M.R.O. 1—77,006—8-6-37.

(1) Number of pages 28

(2) Date of repair 24.7.38

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 106 Press / Mis.

40-42

Dated 12-2- 1864.

13/13

40-42

Not to be folded or roughly handled

Read the following papers :—

No. 40. From W. HUDLESTON, Esq., Secretary to the Civil Fund ; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 29th January 1864, No. 28.

Referring to my letter dated 18th July 1863, No. 252, and to the Proceedings of Government dated 25th January 1864, No. 63, communicating copy of a Despatch from the Secretary of State dated 24th November 1863, No. 89, declining to admit Messrs. T. B. A. Conway, W. H. Bayley, W. M. Molle, C. Whittingham, and William Knox to the benefit of the increased Government grant of £600 per annum, sanctioned by the Despatch dated 25th November 1862, No. 193, I am desired by the Managers of the Civil Service Annuity Fund to forward, for the information and consideration of Government, the accompanying copies of letters received from Messrs. Bayley, Molle, Whittingham and Knox, and to point out that, as already reported to Government in my letters dated 25th February and 29th April 1863, Nos. 72 and 134, these gentlemen were admitted to the increased benefit sanctioned by the Despatch of 25th November 1862, under the express Orders of Government dated 10th January 1863, No. 19.

From W. H. BAYLEY, Esq., late of the Madras Civil Service ; to the Secretary to the Madras Civil Fund, dated 25, Cambridge Square, Hyde Park, 19th November 1863.

I understand that the Secretary of State for India has objected to the payment of the £600 annuity to Messrs. Whittingham, Molle, Crozier, Conway, and to myself, on the grounds that in his Despatch of the 25th November 1862, he stated that only those Civil Servants who had obtained annuities since the *Memorials were sent in*, be admitted to the benefit of the new arrangement.

2. I maintain that we had *not* received our annuities ; that even supposing the temporary allowance of £500 per annum granted to us in 1861, to be a *part* of our annuity (which may be disputed), this does *not* constitute the payment of our annuity, which was not ours till the Trustees of the Civil Fund granted us the *whole* amount due to us, including the value of our subscriptions.

3. But independent of the *justice* of our claim, which I believe the Madras Government and the Trustees must acknowledge, but any argument on which may be of no practical use to us, we have I consider a *legal* claim, which we *may* make practical use of.

4. The Trustees, on the 5th February 1863, gave to each of us a formal printed document, signed by themselves, guaranteeing to us certain annuities for our respective lives. Mine amounted to £880 per annum, which has been paid to me in quarterly payments at the Treasury of the India Office, for a whole year ; and I hold the Trustees responsible for my continuing to receive an annuity at this rate, and nothing less. I believe that the document referred to, if produced in a Court of Law, would be as good as a duly executed Promissory Note, or Deed of Assignment ; and I beg respectfully to intimate that if it is in any way repudiated, or if I am refused my quarterly payments at the rate specified in that paper, I have no alternative but to institute legal proceedings against the Trustees.

5. I am already advised that I have a legal claim against any one individual Trustee who signed that "Annuity Certificate."

From W. MOLLE, Esq. ; to the Secretary to the Civil Fund, Madras, dated 31, Kensington Park Gardens, 19th November 1863.

I understand that the Secretary of State for India has objected to the payment of the £600 annuity to myself and others. My Annuity Certificate admits me to an annuity of £812, and having received it at this rate since November 1862, I would not receive a lesser annuity, *except under protest*, and would take legal measures to obtain the annuity I had already been admitted to. I understand that the Trustees of the Fund are liable to *me* for the amount of the annuity of £812, and as the Trustees acted under the orders of the Madras Government, I conclude that the Trustees must be indemnified by Government for any loss they may sustain by action at Law.

From C. WHITTINGHAM, Esq.; to the Secretary to the Civil Fund, Madras, dated 13, Dover Street, Piccadilly, 2nd December 1863.

Having been just informed, (though not officially) that my claim to the benefit of the £600 per annum, referred to in the Despatch from the Secretary of State for India, dated 25th November 1862, is likely to be called in question at the India Office, on the ground that I was at the time in receipt of my annuity, I beg to call your attention to the fact that my Annuity Certificate is dated the 30th April 1863, being after the date of the Despatch in question.

