M.R.O. 1—77,006—8-6-31.

(1) Number of pages 24.

(2) Date of repair 16.10.32.

(3) Initials of the Referencer

MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 602 Press / Mis.

31-32.

Dated 10-12- 18 69.

13/14

31-32

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department, 10*th December* 1869.

No. 31. Read the following letter from the Secretary to the Civil Fund, to the Chief Secretary to Government, Fort Saint George, dated Madras, 2nd December 1869, No. 439.

With reference to my letter of the 9th March last, No. 87, I am directed to submit a copy of a subsequent letter which has been received from Mr. Underwood, and the answer to it which has been prepared in this office.

2. I am directed to request that, if Government see no objection, the answer may be forwarded to Mr. Underwood's address.

From W. E. UNDERWOOD, Esq., to the Secretary to the Civil Fund, dated Westbourne Park, W., 1st September 1869.

I request you will do me the favour to present my cordial thanks to the Managers of the Civil Fund for the papers forwarded, all of which I have received from the Secretary of State through the Law Officers except the opinion of the Advocate-General which is privileged; I believe that the copies of the documents you sent home were furnished to my Solicitors on payment. My case has not come on this session. There are Messrs. Hooper, Goldingham, Hudleston, and Thomas' cases before the Vice-Chancellor, and by mutual agreement all have been framed alike, and one case is to be tried at the opening of the Court of Chancery and if successful it will probably go to the Lords, that is if the Secretary of State still resists, and the decision of the one case will govern mine and all the others.

2. It is a general impression that if the suit is decided in favour that all claims will be paid, but my conviction is, judging by all that is past, this will not be. The Law Officers of the India Office will not recommend this, because it is against their interest, and they will further argue that every case differs in its details as is proved by the bills filed, and that if the Counsel take the merits into consideration they must do the same with Bengal which involves half a crore, and, therefore, will recommend that no case be paid without the authority of the decision of a Court of Law. As this is a matter of considerable moment to many Members of the Service and their friends, I now give you this information in return for the courtesy shown to me. I may observe that the line of defence taken against Civilians is that the Rules of 1853 prohibited refund, but a Despatch has been discovered and filed in evidence to Bengal in which in express language the Court state that these Rules have no reference to refund and that if refund, is to be effected it must be by a new law.

3. My object in addressing you is this—among the papers you furnished is copy of a letter of 21st January 1835 from the Secretary of the Fund to Mr. Harris in answer to his demand for refund by his letter of 21st November 1834, and sending him an order upon the Sub-Treasurer for the amount of his refund, though he was not to get his annuity till May 1835. The Attorney of the Secretary of State, Mr. Lawford, says there is no copy at the India Office of Harris' letter of 21st November 1834, and that I must obtain it from Madras. May I ask the favour of you to send it and tell me whether Mr. Harris' subscription was stopped from 1st January 1835, up to which time his account was made up, the balance of which account was refunded to him, and whether other parties received the refund in the same way before retirement, and whether the deductions from their salaries ceased, or if not how were their cases dealt with on the refund of the half value paid in excess.

From the Secretary to the Civil Fund, to W. E. UNDERWOOD, Esq., dated Madras, 2nd December 1869.

Your letter, dated 1st September 1869, recovered from the wreck of the *Carnatic* reached me on the 22nd ultimo.

2. As requested, I beg to enclose the accompanying copy of a letter addressed by the late Mr. C. Harris to the Secretary to the Civil Fund, under date the 21st November 1834, and to inform you that Mr. Harris paid subscription to the Civil Annuity Fund up to 31st December 1834 only,

Secretary

and to no later date, and his account with the Fund was made up to that date, and the excess refunded to him.

3. I also enclose a Memorandum containing all the information you require in respect of the other parties who received refunds of excess subscriptions from the Fund. The names of all those retired members who received refunds on the same terms as yourself have been omitted in the Memorandum.

From C. HARRIS, Esq., to the Secretary to the Civil Fund, Fort Saint George, dated Madras, 21st November 1834.

In answer to your letter of the 20th instant, I have to state that my age, on the 1st of May 1835, will be sixty-five years and eleven months, and that I expect to resign the service about the 15th of January.

2. In regard to my subscription I believe it has already far exceeded the fine payable by me. In this case, I conclude the Trustees will order it to cease, and the excess to be refunded to me, according to the practice observed in the Charity Branch.

MEMORANDUM.

