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MADRAS RECORD OFFICE.

Government of Madras.

Financial DEPARTMENT.

G.O. No. 342 Press / Mis.

21-22.

Dated 12-8- 1820.

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Not to be folded or roughly handled

No. 342.

FROM

THE HON. R. S. ELLIS, C.B.,
Chief Secretary to the Government of Fort Saint George,

To

THE SECRETARY TO THE GOVERNMENT OF INDIA,
FINANCIAL DEPARTMENT.

SIR,

I am directed to submit the accompanying Proceedings of the Government in the Pension Department, and to request that, under the circumstances therein detailed, the Governor-General in Council may be pleased to sanction the grant of a one-third pension, or Rupees 14-8-0 per mensem, to Doolaputy Vencatachella Iyer.

I have the honour to be,
Sir,
Your most obedient servant,

OOTACAMUND,
12*th August* 1870.

Chief Secretary.

Proceedings of Government, Pension Department.

Read the following papers:—

From the Principal Sudder Ameen, Tranquebar, dated 16th October 1869.
Report of the Examiner of Claims, dated 3rd February 1870, No. 108.

Order, 21*st July* 1870, *No.* 320.

Doolaputy Vencatachella Iyer, on whose behalf the foregoing application for pension is submitted, was first entertained on the establishment of the Assistant Judge's Court at Combaconum, and served till its abolition seven years and sixteen days. On the 1st June 1859, the Assistant Judge was re-placed by a Principal Sudder Ameen, on whose establishment the applicant continued to serve till 30th September 1860, a period of two years, four months, and one day. On the 1st October 1860, the Principal Sudder Ameen's Court was transferred to Negapatam and thence, in 1864, to Tranquebar. The applicant continued to serve in the Court till 26th August 1869, when he was invalided. His whole service amounts to eighteen years, three months, and twenty days, but periods of leave being deducted, sixteen years, ten months, and twenty-nine days only is claimed for pension.

2. The Examiner of Claims has rejected the first two periods, on the ground that the establishments were temporary, and states that he applied to this case the principle laid down by Government in the cases of persons who served on the establishments of the Commissioner of the Northern Circars and in the Native Pension Fund Department of the late Civil Audit Office, (which existed very considerably longer than the Assistant Judge's Court in question,) viz., that all who were not transferred to those establishments from permanent posts under Government, but whose service under Government began in these establishments which were subsequently abolished, could not reckon the time so spent as qualifying for retiring allowance. According to the Examiner of Claims the applicant has only seven years, seven months, and four days' qualifying service, which entitles him to a gratuity of Rupees 350.

3. This principle is correct when it can be shown that the establishments, with reference to which it is to be applied, are temporary. But it is not sufficient to adduce merely the fact of the abolition of the establishment, after it has existed for a certain term, no matter how short; it must also, in the opinion of Government, be shown that the establishment, when set on foot, was

expressly declared to be a temporary one, or was entertained for an obviously temporary purpose. The presumption should be in favour of the applicant, when the intention of the establishment is obscure or doubtful.

4. The Assistant Judge's Court was established at Combaconum by a Notification, dated 17th March 1851, under the provisions of Act VII. of 1843, and the wording of the notification does not indicate any intention that the Court was to be temporary. From the correspondence which preceded the issue of the notification, it appears that the Assistant Judge's Court of Mangalore was transferred to Combaconum, and the transfer is not said to have been temporary. The entertainment of the Office Establishment was sanctioned in Extract from Minutes of Consultation, 25th March 1857, No. 186. The Government are of opinion that the Assistant Judge's Court must be viewed as a permanent establishment, and that the service rendered by the applicant in it should count for pension.

