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70-2-5-98.

Financial (1899) Department.

102 8/15 8 99

Progs 8/15/8

ORDINARY MS.

G.O., Nos. 789, 790

DATED 14-7-99

INDEXED. 11/12

[Despatch Abstract.]

Forwarding to the Govt. of India a memorial from Mr. R. J. M. Mayne, Asst. Dist. Supt. of Police, appealing against the orders of this Govt. debarring him from drawing exchange compensation allowance.

PRINTED IN G.O., dated
(Nos as also)
15-8-1899. No. 900 Financial

N1

T
12-7-99

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G O.	No.	Department.	Date.
762 dy 1/99							

Financial

Judicial (1899) Department.

CURRENT No. 1877 ~~2057~~

No. ~~REAR~~ In wk. cent 13/5/99

Revd 15/5/99

CHIEF SECRETARY'S OFFICE 12 MAY 1899 GOVERNMENT OF MADRAS

10 abstract

From

W. J. A. Sullivan Esq.
Ag. Insp.r Gen.l of Police,
Madras.

CURRENT NO. 1879

~~Order~~
Endorsement

No. 1871.

Transferred to the Fmd Dep.t

A.R. Knapp
Under Secretary.

Dated 10th May 1899.
Received
Registered 12. 5. 99.
Enclosures 3.
Spare copies

No.
12/5/99.
Rec.d
Reg.d 15.5.99
Encls 3.

To
The Fmd Dep.t

SUBJECT.

Submitting a memorial from Mr. C. J. M. Mayne Assistant Superintendent of Police, regarding his claim for exchange compensation allowance.

2

BACK PAPERS.

G.O.	No.	Department	Date.
1081	819	11	98 Jud
679	810	8	98 "

FURTHER PAPERS.

G.O.	No.	Department.	Date

Vellore.
29th March 1899

31 MAR 1899
MADRAS.

31 MAR 1899

From

R. J. H. Bragnell Esqre
Assistant Superintendent
of Police

To.

The Inspector General of Police
Madras

Sir.

In enclosing a memorial
to His Excellency, the Viceroy
and Governor-General of India
in Council, appealing against
XV order No. 679 dated 10th August
1898, Financial Department,
of the Government of Madras,
I have the honor to request
that you will be so good as
to kindly forward the same,
through the Government of Madras.

2. There has been
some delay in the submission
of the Memorial and for this
23 I beg to explain that, at the
time I received the decree

quoted order of the Government of Madras, I was ill and on leave. I subsequently became more seriously ill and was under treatment in the General Hospital, Madras, for a period of about two months, after which I was obliged to take leave for my recovery and am only now gradually regaining my health and it was owing to illness that I was unable to submit the enclosed Memorial earlier.

3. I solicit, that in transmitting the Memorial, you will be so kind as to also communicate the above explanation for its delay to the Government of Madras.

I have the honor to be
Sir.
Your most obedt. Servt.

R. J. M. Mayne
Asstt. Superintendent
of Police.

27.4.99
Ed

QUESTIONS TO BE ANSWERED BY OFFICERS CLAIMING EXCHANGE COMPENSATION ALLOWANCE.

Name of claimant R. J. M. Mayne.

Office 2nd Grade Assistant Superintendent of Police

Questions.	Answers.
1. Were you born and are you domiciled within the dominions of Her Majesty in India of parents habitually resident in India and not established there for temporary purpose only?	1. I was born in India, but am not domiciled there, as my parents are not established there for temporary purposes only.
2. Are you a European?	2. Yes.
3. Of what nationality was your father?	3. Irish.
4. Of what nationality was your mother?	4. Irish.
5. In what country were they married and when?	5. In Ireland in 1853.
6. In what country were you born and when?	6. In India in 1863.
NOTE.—If appointed in England and No. 2 is answered in the affirmative, questions 7 to 19 need not be replied to.	
7. In what country or countries were you educated and for how long in each?	7. In India for 19 years.
8. In what country or countries did you reside before appointment to the service of Government and for how long in each?	8. In India.
9. In what country was your father born?	9. In Ireland.

24.

Questions.	Answers.
10. In what country or countries was he educated and for how long in each?	10. In Ireland for 20 years.
11. In what country or countries, and for how long, did he reside—	11.
(i) before you were born?	(i) In the British Isles for about 26 years.
(ii) since your birth to the present time?	(ii) In India.
12. If he was ever in India, state—	12. (i) At present.
(i) when?	(ii) For about 52 years.
(ii) for how long?	(iii) In the service of the Army.
(iii) in what capacity?	
(iv) (*a*) how often did he leave this country?	(iv) (a) Twice.
(*b*) when?	(b) In 1843 & in 1851.
(*c*) for how long?	(c) For three years on each of the above two occasions.
(*d*) in what capacity?	(d) On leave and furlough.
(*e*) in what countries did he reside during the periods of absence?	(e) In the British Isles.
13. If your father is dead, state in what country he died and when?	13. He is living.

