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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 320 Press / Mis.

Bms. 14-16.

Dated 19 5 1870.

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14 - 16

Not to be folded or roughly handled

Proceedings of the Madras Government, Financial Department,
19th May 1870.

Read the following papers :—

No. 14. From G. H. M. BATTEN, Esq, Under Secretary to the Government of India, Financial Department, to the Chief Secretary to Government, Fort Saint George, dated Fort William, 8th January 1870, No. 91.

With reference to the recommendation of the Government of Madras, submitted with your letter, No. 595, dated 7th December 1869, for the grant of a pension to Mr. Daniel Shaw, late Chief Clerk of the Court of Small Causes, Madras, I am directed to request that, with the permission of His Excellency the Governor in Council, you will be good enough to state whether the person, holding the substantive office of Chief Clerk of the Court of Small Causes, for whom Mr. Shaw acted from 16th April 1858 to 14th March 1860, has been allowed to count towards pension the period of his absence, either as regards allowances on retirement, or the period of qualifying service. This information is required with reference to the rule laid down in the orders of this Department, No. 633, dated 31st January 1868, which permits acting service to count towards pension in certain cases.

2. Mr. Shaw during the time he held the office of Deputy Sheriff, Madras, does not appear to have devoted his whole time to the duties of the office, as he at the same time held also the office of Chief Clerk to Registrar and Prothonotary of the Supreme Court. I am to request that further information on this point may be furnished.

No. 68.

No. 15. OFFICIAL MEMORANDUM.

With reference to Official Memorandum from the Under Secretary to Government, Pension Department, No. 5, dated 20th instant, the Sheriff of Madras has the honour to state that, to the best of his knowledge, during the periods for which Mr. D. Shaw served as Deputy Sheriff (viz., from 20th December 1859 to 3rd March 1857, and from 20th December 1857 to 14th April 1858,) his duties as Deputy Sheriff were sufficient to occupy his whole time. Whether his whole time was or was not devoted to his duties as Deputy Sheriff during those periods the Sheriff of Madras is unable to state.

MADRAS, (Signed) H. D. E. DALRYMPLE,
31*st January* 1870. *Sheriff.*

To the Under Secretary to Government, Fort Saint George.

No. 16. To the Secretary to the Government of India, Financial Department, dated Fort Saint George, 19th May 1870, No. 200.

In reply to Mr. Under-Secretary Batten's letter noted in the margin, I am directed to state that, during the time that Mr. Shaw acted as Chief Clerk of the Court of Small Causes, there was a person holding the substantive office, but acting elsewhere. This person is still in the service of Government.

* No. 91, dated 8th January 1870.

2. With reference to Mr. Batten's second query, I am to inform you that, during the time Mr. Shaw was Deputy Sheriff, and held the appointment of clerk to the Prothonotary of the Supreme Court, his whole time was not devoted to the duties of the office of Deputy Sheriff.

3. I am to add that these defects in Mr. Shaw's claim did not escape the notice of this Government, which, in consequence of their existence, was obliged to refer the case as a special one. The Governor in Council observes that Mr. Shaw performed the duties of Deputy Sheriff for a long period, and had he not held any other appointment would have been entitled to reckon that period for pension. It seems to His Excellency in Council hard, that because Mr. Shaw was able to perform, in addition, the duties of clerk to the Registrar, itself a *quasi* public appointment,

this benefit should be denied him. The rule that persons who do not devote their whole time to the duties of their offices are not eligible to pension, appears intended to apply only to persons who, like barristers holding appointments under Government, but permitted to practise on their own account, are allowed to employ themselves for their private benefit; and it is, in the opinion of His Excellency in Council, a straining of the rule to apply it to the case of a man who in reality was in all his capacities a public servant, though in some of them he was remunerated from what were not technically State funds. Mr. Shaw served for upwards of thirty-two years in public capacities, and, as shown in the Proceedings of this Government already submitted to the Government of India, his service in purely Government appointments was practically continuous for upwards of fifteen years—a period sufficient to entitle him to pension. He is now completely worn out.

4. I am also to state that Mr. D. Passanha, a clerk on the establishment of the Registrar of the Supreme Court, was, under the sanction of the Secretary of State, allowed a pension as a special case.

5. On these grounds, and for the reasons urged in paragraph 2 of my letter, No. 595, dated 7th December 1869, I am directed to request the sanction of the Government of India to Mr. Shaw's admission to pension as a special case.

(Signed) R. S. ELLIS,
Chief Secretary.

Ed. J. Wright.

1870.

FINANCIAL DEPARTMENT.

From

The Chief Secretary to Government,

Fort Saint George,

To

The Secretary to the Govt. of India,

Financial Department.