5. In 1858 it was desired to establish a Subordinate Court at Ootacamund in lieu of the Principal Sudder Ameen's Court existing there, and it was suggested that the measure might be carried out without expense by substituting a Sudder Ameen's Court for one of the Subordinate Courts in the plains. The Court of Sudder Adawlut was called on to state which of the Subordinate Courts it would recommend to be converted into a Sudder Ameen's Court, and suggested the Assistant Judge's Court at Combaconum. Accordingly a Sudder Ameen's Court was opened there, in lieu of the Assistant Judge's Court, on the 1st June 1858, and the applicant was entertained on its staff. On that date there were already two Principal Sudder Ameens' Courts at Combaconum—one permanent and one avowedly temporary—which had been established on the 8th April 1857. The temporary Court was abolished on the 1st January 1859. In the notification establishing the Court in lieu of the Assistant Judge's Court, the words "an additional Principal Sudder Ameen's Court at Combaconum" were used. It is on these words and on the fact that, in the book of establishments for 1858-59, V. Sundara Nayudu, who presided, is called "Temporary Principal Sudder Ameen." The Government doubt whether the word "additional" had acquired the meaning which it has now in connexion with the office of Principal Sudder Ameen, (*i. e.*, an officer supernumerary to the ordinary establishment who is appointed, always temporarily, in Zillahs in which the files are heavy); but rather expressed that the Court in question was in addition to those of the same class already existing at Combaconum. In the *Gazette* appointing him V. Sundara Nayudu is designated Principal Sudder Ameen of Combaconum without any qualifying words. It is observed, however, that in the correspondence of 1860, regarding the re-arrangement of the Courts in the Tanjore District, it was stated that two Principal Sudder Ameens' Courts—one temporary and one permanent—existed at Combaconum, and it was proposed to make the temporary one permanent and transfer it to Negapatam. When this measure was being carried out, V. Sundara Nayudu's Court, to which the applicant was attached, appears to have been the one transferred, and it is presumed was the one designated as temporary. From these facts it is clear that whatever may have been the intention as to the Court, when opened in lieu of the Assistant Judge's Court, it was regarded as a temporary one during the time it existed at Combaconum. The applicant's service on the establishment of that Court must, therefore, be rejected.

6. The balance of qualifying service remaining amounts to fourteen years, six months, and twenty-eight days, or five months and two days short of the time necessary to entitle the applicant to pension. In consideration of the continuity of the applicant's service, which is without a break, and the doubt whether the Court to which he was transferred on the abolition of the Assistant Judge's Court, was then considered a temporary one, the Government resolve to recommend to the Government of India that the slight deficiency be overlooked, and the applicant admitted to a one-third pension, which will amount to Rupees 14-8-0. Meantime the gratuity of twelve months' pay or Rupees 600, to which he is clearly entitled, is sanctioned subject to adjustment should he hereafter obtain pension. It will be disbursed in instalments in the usual way.

(True Extract.)

H. E. STOKES,
Under Secy. to Govt.

Exd. 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 12th August 1870.

Read. No. 342.

Enclosure.

Requesting sanction to a one-third pension, or Rupees 14-8-0 per mensem, to D. Vencatachella Iyer, late of the Principal Sudder Ameen's Court at Tranquebar.

(5)

Proceedings of the Madras Government, Pension Department, 21st July 1870.

Read the following papers:—

From the Principal Sudder Ameen, Tranquebar, dated 16th October 1869.

Report of the Examiner of Claims, dated 3rd February 1870, No. 108.

ORDER THEREON, 21st July 1870, No. 320.

Doolaputy Vencatachella Iyer, on whose behalf the foregoing application for pension is submitted, was first entertained on the establishment of the Assistant Judge's Court at Combaconum, and served till its abolition seven years and sixteen days. On the 1st June 1858, the Assistant Judge was re-placed by a Principal Sudder Ameen, on whose establishment the applicant continued to serve till 30th September 1860, a period of two years, four months, and one day. On the 1st October 1860, the Principal Sudder Ameen's Court was transferred to Negapatam and thence, in 1864, to Tranquebar. The applicant continued to serve in the Court till 26th August 1869, when he was invalided. His whole service amounts to eighteen years, three months, and twenty days, but periods of leave being deducted, sixteen years, ten months, and twenty-nine days only is claimed for pension.

2. The Examiner of Claims has rejected the first two periods, on the ground that the establishments were temporary, and states that he applied to this case the principle laid down by Government in the cases of persons who served on the establishments of the Commissioner of the Northern Circars and in the Native Pension Fund Department of the late Civil Audit Office, (which existed very considerably longer than the Assistant Judge's Court in question,) viz., that all who were not transferred to those establishments from permanent posts under Government, but whose service under Government began in these establishments which were subsequently abolished, could not reckon the time so spent as qualifying for retiring allowance. According to the Examiner of Claims the applicant has only seven years, seven months, and four days' qualifying service, which entitles him to a gratuity of Rupees 350.