Mr. N. Webb ..... Subscription paid up to 31st March, interest calculated up to 30th April 1838. Resigned the H. C. Service, and annuity commenced from 1st May 1838. Excess subscription refunded on the 5th May 1838.

Mr. C. M. Lushington ... Subscription paid up to 22nd January, interest calculated up to 25th January. Resigned the H. C. Service from 26th January 1843, and annuity commenced from 1st May 1843. Excess subscription refunded on the 25th January 1843.

Mr. J. Bird..... Subscription paid up to 30th June 1845, interest calculated up to that date. Resigned the H. C. Service, and annuity commenced from 1st July 1845. Excess subscription refunded on that date.

Mr. G. J. Waters ..... Subscription paid up to 27th December 1847, interest calculated up to 30th April 1848. Resigned the H. C. Service from 1st May 1848, and annuity commenced from that date. Excess subscription refunded on the 5th May 1848.

Mr. H. Chamier ... . Subscription paid up to 14th January, interest calculated up to 19th January. Resigned the H. C. Service from 14th January 1848, and annuity commenced from 1st May 1848. Excess subscription refunded on the 19th January 1848.

Mr. H. Dickinson ..... Subscription paid up to 16th February, interest calculated up to 30th April 1850. Resigned the H. C. Service from 16th February 1850, and annuity commenced from 1st May 1850. Excess subscription refunded on the 6th May 1850.

Mr. A. Maclean..... Subscription paid up to 15th April 1849, interest calculated up to 30th April 1850. Resigned the H. C. Service, and annuity commenced from 1st May 1850. Excess subscription refunded on the 21st August 1850.

Mr. G. D. Drury ..... Subscription paid up to 30th June 1850, interest calculated up to that date. Resigned the H. C. Service, and annuity commenced from 1st July 1850. Excess subscription refunded on the 5th July 1850.

Mr. T. E. J. Boileau ..... Subscription paid up to 15th April, interest calculated up to 30th April 1851. Resigned the H. C. Service from 15th April 1851, and annuity commenced from 1st May 1851. Excess subscription refunded on the 7th May 1851.

Mr. W. D. Davis ..... Subscription paid up to 14th March 1850, interest calculated up to 30th April 1853. Resigned the H. C. Service, and annuity commenced from 1st May 1853. Excess subscription refunded on the 12th September 1856.

Mr. A. Robertson ..... Subscription paid up to 30th April 1855, interest calculated up to that date. Resigned the H. C. Service, and annuity commenced from 1st May 1855. Excess subscription refunded on the 14th September 1859, with interest at five per cent. from the date of retirement to the date of payment.

Mr. D. Elliott ..... Subscription paid up to 30th April 1858, interest calculated up to that date. Resigned the H. C. Service, and annuity commenced from 1st May 1858. Excess subscription refunded on the 14th September 1859, with interest at five per cent. from the date of retirement to the date of payment.

MADRAS,
CIVIL FUND OFFICE,
December 1869.

(Signed) J. GROSE,
Secretary.

No. 32. ORDER THEREON, 10th December 1869, No. 602.

Resolved that the papers received with the foregoing letter be sent to the Secretary of State in continuation of the Despatch to his address, dated the 16th March last, No. 5.

(True Extract.)

Chief Secretary.

To the Managers of the Civil Service Annuity Fund.

Exd. J. Wright.

Madras
Civil Fund Office

(Copy)

To,

Robert Porter Esquire
Secretary to the Civil Fund
Fort Saint George

Sir,

In answer to your letter of the 20th instant, I have to state that my age on the 1st of May 1835 will be sixty five years and Eleven months, and that I expect to resign the Service about the 15th of January.

In regard to my subscription I believe it has already far exceeded the fine payable by me. In this case, I conclude the Trustees will order it to cease and the excess to be refunded to me, according to the practice observed in the Charity Branch.

Madras
21st November 1834

I have &c.
(Signed) Charles Harris

(True Copy)

J Wyle
Secretary

No. 576.

J Wyle
Secretary

Govt. of India 1869 Madras.

FINANCIAL.

To

THE MANAGERS OF THE CIVIL SERVICE ANNUITY FUND

Dated December, 1869.

Rcd.

Encl.

G. O., 10th December 1869, No. 602.

DECEMBER.
Nos. 31-32.

Directing that certain correspondence between Mr. Underwood and the Civil Service Annuity Fund, relative to the refund of Mr. Harris' subscription, &c., be forwarded to the Secretary of [illegible].