2. As the Annuity Certificate is a legal Bond guaranteeing me for life an annuity of £1000 per annum, as "the requisite amount for securing the annuity has been received from me," I beg to state, for the information of the Trustees, that I am in case of need prepared to urge the performance of the stipulation in a Court of Law.

From W. KNOX, Esq., late Madras Civil Service; to W. HUDLESTON, Esq., Secretary, Madras Civil Fund, dated Clonleigh Strabane, Ireland, 7th December 1863.

I have heard with much surprise that the Secretary of State for India has objected to the payment of my annuity on the grounds that I obtained it before the Memorials were sent in. I would call your attention to the fact that I was one of the movers of the Memorials sent in by the Madras Civil Service, dated 15th January 1860, and 20th April 1860, and was the party through whom the Madras Government transmitted their orders on the latter—Vide Extract Minutes of Consultation, 5th May 1860. I was obliged by ill-health to leave India, and feeling that I had no right to remain in the service when my Medical man told me I ought not to return to India, I applied for a pension instead of an extension of leave, and I can hardly think Government would on this ground deprive me of what they grant to others who left India before I did.

2. The delay in admitting the justice of our claims not being caused by any act of mine.

3. I further contend that the allowance of £500, granted in 1861, was not an annuity, it is designated in a letter to my address from the Under Secretary of State, dated 22nd October 1861, "a pension" "in anticipation of an annuity," and your own letters in reply to my applications for an annuity will be conclusive proof in any Court of Law that I had not obtained one. That this is the natural view of the case is apparent from the Extract Minutes of Consultation, dated 10th January 1863, on the Chief Secretary's Despatch, and I hold that the Trustees and Government are bound to act, and I trust they will act up to what was written to them and not be biassed by any interpretation of what was intended. If, however, I am disappointed in this hope, I am advised that my claim to the full annuity founded on the Certificate granted me, under date 9th February 1863, by the Trustees is good at law; and I beg leave to notify with all due respect that if any deduction be made from my annuity of £817, the amount necessary for securing which you and the Trustees acknowledge has been duly paid, I shall be obliged to take legal proceedings against the Trustees collectively or individually as my legal advisers may think best.

(True Copies.)

(Signed) W. HUDLESTON,
Secretary.

No. 41. From W. HUDLESTON, Esq., Secretary to the Civil Fund; to the Honorable A. J. ARBUTHNOT, Chief Secretary to Government, Fort Saint George, dated Madras, 3rd February 1864, No. 32.

In continuation of my letter dated 29th January 1864, No. 28, I am desired by the Managers of the Civil Service Annuity Fund to forward, for the information and consideration of Government, the accompanying copy of letter received from Mr. T. B. A. Conway, and to point out that, as already reported to Government in my letter dated 25th February 1863, No. 72, this gentleman was also admitted to the increased annuity of £600, sanctioned by the Despatch of 25th November 1862, No. 193, under the express Orders of Government, dated 10th January 1863, No. 19.

From T. CONWAY, Esq., Madras Civil Service (Retired); to the Secretary to the Madras Civil Fund, dated Woodland Cottage, Overton Bridge near Wrexham, Shropshire, 7th December 1863.

I have incidentally learnt that the Secretary of State for India has refused to allow payment of the £600 annuity to myself, and the other Civil Servants, who accepted the temporary allow

ance of £500 conceded to the Service in 1861, on the grounds that that allowance constituted the annuity which we were entitled to, whilst the terms of the Despatch of November 25th, 1862, only authorized the additional £100 being granted to those Civil Servants *who had obtained annuities after the date of the Memorials*, to which that Despatch was a reply.

2. In the 5th paragraph of the Despatch in question, the term "annuities" frequently repeated is used in but one sense, and that sense accords with the letter and spirit of the Fund Deed, which provides for a retiring annuity comprising the Government quota and the value of the contributions of each subscriber (not separately but collectively): and until a Civil Servant becomes the recipient of both portions, I hold that he cannot in justice, or legally, be accounted *to have obtained the annuity* guaranteed to him in virtue of his covenant and the provisions of the Fund Deed.

