M.R.O. 1—32,400—22-11-30

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 522 Press ~~Mis.~~

Dated 17. 10. 1860

B/no 35-36

9/10

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department, 17*th October* 1860.

No. 35. Read the following Despatch from the Right Honorable Sir C. WOOD, Bart., Secretary of State for India, to His Excellency the Honorable the Governor in Council, Fort Saint George, dated London, 31st August 1860, No. 64.

I have to acknowledge the receipt of your Financial letters, dated 25th April and 8th June last, Nos. 7 and 12, requesting instructions in regard to the refund claimed by Sir V. Stonhouse, Bart., of the amount in which his subscriptions to the Madras Civil Service Annuity Fund, exceeds the half value of his Annuity, and as to the payments to be made to Messrs. Hooper and Hudleston on the same account.

2. It appeared to me to be desirable to obtain an explanation from Counsel on the points referred to by you, and I now transmit for your guidance a copy of the case which has accordingly been submitted to Counsel and of their opinion thereon.

3. The amount due to Messrs. Hooper and Hudleston respectively must be paid in India.

CASE

For the Secretary of State for India in Council.

Counsel are requested to refer to the accompanying collection containing a copy of a case laid before the Attorney General Mr. Lloyd, Mr. Forsyth and Mr. Melvill in January 1860, and to their opinion thereon as well as to the documents referred to in the case as well as others not before Counsel when their opinion was given, the following letter and its enclosures has been received at the India Office since the case was before Counsel, viz.

FINANCIAL DEPARTMENT.

No. 12 of 1860.

TO THE RIGHT HONORABLE THE SECRETARY OF STATE FOR INDIA.

RIGHT HONORABLE SIR,

We have had the honor of receiving your Despatch in the Financial Department, No. 21, dated 29th March 1860, with its enclosure, being the opinion of Counsel on the claim to the refund of the amount of subscriptions in excess of the value of their Annuities preferred by Sir V. Stonhouse, Bart., and other subscribers to the Civil Service Annuity Fund.

2. We do not however clearly gather from this opinion whether the claim of Sir V. Stonhouse and those of any other Civil Servants who may be similarly circumstanced are to be admitted only to the extent of the surplus standing to their credit when the Rules of June 1853, were passed or to the full amount overpaid at the date of retirement from the service with interest in either case to the date of repayment, and we are therefore under the necessity of making a further reference to you on the subject.

3. You will perceive from the accompanying letter from the Secretary to the Civil Fund that there are only two Gentlemen (not already admitted to the benefit of the refund) besides Sir V. Stonhouse who had a surplus to their credit on the passing of the Rules of 1853, namely Mr. G. S. Hooper and Mr. J. A. Hudleston, and that the latter of these voted in favor of those rules. The Statement enclosed in the Secretary's letter shews the amount of refund in each case as calculated to the 17th June 1853, and to the date of retirement respectively with simple interest at 5 per cent., being the rate allowed to Mr. A. Robertson to the 31st ultimo, in all cases.

Proceedings, 6th June 1860, *Nos.* 11 *and* 12.

4. On the application of Sir V. Stonhouse's Agents, we have authorized the Trustees of the Civil Fund to pay to them the refund due to him calculated to the 17th June 1853, as it is quite clear that he is under any circumstances entitled to that amount. The sum with interest to the 31st May 1860 is Rupees 27,778-9-3. We beg to be favored with your instructions as to whether we are to pay him the remaining sum claimed by him which it is understood he wishes to receive in India.

Proceedings, 23rd May 1860, *Nos.* 11 *and* 12.

5. We likewise request your orders as to the payments to be made to Messrs. Hooper and Hudleston and whether they are to be made in this country or in England.

We have &c.,

FORT SAINT GEORGE,
8th June 1860.

(Signed) W. A. MOREHEAD.
(„) PATRICK GRANT.
(„) E. MALTBY.

Proceedings of the Madras Government, Financial Department, 6th June 1860.

No. 11. 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 23rd May 1860, No. 141.

