " "
To do. 6th October "
From do. 10th March 1860.

1. With reference to the correspondence noted in the margin, I am directed by the Trustees of the Civil Fund to submit for the consideration and decision of Government, the accompanying copies of correspondence, connected with a claim preferred by Mr. J. A. Hudleston for the refund of the surplus subscriptions to the Fund, beyond the half value of his Annuity standing at his credit, when he obtained the Annuity in 1854, amounting to Rupees 11,671-11-7.

2. An unconditional application for an Annuity was received from Mr. Hudleston in September 1854; but in a letter, dated 25th October 1856, he asserted his claim to a refund, consequent on the decree of the Supreme Court in the suit "W. D. Davis *vers.* the Trustees of the Civil Fund." The Trustees informed him in reply, that, in consequence of the instructions contained in the Honorable Court's Despatch of 20th October 1852, they were unable to comply with his application.

3. In his present letter, Mr. Hudleston cites the decision of the Court of Chancery in the case of "Boldero *vers.* the East India Company" in support of his claim, but the Trustees do not think that this decision alters the state of the case in any way.

4. Mr. Hudleston became entitled to an Annuity in 1841-42, but he did not apply for one until 1854-55. He was not at the Presidency when in 1853, the new Rules abrogating the practice of refund were passed, and he recorded no vote by proxy.

5. A surplus was at Mr. Hudleston's credit on the 17th June 1853, the date of the passing of the new Rules.

From J. A. HUDLESTON, Esq., to S. D. BIRCH, Esq., Secretary to the Trustees of the Madras Civil Fund, dated Cheltenham, 25th October 1856.

Since I addressed you on the 17th of September 1856, I have referred to the statement enclosed in your letter of the 25th June 1855, by which it appears that at the period of my retirement from the Company's Service, the sum of Rupees 11,671-11-7 had been paid to the Trustees of the Civil Fund beyond the half value of the Annuity, including full value for quarterly payments and to the date of my decease, I therefore claim under the 16th Rule a refund of the excess as stated above and request that you will remit the amount to my bankers in London Messrs. Goslings and Sharpe.

From S. D. BIRCH, Esq., Secretary to the Civil Fund, to J. A. HUDLESTON, Esq., dated 10th January 1857.

No. 16 of 1852, paragraph 19. "We regard
"with strong feelings of disapprobation the
"whole of this most irregular proceeding and
"we repeat the desire we have recently ex-
"pressed, that no refunds be, upon any ac-
"count, allowed in future."

With reference to your communication of the 25th October last, I am desired by the Trustees of the Civil Fund to intimate to you their inability to comply with your request, in consequence of instructions received from the Honorable the Court of Directors in a Despatch, dated 20th October 1852 as quoted in the margin.

*Proceedings of the Madras Government, Financial Department,
for the month of April 1860.*

From JOSIAH ANDREW HUDLESTON, Esq., to the Trustees of the Madras Civil Fund,
dated 18th February 1860.

As the Court of Chancery while giving judgment in the case of Boldero *vers.* the East India Company has distinctly recognized the claim of retired Civil Servants of the Madras establishment to a refund of whatever sums they may have contributed to the Fund beyond the value of their Annuities respectively: I have now to repeat my request that you will remit to my bankers, Messrs. Goslings and Sharpe of Fleet Street, London, the sum of Rupees 11,671-11-7 due to me as per statement authenticated by Mr. Birch, dated 25th June 1855, together with any accumulation of interest to which I may be entitled at the present time.

*Extract from the Times, 12th January 1860.
Before the Lord Chancellor.*
"Some stress has been laid upon the fact that it
"had been judicially decided that the subscribers to the Madras Fund were entitled
"to have any excess refunded to them in
"cases precisely similar to the one relied
"on by the Plaintiff, respecting however the
"Madras Fund there was ample evidence to
"prove that a new contract had been entered
"into between the parties and therefore the
"decisions respecting that Fund were perfectly
"correct."

ness to forward a statement of my case for the information of the President of the Council for India, or if any other course should be taken in order to obtain repayment of the surplus, be kind enough to advise me.

(True Copies.)

(Signed) W. HUDLESTON, Secretary.

From W. HUDLESTON, Esq., Secretary, to J. A. HUDLESTON, Esq., dated Fort Saint George, April 1860.

I am desired by the Trustees of the Civil Fund to acknowledge the receipt of your letter of the 18th February 1860, and to inform you, that in their opinion, the decision of the Court of Chancery in the case of Boldero *vers.* the East India Company, cited by you, which had reference to the Bengal Civil Fund, and only incidentally made mention of the Madras Civil Fund, and that apparently somewhat incorrectly, cannot be relied on in support of your claim to a refund of your excess subscription to the Annuity Fund.

2. The decision of the Privy Council in the appeal suit "the East India Company *vers.* Andrew Robertson" turned mainly on the fact, that Mr. Robertson had claimed an Annuity and the refund of his surplus subscriptions, before the Rule allowing such re-funds was abrogated in June 1853, by the adoption by the Service of the new Rules proposed by the Home authorities.

3. This argument will not apply to your case, as your first application for an Annuity was made in 1854.

* Sir T. V. Stonhouse, Bt.

Mr. G. S. Hooper.

" J. Goldingham.

" W. E. Underwood.

4. Under these circumstances, the Trustees are unable to admit your claim to a refund, but, as in the cases noted marginally,* they have submitted it with the previous correspondence connected with it for the consideration of Government.

No. 18.

ORDER THEREON, 24th April 1860, No. 159.

Ordered that the foregoing letter and its enclosure be forwarded to the Right Honorable the Secretary of State for India for his consideration and orders, with reference to the previous correspondence on the subject of similar claims referred to the Home Government.

(Signed) T. PYCROFT,

Chief Secretary.

Exd. F. Cartledge.

No of Govt. 31st March 1860. No 144

Thurs. 2nd April 1860

Recd to 31st April 1860

Forwarded to the Govt. of India 25th July 1861 No 39

No of Govt 30 April
Financial 1860. Department No 159

From the Secretary to the Civil Fund No 90

sated 14th April 1860.

No 153

Submits for consideration and decision of Govt. copies of Correspondence, connected with a claim preferred by Mr. J. A. Hudleston for the refund of the surplus subscriptions to the Civil Fund beyond the half value of his annuity standing at his credit when he obtained the annuity in 1854.

With an Order

Soon.

Order thereon, 24 April 1860. No. 159.

Ordered that the foregoing letter & its enclosure be forwarded to the Right Honble the Secy of State for India for his consideration & orders, with reference to the previous correspondence on the subject of similar claims referred to the Home Government.

of L. C. & O.

JP