3. I may further remark that interest on my contributions to the Fund continued to accrue until the 25th November 1862, and as my account with the Fund was not closed until that date, I *had not obtained the annuity* guaranteed to me by the Government as one of the parties to the Deed, until after the Memorials were sent in.

4. It is unnecessary for me now to argue the point further, and from the fact of the Madras Government and the Trustees of the Fund having already recognized my claim, I should hope for their support in maintaining it; but if the guarantee secured to me by the Annuity Certificate is infringed hereafter, I shall deem it right to resort to legal means to protect my interets.

(True Copy.)

(Signed) W. HUDLESTON,
Secretary.

No. 42. ORDER THEREON, 12th February 1864, No. 106.

Resolved that copies of the foregoing letters and their enclosures be submitted for the consideration of the Right Honorable the Secretary of State for India in reference to his Despatch of the 24th November last, No. 89.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. J. Tulloch.

No. 28

Madras Civil Fund office
29th January 1864.

From

W. Hudleston, Esq.,
Secretary to the Civil Fund

To,

The Hon. A. J. Arbuthnot,
Chief Secretary to Government

Sir,

Referring to my letter dated 18th July 1863, No. 252, and to the Proceedings of Government dated 25th January 1864. No. 63, communicating copy of a Despatch from the Secretary of State dated 24th November 1863, No. 89, declining to admit Messrs. J. B. A. Conway, W. H. Bayley, W. M. Molle, C. Whittingham and Wm. Knox to the benefit of the increased Government grant of £600 per annum, sanctioned by the Despatch dated 25th November 1862, No. 193, I am desired by the Managers of the Civil Service Annuity Fund to forward for the information and consideration of Government the accompanying Copies of letters received from Messrs. Bayley, Molle, Whittingham and Knox, and to point out that, as already reported to Government in my letters dated 25 February and 29th April 1863, Nos. 72 and 134, these gentlemen were admitted to the increased benefit sanctioned by the Despatch of 25th November 1862, under the express orders of Government dated 10th January 1863, No. 19.

I have the honor to be
Sir
Your obedient Servant
W. Hudleston
Secretary.

Encl. No. 6

(Copies)

9c

25 Cambridge Square Hyde Park

Nov.r 19. 1863

The Secretary to the
Madras Civil Fund

Sir,

I understand that the Secretary of State for India has objected to the payment of the £600 Annuity to Messrs. Whittingham, Mollé, Crozier, Conway, and to myself, on the grounds that in his Despatch of the 25th Nov.r 1862, he stated that only those Civil Servants who had obtained Annuities since the Memorials were sent in; be admitted to the benefit of the new arrangement.

I maintain that we had not received our annuities;- that even supposing the temporary allowance of £500 per annum granted to us in 1861, to be a part of our Annuity, (which may be disputed), this does not constitute the payment of our Annuity, which was not ours till the Trustees of the Civil Fund granted us the whole amount due to us, including the value of our Subscriptions.

Not independent of the justice of our claim, which I believe the Madras Government and the Trustees must acknowledge, but any argument on which may be of no practical use to us, we have I consider a legal claim, which we may make practical use of.

The Trustees, on the 6th Feb. 1863, gave to each of us a Formal printed document, signed by themselves, guaranteeing to us Certain Annuities for our respective lives. Mine amounted to £880 per annum, which has been paid to me in quarterly payments at the Treasury of the India Office, for a whole year; and I hold the Trustees responsible for my continuing to receive an Annuity at this rate, and nothing less. I believe that the document referred to,

if

Bor. 25th Jany/64 Rec'd 53.

Letter of 23d Feby.

Received 1864 — Copy
from
The Secy of the Civil
Fund —
to
Mr Rd

183 to 186

Rec'd 26th Jan.y 1864
Rec'd Feb.y 1864
Rec.