1. With reference to the orders of Government, Financial Department, dated 12th May 1860, No. 210, I have the honor to forward a statement shewing the surplus at credit of subscribers to the Civil Fund (other than those to whom the refund has already been made) beyond the half value of their annuities on 17th June 1853, the date of the passing of the new Rules with simple interest at 5 per cent. per annum from that date to 31st May 1860, and also the amount of the excess at the credit of the same Gentlemen on the date of their succession to annuities with simple interest at 5 per cent. per annum from date of retirement to 31st May 1860.

2. From carelessness in this Establishment it was inaccurately stated in paragraph 4 of my letter of 14th April 1860 that Mr. J. A. Hudleston recorded no vote regarding the new Rules of the Annuity Fund, but on a subsequent search among the Records of the Office, I find that that Gentleman voted by proxy in favor of the new Rules. Sir T. V. Stonhouse and Mr. G. S. Hooper as stated in my letters of 30th September and 25th October 1859 were at the Presidency, but did not attend the meeting of 17th June 1853, at which the votes of the subscribers were recorded.

Proceedings of the Madras Government, Financial Department,
17th October 1860.

Proceedings of the Madras Goverument, Financial Department, 6th June 1860.

Shewing the surplus at credit of Members beyond the half value of their annuities on 17th June 1853 (the date of the passing of the new rules) with simple interest at 5 per cent. per annum from that date to 31st May 1860, and also the amount of the excess at their credit on the date of their succession to annuities with simple interest at 5 per cent. per annum from date of retirement to 31st May 1860.

Numbers.	Particulars.	Annuitants. Mr. J. A. Hudleston.			Sir T. V. Stonhouse.			Mr. G. S. Hooper.			Total.			Remarks.
1	Age on 17th June 1853.	54 Years.			54 Years.			55 Years.			C. Rs.	A	P.	
2	Half value of an Annuity at that age.	51,482	1	7	51,482	1	7	50,655	10	6	153,619	13	8	
3	Accumulated subscription at credit on that date.	54,677	4	3	72,093	2	7	75,298	3	1	202,068	9	11	
4	Surplus at credit beyond half value on that date.	3,195	2	8	20,611	1	0	24,642	8	7	48,448	12	3	
5	Simple interest on last amount at 5 per cent. per annum from 17th June 1853, to 31st May 1860.	1,111	1	11	7,167	8	3	8,569	7	5	16,848	1	7	
6	Total of items 4 and 5.	4,306	4	7	27,778	9	3	33,212	0	0	65,296	13	10	
7	Year of retirement and age at do.	1st May 1855 56 years.			1st May 1856 58 years.			1st May 1860, 62 years.			Total.			
8	Half value of Annuity at do. ...	50,413	8	0	48,527	8	0	44,467	0	0	143,408	0	0	
9	Accumulated subscriptions at credit at do.	62,058	3	7	95,905	11	6	128,394	2	10	286,385	1	11	
10	Surplus at credit beyond half value at do. ...	11,671	11	7	47,378	3	6	83,927	2	10	142,977	1	11	
11	Simple interest on last amount at 5 per cent per annum from date of retirement to 31st May 1860.	2,966	9	0	9,673	0	9	349	11	1	12,987	4	10	
12	Total of Items 10 & 11.	14,638	11	7	57,051	4	3	84,276	13	11	1,55,966	6	9	

CIVIL FUND OFFICE,
23rd May 1860.

(Signed) W. HUDLESTON,
Secretary.

No. 12. ORDER THEREON, 6th June 1860, No. 267.

Ordered to be brought to the notice of the Right Honorable the Secretary of State for India, in reference to his Despatch, No. 21, dated 29th March 1860, Financial Department.

(Signed) T. PYCROFT,
Chief Secretary.

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

No. 11. Read the following letter from Messrs. PARRY and Co., to the Chief Secretary to Government, Fort Saint George, dated 16th May 1860.

We have been authorized by Sir Vansittart Stonhouse, Bart., to receive from the Civil Fund the sum that may be due to him on account of refund of subscriptions.

We have ascertained from the Secretary that the Government has decided to refer the matter back to the Secretary of State, it being uncertain from the official despatch whether the sum payable to Sir V. Stonhouse is to be calculated to 17th June 1853 or to the 31st December 1856.