3. This principle is correct when it can be shown that the establishments, with reference to which it is to be applied, are temporary. But it is not sufficient to adduce merely the fact of the abolition of the establishment, after it has existed for a certain term, no matter how short; it must also, in the opinion of Government, be shown that the establishment, when set on foot, was expressly declared to be a temporary one, or was entertained for an obviously temporary purpose. The presumption should be in favour of the applicant, when the intention of the establishment is obscure or doubtful.

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April 1857. The temporary Court was abolished on the 1st January 1859. In the notification establishing the Court in lieu of the Assistant Judge's Court, the words "an additional Principal Sudder Ameen's Court at Combaconum" were used. It is on these words and on the fact that, in the book of establishments for 1858-59, V. Sundara Nayudu, who presided, is called "Temporary Principal Sudder Ameen." The Government doubt whether the word "additional" had acquired the meaning which it has now in connexion with the office of Principal Sudder Ameen, (*i. e.*, an officer supernumerary to the ordinary establishment who is appointed, always temporarily, in Zillahs in which the files are heavy); but rather expressed that the Court in question was in addition to those of the same class already existing at Combaconum. In the *Gazette* appointing him V. Sundara Nayudu is designated Principal Sudder Ameen of Combaconum without any qualifying words. It is observed, however, that in the correspondence of 1860, regarding the re-arrangement of the Courts in the Tanjore District, it was stated that two Principal Sudder Ameens' Courts—one temporary and one permanent—existed at Combaconum, and it was proposed to make the temporary one permanent and transfer it to Negapatam. When this measure was being carried out, V. Sundara Nayudu's Court, to which the applicant was attached, appears to have been the one transferred, and it is presumed was the one designated as temporary. From these facts it is clear that whatever may have been the intention as to the Court, when opened in lieu of the Assistant Judge's Court, it was regarded as a temporary one during the time it existed at Combaconum. The applicant's service on the establishment of that Court must, therefore, be rejected.

6. The balance of qualifying service remaining amounts to fourteen years, six months, and twenty-eight days, or five months and two days short of the time necessary to entitle the applicant to pension. In consideration of the continuity of the applicant's service, which is without a break, and the doubt whether the Court to which he was transferred on the abolition of the Assistant Judge's Court, was then considered a temporary one, the Government resolve to recommend to the Government of India that the slight deficiency be overlooked, and the applicant admitted to a one-third pension, which will amount to Rupees 14-8-0. Meantime the gratuity of twelve months' pay or Rupees 600, to which he is clearly entitled, is sanctioned subject to adjustment should he hereafter obtain pension. It will be disbursed in instalments in the usual way.

(True Extract.)

H. R. Hobhouse

Under Secy. to Govt.

To the Principal Sudder Ameen of Tranquebar.
,, Collector of Tanjore.
,, Accountant-General.
,, Examiner of Claims.
,, Financial Department.

Exd. J. Wright.

Encl. Fin. Dep. 12th August 1870.

Govt. of {1870} Madras.

PENSION.

To

THE PRINCIPAL SUDDER AMEEN, Tanjore. &c., &c., &c.

No. 342.

Dated July, 21st.

Recd.

Encl.

G. O., 21st July 1870, No. 320.

JULY.

Sanctioning the grant of a gratuity of Rupees 600 to D. Vencatachella Iyer, and resolving that Government of India be requested to admit him to a one-third pension of Rupees 14-8-0 per mensem.

21.

Dup 19/8

(9)

Financial Department.

No. 342.

To

The Secretary to the Government of India.

Financial Department.

Sir,

I am directed to submit the accompanying proceedings of the Government in the Revenue Department, and to request that under the circumstances therein detailed the Governor General in Council may be pleased to sanction the grant of a One-third pension or Rs. 14-8-0 per mensem to Doobashy Vencata chella Iyer.

I. D. S

Fort Saint George, 12th August 1870.

Dup to file 19

18 . *Department.*

No.

To

The Secretary to the

Government of

Department

Dated 187 .

C 10/8. 12/12.

1870.

Financial DEPARTMENT

From

The Chief Secretary to Government,
Fort Saint George,

To

The Secretary to the Govt. of India.
Financial Department.

Dated Augt. 12. 1870.

Recd.

No. 342.
Enclosure.

Nos. 21. 22.

Requesting sanction to a one-third pension, or Rs. 11½ per mensem, to D. Venkatachella Iyer, late of the Princl. Sudr. Ameen's Court at Tranquebar.

C 10/8. R 12/8.