Madras
Civil Fund Office

Memo

Mr A. Webb — Subscriptions paid upto 31st March. Interest calculated upto 30th April 1838. Resigned the H. C. Service and annuity commenced from 1st May 1838. Excess subscriptions refunded on the 5th May 1838.

Mr C. Mo. Cushington — Subscriptions paid upto 22d January. Interest calculated upto 25th January. Resigned the H. C. Service from 26th January 1843. and Annuity commenced from 1st May 1843. Excess subscriptions refunded on the 25th January 1843.

Mr J. Bird — Subscriptions paid upto 30th June 1845. Interest calculated upto that date. Resigned the H. C. Service and Annuity Commenced from 1st July 1845. Excess Subscriptions refunded on that date.

Mr C. J. Waters — Subscriptions paid upto 24th December 1847. Interest Calculated upto 30th April 1848. Resigned the H. C. Service from 1st May 1848. and Annuity Commenced from that date. Excess subscriptions refunded on the 8th May 1848.

Mr P. Chaunier — Subscriptions paid upto 14th January. Interest calculated upto 19th January. Resigned the H. C. Service from 14th January 1848. and Annuity Commenced from 1st May 1848. Excess Subscriptions refunded on the 15th January 1848.

Mr W. Dickinson — Subscriptions paid upto 16th February. Interest Calculated upto 30th April 1850. Resigned the H. C. Service from 16th February 1850. and Annuity Commenced from 1st May 1850. Excess Subscriptions refunded on the 6th May 1850.

Mr A. Maclean — Subscriptions paid upto 18th April 1849. Interest Calculated upto 30th April 1850. Resigned the H. C. Service and Annuity Commenced from 1st May 1850. Excess Subscriptions refunded on the 21st August 1850.

J Grote
Secretary

Mr. G. D. Drury ——— Subscription paid upto 30th June 1850 - Interest calculated upto that date Resigned the H.C. Service and annuity commenced from 1st July 1850 - Excess Subscription refunded on the 5th July 1850.

Mr. S.B.J. Boileau ——— Subscription paid upto 18th April - Interest calculated upto 30th April 1851 - Resigned the H.C. Service from 18th April 1851 - and annuity commenced from 1st day 1851 Excess Subscription refunded on the 7th day 1851.

Mr. H.D. Davis ——— Subscription paid upto 14th March 1850 Interest calculated upto 30th April 1853 - Resigned the H.C. Service and annuity commenced from 1st day 1853 - Excess Subscription refunded on the 12th Sept. 1856.

Mr. A. Robertson ——— Subscription paid upto 30th April 1856 - Interest calculated upto that date - Resigned the H.C. Service and annuity Commenced from 1st May 1856 - Excess Subscription refunded on the 14th Sept. 1859 with Interest at 5 p.c per Cent from the date of retirement to the date of payment.

Mr. D. Elliott ——— Subscription paid upto 30th April 1858 Interest calculated upto that date - Resigned the H.C. Service and Annuity Commenced from 1st May 1858 Excess Subscription refunded on the 14th September 1859 with Interest at 5 p.c per Cent from the date of retirement to the date of payment.

Madras
Civil Fund Office
December 1869

E. & O.E.

J Grote
Secretary

Rec'd Sept 17 1869

Rec'd Dec 10 - Dest 14 & 31.

K 9

Madras
Civil Fund Office
2nd December 1869

To,

W. E. Underwood Esquire

Sir,

Your letter dated 1st September 1869 - recovered from the wreck of the "Carnatic" reached me on the 22d Ultimo.

As requested I beg to enclose the accompanying Copy of a letter addressed by the late Mr. C. Harris to the Secretary to the Civil Fund under date the 21st November 1834 and to inform you that Mr. Harris paid Subscriptions to the Civil Annuity Fund upto 31st December 1834 only and to no later date and his account with the Fund was made up to that date and the excess refunded to him.

I also enclose a Memo containing all the information you require in respect of the other parties who received refunds of excess Subscriptions from the Fund. The Names of all those retired members who received refunds on the same terms as yourself have been omitted in the Memo.

I have the Honor to be
Sir
Your Obedient Servant

J Grote
Secretary

E. & O.E.

(Copy)

K 13

London 3 St Stephens Crescent
Westbourne Park W 1st Sept 1869

Sir

I request you will do me the favor to forward my cardial thanks to the Managers of the Civil Fund for the papers forwarded all of which I have received from the Secretary of State through the Law officers except the opinion of the Advocate General which is privileged I believe that the copies of the documents you sent home were furnished to my Solicitors on payment. My case has not come on this Session There are Mess^rs Hooper, Goldingham, Hudleston and Thomas' cases before the Vice Chancellor and by mutual agreement all have been framed alike and one case is to be tried at the opening of the Court of Chancery and if successful it will probably go to the Lords that is if the Secretary of State still resists and the decision of the one case will govern mine and all the others.