Under the circumstances we now apply to Government for the smaller sum to be paid to us, viz., Rupees 20,611-1-0 without prejudice to Sir Vansittart Stonhouse's claim to the balance Rupees 26,767-2-6, which may be reserved to abide the result of the reference. We enclose the authority for us to receive payment which we request may be returned.

From Sir V. STONHOUSE, Bart., to Messrs. PARRY and Co., Madras, dated Bath, 8 Upper Church Street, 29th March 1860.

Having received authentic information that my claim to a refund of my surplus subscription to the Civil Annuity Fund beyond the half value of my Annuity has been admitted by the Home Authorities and that a Despatch to that effect was transmitted to the Madras Government by the last Mail, I have to request that you will on my behalf make application to the Trustees of the Civil Fund for payment of the same to you and which I hereby authorize you to receive on my account.

The amount due to me as stated in a letter from the Secretary to the Civil Fund to the Government of Madras, dated 3rd September 1859, No. 239, is Rupees 47,378-3-6 (forty-seven thousand three hundred and seventy-eight Rupees, three Annas and six Pice.)

No. 12. ORDER THEREON, 23rd May 1860, No. 231.

Resolved that a copy of the above letter and of its enclosure be forwarded to the Trustees of the Civil Fund and that the original letter from Sir V. Stonhouse be returned to Messrs. Parry and Co.

2. It seems perfectly clear from the opinion transmitted to this Government by the Right Honorable the Secretary of State with his Despatch of the 29th March last, Financial Department, No. 21, that Sir V. Stonhouse is under any circumstances entitled to a refund of the excess of his subscriptions to the Civil Service Annuity Fund above the value of the Annuity as this amount stood at the time when the revised Rules of 1853 were passed. The Trustees are therefore authorized to disburse to Messrs. Parry and Co., on his behalf, such amount with simple interest at 5 per cent. to the date of payment.

3. The Trustees will inform Government of the exact amount which they have paid under this order and the matter will be reported to the Right Honorable the Secretary of State, in replying to his Despatch of the 29th March, whether Sir V. Stonhouse be entitled to any further payment will depend on the result of the reference which will be then made to the Home Government.

(Signed) T. PYCROFT,
Chief Secretary.

(True Copies.)

(Signed) L. FORBES,
Deputy Secretary to Government.

You are requested to advise upon the several points revised in the foregoing letter from the Madras Government of 8th June 1860.

We are of opinion that Sir V. Stonhouse, Mr. Hooper and Mr. Hudleston ought not to have refunded to them any surplus in excess of the half values of their Annuities beyond that which stood to their credit respectively on the 17th of June 1853, the date of the passing of the revised Rules.

It was not without considerable hesitation that the conclusion in favor of any refund being made to Sir V. Stonhouse and other Civil Servants in precisely the same situation, as expressed in the opinion which we subscribed in January last was arrived at, and the only amount of surplus which should in any point of view be repaid to them is that which stood to their credit respectively on the 17th of June 1853. At that date when the revised Rules were passed, all members of the Civil Fund had distinct notice that in future refunds would not be allowed. It matters not whether any individual member voted for or against those Rules or abstained from voting altogether, for by them he and all the subscribers of the Civil Fund were bound for the future; and those who had already paid in excess of the half value of their Annuities might then have retired from the service and claimed their Annuities. By not doing so they acquired no claim to a refund of any subscription paid in excess after the 17th of June 1853. We think therefore that the payments by way of refund to Sir V. Stonhouse, Mr. Hooper and Mr. Hudleston should be limited to the surplus which stood to their credit respectively at that date. With respect to interest we are of opinion that even admitting (which we do not) the claims of these Gentlemen to a refund of surplus, to be of unquestionable validity, they would only be entitled to interest upon the amount of surplus (as it stood on the 17th June 1853,) reckoned *not* from that date, *but* from the date when they respectively obtained their Annuities. No repayment of surplus could be due to them until they got their Annuities (supposing of course the Annuities not to have been improperly withheld) and therefore no interest could accrue due to them up to that date. It only became due from the time when the refund should have been made, that is from the time of obtaining the Annuity. But we gather from the instructions that interest has been already paid to Sir V. Stonhouse on a different principle, namely, reckoning it from the 17th of June 1853, and we think it is not advisable to place Mr. Hooper and Mr. Hudleston on a different footing as regards interest. If therefore we are right in the assumption that Sir V. Stonhouse has been paid interest upon the amount of surplus that stood to his credit on the 17th of June 1853, reckoned from that date, we recommend that interest should be paid to Mr. Hooper and Mr. Hudleston from the same date, *i. e.*, the 17th of June 1853.