No 28

Madras Civil Fund

Letter receiving from Messrs Whittingham, Mollé, Crozier, Conway, and myself, Certificates of Receipt of the several Annuities granted to us by the Trustees of the Civil Fund, and stating that we have received no Annuities other than those Certificates.

if produced in a Court of Law, would be as good as a duly executed Promissory Note, or Deed of assignment; and I beg respectfully to intimate, that if it is in any way repudiated, or if I am refused my Quarterly payments at the rate specified in that Paper, I have no alternative but to institute legal proceedings against the Trustees.

I am already advised that I have a legal claim against any one individual Trustee who signed that "Annuity Certificate."

I am &c.

(Signed) W. H. Bayley
late of the Madras Civil Service.

To,

The Secretary to the
Civil Fund Madras
21 Kensington Park Gardens

19th November 1863.

Sir,

I understand that the Secretary of Sta[te] has objected to the payment of the £ 600 annu[ity] to myself and others - My Annuity Certificate admits me to an annuity of £ 812 and having received it at this rate since November 1862, I would not receive a lesser annuity, except under protest, and would take legal measures to obtain the annuity I had already been admitted to - I understand that the Trustees of the Fund are liable to me for the amount of the annuity of £ 812 and as the Trustees acted under the orders of the Madras Government, I conclude that the Trustees must be indemnified by Government for any loss they may sustain by action at Law.

I am &c.

(Signed) Wm Wolfe

William Hudleston Esq.
Madras
Secretary to the Madras
Civil Fund.

3 11e

December 2d 1863

13 Dover Street Piccadilly

Sir,

Having been just informed (though not officially) that my claim to the benefit of the 600£ per annum referred to in the Despatch from the Secretary of State for India dated 25th Novr 1862 is likely to be called in question at the India office, on the ground that I was at the time in receipt of my annuity - I beg to call your attention to the fact that my Annuity Certificate is dated the 30th April 1863 being after the date of the despatch in question.

As the Annuity Certificate is a legal Bond guaranteeing me for life an annuity of £ 1,000 per annum, as "the requisite amount for securing the annuity has been received from me", I beg to state for the information of the Trustees that I am in case of need prepared to urge the performance of the stipulation in a Court of Law.

I am &c.

(Signed) C. Whittingham

The Secretary to the
Civil Fund Madras.

Clonleigh Strabane
Ireland
7th Decr. 1863.

To,

W. Hudleston Esq.
Secy. Madras
Civil Fund

Sir,

I have heard with much surprise that the Secretary of State for India has objected to the payment of my annuity on the ground that I obtained it before the Memorials were sent in, I would call your attention to the fact that I was one of the Movers of the Memorials sent in by the Madras Civil Service dated 16 Janry. 1860 and 20th April 1860 and was

was the party through whom the Madras Govt. transmitted their orders on the latter vide ex Min Con. 5th May 1860 - I was obliged by ill health to leave India and feeling that I had no right to remain in the Service when my Medical man told me I ought not to return to India I applied for a pension instead of an extension of leave and I can hardly think Govt. would on this ground deprive me of what they grant to others who left India before I did.

The delay in admitting the justice of our claims not being caused by any act of mine.

I further contend that the allowance of £500 granted in 1861 was not an annuity; it is designated in a letter to my address from the Under Secy. of State dated 22 Octo. 1861 "a pension" "in anticipation of an annuity" - and your own letter in reply to my applications, for an annuity will be conclusive proof in any Court of Law that I had not obtained one. That this is the natural view of the case is apparent from the ex Min Con dated 10 Jan. 1863 on the Chief Secty. despatch and I hold that the Trustees and Govt. are bound to act and I trust they will act up to what was written to them and not be biassed by any interpretation of what was intended. If however I am disappointed in this hope I am advised that my claim to the full annuity founded on the Certificate granted me, under date 9th Feby. 1863, by the Trustees is good at law - and I beg leave to notify with all due respect that if any deduction be made from my Annuity of £817 - the amount necessary for securing which you and the Trustees acknowledge has been duly paid. I shall be obliged to take legal proceedings against the Trustees collectively or individually as my legal advisers may think best.

I have &c.

(Signed) W. Knox
late Madras Civil Service.

(True Copies)

Secretary.