It is a general impression that if the Suit is decided in favor that all claims will be paid but my conviction is judging by all that is past this will not be. The Law officers of the India office will not recommend this because it is against their interest and they will further argue that every case differs in its details as is proved by the Bills filed and that if the Counsel take the merits into

Lieut Col Lake C.B. H.M. Secy
1869 Pet 17

into consideration they must do the same with Bengal which involves £a Crore and therefore will recommend that no case be paid without the authority of the decision of a Court of Law. As this is a matter of considerable moment to many members of the Service and their friends I now give you this information in return for the courtesy shown to me. I may observe that the line of defence taken against Civilians is that the Rule of 1853 prohibits refund but a despatch has been discovered and filed in evidence to Bengal in which in express language the Court states that these Rules have no reference to refund and that if refund is to be effected it must be by a new Law.

My object in addressing you is this Among the papers you furnished is copy of a letter of 21st January 1835 from the Secretary of the Treasury to Mr Harris in answer to his demand for refund by his letter of 21st Novr 1834 and sending him an order upon the Sub Treasurer for the amount of his refund though he was not to get his annuity till May 1835. The Attorney of the Secretary of State Mr Crawford says there is no copy at the India office of Harris' letter of 21st Novr 1834, and that I must obtain it from Madras. May I

P 15

ask the favor of you to send it and tell me whether Mr Harris' subscription was stopped from 1st January 1835 upto which time his account was made up the balance of which account was refunded to him, and whether other parties received the refund in the same way before retirement and whether the deductions from their salaries ceased, or if not how were their cases dealt with on the refund of the half value paid in excess.

I have &c

(Signed) W Elphinstone Undersecy

To

The Secretary Civil Fund

(True Copy)

J Grote
Secretary

Wm. V.C.

Madras
Civil Fund Office
2nd December 1869

No. 439.

From,

J. Grose Esquire
Secretary to the Civil Fund

To,

The Hon'ble C. P. Ellis Esquire
Chief Secretary to Government

Sir,

With reference to my letter of the 9th March last, 1869, I am directed to submit a copy of a subsequent letter which has been received from Mrs Underwood and the answer to it which has been prepared in this office.

I am directed to request that if Government see no objection, the answer may be forwarded to Mrs Underwood's address.

I have the honor to be
Sir
Your Obedient Servant

J Grose
Secretary

Civil Fund Office
Dec. 2nd 1869
Rec'd 15th Dec. 1869

Civil Fund Office
Dec. 2nd 1869
Rec'd 15th Dec. 1869

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Financial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following letter from the Secretary to the Civil Fund, H.E. 2nd December/69 No 439.

Order thereon 10 Dec=1869, No 602

Resolved that the papers received with the foregoing letter be sent to the Secretary of State in continuation of the Despatch to his address dated the 16th March last=No 5.

To the Managers of the Civil Fund=

dated 15/12

L.S.D.S.-12

To the Managers of the Civil Service Annuity Fund

Rec'd Dec. 10th 1869

Read

Recd 15th Dec 1869

No 602

Copy

Commands the pleasure to transmit the accompanied Copy of the letter from the Secretary of State dated the 2nd December 1869 No 439 on the subject of the Civil Service Annuity Fund

By Order

&c &c &c

Secy to Govt

To Secretary of State for India

Rec'd Dec. 10th 1869

Read

Recd 15th Dec 1869

No 602

Copy

Commands the pleasure to transmit the accompanied Copy of the letter from the Secretary of State dated the 2nd December 1869 No 439 on the subject of the Civil Service Annuity Fund

By Order

&c &c &c

Secy to Govt

8/69
10-12-
21.

Fin.l Dr. to Engr. Hon.
Dec.r 1869 No.17

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Govt. of {1869} Madras.

Financial

To

The Managers of the
Civil Service Annuity
Fund

Dated Dec.r 10 } 1869, No. 602
Recd.

Nos. 31 & 32.

Directing that certain
correspondence between
Mr Underwood Secretary Govt.
and the Civil Service Annuity
Fund, relative to the refund
of Mr Harris' subscription,
&c., be forwarded to
the Secy: of State.

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