(Signed) WILLIAM FORSYTH.
August 1st, 1860. (,,) W. HENRY MELVILL.

No. 36. ORDER THEREON, 17th October 1860, No. 522.

Ordered that a copy of the above Despatch, and of its enclosure, be furnished to the Trustees of the Civil Fund for information and guidance, and also to Messrs. Parry and Co. with reference to their letter, dated the 16th May last.

2. The Trustees are authorized to disburse to Messrs. Hooper and Hudleston the amounts to which they are respectively entitled under the decision now communicated. They will report to Government the exact sums paid to them for communication to the Offices of Account and Audit.

3. The Trustees will observe that in calculating the payments to be made to Messrs. Hooper and Hudleston the values of their Annuities are to be taken *inclusive* of the amounts

necessary to secure quarterly payments and payments to date of decease. Whether Sir V. Stonhouse and consequently the other Gentlemen similarly circumstanced should have the values of their Annuities in 1853 calculated *exclusive* of the payments required to ensure those advantages, is a question which has been referred for the consideration of the Right Honorable the Secretary of State in a Despatch, dated 10th August last, to which no answer has yet been received.

(Signed) T. PYCROFT,
Chief Secretary.

Exd. F. Cartledge.

4x

A copy of the late despatch enclosures should be furnished to Messrs Parry & Co with reference to the letter

did Mr Nelson apply to Gov't
direct about Sa V Stonhouse's
claim — or did it come thro'

Wycroftley

the Trustees C Fund?

Application made J P
direct to Govt. Vide
papers put up —

Exd. F. Cartledge.

Exd. F. Cartledge.

6x

My dear Mr Pycroft

I am sorry to hear it, for Stonhouse's sake. I presume you will communicate it to us officially. Stonhouse is anxious for a copy of the Secy of State's letter. May we have it, to send to him?

Yrs truly

H Nelson

12 Oct.

Exd. F. Cartledge.

7x

Financial Department.

Proceedings of the Madras Government.—

Read the following Despatch from the Right Honorable the Secretary of State for India.—

(Here enter 31st August No. 64 of 1860.)

Order thereon 17th October 1860, No. 522.

Ordered that a copy of the above Despatch, and of its enclosure, be furnished to the Trustees of the Civil Fund for information and guidance, x

2.— The Trustees are authorised to disburse to Messrs. Hooper and Audleston the amounts to which they are respectively entitled under the decision now communicated, ~~and~~ They will report to Government the

x and also to Messrs. Parry & Co. with reference to their letter dated the 16th May last.

W. M.

G.

[illegible]

the exact sums paid to them for communication to the Offices of Account and Audit.—

3.— The Trustees will observe that in calculating the payments to be made to Messrs. Hooper and Hudleston the values of their annuities are to be taken inclusive of the amounts necessary to secure quarterly payments and payments to date of decease. Whether Sir V. Stonhouse and consequently the other Gentlemen similarly circumstanced should have the values of their annuities in 1853 calculated exclusive of the payments required ~~for~~ + to ensure those advantages, is a question which has been referred for the consideration of the Right Honorable the Secretary of State in a Despatch dated 10th August last, to which no

no answer has yet been received.—

JP

To the Trustees of the Civil Fund.
" Accountant General.
" Civil Auditor.—
" Messrs. Parry & Co.

Dispd. 18

Forwarded to the
Govt. of India
21st Jany 1861 No. 39

Financial 1860 Departt.

No. 522

Proceedings of Govt.
17th October 1860.

Forwarding copy
of a Despatch from
the Secy of State
and Enclosures to
the Trustees of the
Civil Fund for
their information and
guidance

35-30