Dated 19th May 1870.

Recd. No. 200.

Enclosure.

MAY.

Nos. 14—16.

Replying to certain queries of the Government of India, regarding the recommendation to pension made in behalf of Mr. D. Shaw, late Chief Clerk of the Court of Small Causes, and urging his admission to pension as a special case.

No. 68 of 1870.

Official Memorandum

With reference to Official Memo from the Under Secretary to Government Pension Department No 5 dated 20th instant, the Sheriff of Madras has the honor to state that, to the best of his knowledge, during the periods for which Mr. D. Shaw served as Deputy Sheriff (Viz from 20th December 1850 to 3rd March 1857 and from 20th December 1857 to 14th April 1858) his duties as Deputy Sheriff were sufficient to occupy his whole time. Whether his whole time was or was not devoted to his duties as Deputy Sheriff during those periods, the Sheriff of Madras is unable to state.

Sheriff's Office
Madras
31st January 1870

M. D. S. Debrayne
Sheriff

To

The Under Secretary
to Government
Public Wks Departments
Fort St. George

The U. S. to Sol. Public to. Department is directed to enquire whether the person ~~claiming~~ therein referred to ~~for~~ which Mr. D. claims credit as Deputy Sheriff (viz. from 20th Dec. 1850 to 3rd March 1857 & from 20th Dec. 1857 to 14th April 1858,) ~~during whilst~~ when he also held the office of Chief Clerk to the Register & Prothonotary of the Supreme Court, ~~he discharged~~ his duties as Deputy Sheriff were sufficient to occupy his whole time. If he found that his whole time was not devoted to his duties as Deputy Sheriff during the periods

Acct

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Atty Gen'l
Returned 1870 & Referred
Paris to Mr Peter
Oct 4th

Solr Genl
Office of Secretary of
Treasury
Washington

D.L. 200

Dec 31st

Dec 31st
Jany

Stating that Messrs. Thos Lemuel Jr. & Isaac Peterson &c. sheriff's bail bonds are duly executed, sufficient & properly filed & recorded. Encl.

Financial Dept.

No 200

To

The Secretary to the Govt. of India

Financial Department

Sir,

In reply to the Under Secretary Mr Batten's letter noted in the margin, I am directed to state that during the time that Mr Shaw acted as Chief Clerk of the Court of Small Causes, there was a person holding the substantive office, but acting elsewhere. This person is still in the service of Government.

2. With reference to Mr Batten's second query, I am to inform you that during the time Mr Shaw was Deputy Sheriff and

held

held the appointment of Clerk to the Prothonotary of the Supreme Court, his whole time was not devoted to the duties of the Office of Deputy Sheriffs.

5. I am to add that these deposits in Mr Shaw's claim did not escape the notice of this Government, in consequence of their unprecedented, was obliged to refer the case as a special one. His Excellency in Council observes that the Shaw performed the duties of Deputy Sheriff for a long period, and had he not held any other appointment would have been entitled to pension that period for pension. It seems to His Excellency

in

in Council hard, that because Mr Shaw was able to perform, in addition, the duties of Clerk to the Registrar, itself a great public appointment, this benefit should be denied him. The fact that persons who do not devote their whole time to the duties of their offices are not debarred pensions, appears calculated to apply only to persons who, like Barristers holding appointments under Government, but permitted to practice on their own account, are allowed to employ themselves for their private benefit; and it is, in the opinion of His Excellency inexpedient a drawing

of

of the rule to apply, it is the case of a man who, in reality, was in all his capacities a public servant, though in some of them he was remunerated from what were technically not state funds. He has served for upwards of thirty-two years in public capacities, and as shown in the proceedings of the Government to the Govt. of India his service in purely Govt. appointments was practically continuous for upwards of 15 years, a period sufficient to entitle him to pension. He is now completely worn out.

4. I am also to state that Mr. D. Vajpanka

was a clerk on the establishment of the Registrar of the Supreme Courts, under the sanction of the Secretary of State, allowed a pension, as a special case.

5. On these grounds and for the reasons urged in para 2 of my letter No 595 dated 7th December 1869, I am directed to request the sanction of the Govt. of India to the admission to pension, as a special case.

I.O. Rec.

For Saint George
19th May 1870.

1870.

Financial DEPARTMENT

From

The Chief Secretary to Government,
Fort Saint George,

To

The Secretary to the Govt. of India,
Department.

Dated May 19 1870.
Recd.

No. 200
Enclosure.

Nos. 14 & 16

Replying to certain queries ~~from~~ the Govt of India, regarding the recommendation to pension made on behalf of Mr. Thomas Col: Chief Clerk of the Court of Small Causes, and urging his admission to pension as a special Case.