Encl. No. 1 C

Fuller Robt
Dec 63

No. 32

Madras 17th
Civil Fund Office
3rd February 1864.

From

W. Huddleston Esquire
Secretary to the Civil Fund,

To,

The Honble A. J. Arbuthnot
Chief Secretary to Government.

Sir,

In continuation of my letter dated 29th January 1864 No. 28 I am desired by the Managers of the Civil Service Annuity Fund to forward for the information and consideration of Government the accompanying copy of letter received from Mr. S. B. A. Conway and to point out that as already reported to Government in my letter dated 25th February 1863 No. 72, this gentleman was also admitted to the increased annuity of £600, sanctioned by the Despatch of 25th November 1862 No. 193, under the express Orders of Government dated 10th January 1863 No. 19.

I have the honor to be,
Sir,
your Obedient Servant,

W. Huddleston
Secretary.

Encl. No. 6

(Copy.)

Woodland Cottage - Overton Bridge

Near Wrexham - Shropshire

Decr. 7th 1863.

To,

The Secretary to the

Madras Civil Fund

Sir,

I have incidentally learnt that the Secretary of State for India, has refused to allow payment of the £600 Annuity to myself, and the other Civil Servants, who accepted the temporary allowance of £500 conceded to the Service in 1861, on the grounds that that allowance constituted the Annuity which we were entitled to, whilst the terms of the Despatch of Novr. 26th 1862 - only authorized the additional £100 being granted to those Civil Servants who had obtained annuities after the date of the Memorials, to which that Despatch was a reply.

In the 5th Para of the Despatch in question, the term "annuities" frequently repeated, is used in but one sense, and that sense accords with the letter and spirit of the Fund Deed, which provides for a retiring annuity comprising the Govt. quota and the value of the contributions of each Subscriber (not separately but collectively) and until a Civil Servant becomes the recipient of both portions I hold that he cannot in justice, or legally be accounted to have obtained the annuity guaranteed to him in virtue of his Covenant and the provisions of the Fund Deed.

I

Rec: 10th Jany 63 - 21-27
28th Feby 63 - 85-86

List of 23d Feby.

Read 10th Feby 1864

10th. 106

Extract from the Secretary Civil Fund Committee to the Civil Fund. Madras

No. 32

dated 8th Feby 1864

Sir

Agency

Forwarding for consideration copy of a letter from Mr. Courtney - at Ootacamund and requesting that an already expressed wish of the Committee, that Gentlemen transacting also submitted to the consideration annuities of £600 granted by the dear. £25 less (Rs £253 - annually the Orders of Govt of 10 Jany 63.

I may further remark that Interest on my contributions to the Fund, continued to accrue until the 25th Novr. 1862, and as my account with the Fund was not closed until that date, I had not obtained the Annuity guaranteed to me by the Govt. as one of the parties to the Deed, until after the Memorials were sent in.

It is unnecessary for me now to argue the point further, and from the fact of the Madras Govt. and the Trustees of the Fund, having already recognized my claim. I should hope for their support in maintaining it, but if the guarantee secured to me by the Annuity Certificate is infringed hereafter I shall deem it right to resort to legal means to protect my Interests.

I am &c.

(Signed) J. Conway
Madras Civil Service (Retired)

(True Copy)

L. Huthertow.
Secretary.

Encl. No. 16

H-13-13

Financial Department.

24a

PROCEEDINGS of the MADRAS GOVERNMENT.

Read letters from the Secretary to the Inland Fund

Dated 29th Janry & 3rd Febry 1864 Nos 28 & 32

Order - 12th February 1864 No 106 -

Resolved that copies of the foregoing letters & their enclosures be submitted for the consideration of the Right Honble the Secretary of State for India in reference to his Despatch of the 24th November last - No 89 -

List of 23rd Feby.

Financial 1864. Department.

No. 106

PROCEEDINGS of GOVERNMENT.

711 Replied to 31st May 64
N. 46

Dated 12 February 1864

Letters from Mrs Bayley
Molle Whittingham Knox
and Conway claiming the
increased annuity
sanctioned by Despatch
of 25th Novr forwarded
to the Secretary of State

40 & 42