Questions.	Answers.
If your father is living, these questions need not be replied to.	
14. In what country or countries, and for how long, did your mother reside—	
(i) before you were born?	
(ii) since your birth to the present time?	
15. If she was ever in India, state—	
(i) when?	
(ii) for how long?	
(iii) in what capacity?	
(iv) (*a*) how often did she leave this country?	
(*b*) when?	
(*c*) for how long?	
(*d*) in what capacity?	
(*e*) in what countries did she reside during the periods of absence?	
16. If your mother is dead, state in what country she died and when?	

25

Questions.	Answers.
17. If not born in India, how did you come to be in that country on appointment to the service of Government, and when did you arrive in India?	17. Born in India.
18. To what office, service, or department were you first appointed and when?	18 & 19. All the information required by these questions will be found at page 454 of "The History of Gazetted and Other Officers in the Civil Department serving in the Madras Presidency" - Corrected up to 1st July 1897 -
19. Are you still serving in the same office and department? If not, give the names of the departments and offices in which you have since served and in which you are now serving with dates.	
NOTE.—In cases in which complete information for questions 18 and 19 is obtainable from the history of services of Gazetted officers, a reference to the page and date of that publication will suffice.	

I certify on honour that the foregoing answers are quite correct.

STATION, Kodaikanal
Date 23rd April 1899.

W. W. Mayne
Signature of Claimant.

Asst. Supdt. of Police

Exd. Shaik Karim.

1899
Civil Dept
No 1871
2654.

Chief Office of the Insp.r Gen.l of Police
Madras. 10th May 1899.

No 1871.

Submitted to Government.

2. Mr. Mayne's explanation for late submission of this memorial is that he has been until quite recently too ill to draw it up.

3. It is a fact that Mr. Mayne was admitted into the General Hospital, Madras, in a precarious state of health. He has been on sick leave from 25th September 1898 and has not yet been declared fit to return to duty.

4. Mr. Mayne was transferred from the Salt Department to the Police as an Inspector in October 1889. On 3rd July 1891 he was made a Probationer for the Assistant Superintendents grade. His case may be considered to fall under rule 21 of the Government of India Resolution, No. 4847, dated 5th November 1898. For the reasons stated

VII

0 1081 of 1898

No

in para 3 of G.O. No. 679. F.D., dated 10th August 1898. Government held him to be a statutory native of India. XV

Ag. Inspector General of Police

15

C 27/6/99.
R 28-6-99.

(4)

18

Financial Department.

NOTES CONNECTED WITH G.O. Nos 789-790 F. FINANCE

~~S.No. 1879~~

dated 14.7.99

~~From~~ Letter from the I.G. of Police No. 1871 of 10.5.99

Note

30

omit

XV

Mr. E.J.M. Mayne, Asst. Supdt. of Police, submits for transmission to the Govt. of India an appeal against the decision in G.O.No.679, Finl. d/ 10th August 1898, which debarred him from drawing exchange compensation allowance.

2. The decision in those proceedings was based on the grounds -

(i) that he was not appointed to the office of Asst. Supdt. of Police direct, but by promotion from the grade of Inspector;

(ii) that he falls within the definition of a Statutory Native of India.

3. As regards (i) Govt. of India, Finance and Commerce Dept. Resolution No.4936 Ex, d/ 8-11-97 declared the offices of Asstt. Dist. Supdt. of Police and Dt. Supdt. of Police to be offices for which European qualifications are indispensable, and stated that exchange compensation allowance may be admitted to any European not being a Statutory Native of India, who has been, or who may hereafter be, appointed to either of those offices direct (i.e. not by promotion from the subordinate grades) and whom the Local Govt. may consider to have been appointed "as a European"

A

G.O.No.973, Finl. d/23-11-97

34

4.

4. Mr. Mayne was not appointed to the office of Asstt. Dist. Supdt. of Police direct, but by promotion from the grade of Inspector, though he belonged to the class formerly known as Gentlemen Inspectors.

5. With reference to this point Mr. Mayne submits

(i) that he was "appointed" as a "Probationer" otherwise called a "Gentleman Inspector" before he was gazetted to the rank and emoluments of an Asstt. Supdt, and that he therefore did not rise by promotion to his present grade;

(ii) that he falls within the purview of paragraph 21 of Govt. of India, Finance and Commerce Dept. Resolution No.4847 Ex,d/5-11-98, regarding appointments carrying exchange compensation allowance with them;

(iii) that the Govt. of Madras, has by admitting to exchange compensation allowance, Messrs Stevenson and Gadsden, who before being made Asst.Supdts. were like himself "probationers", estopped itself from placing upon his construction any other rendering than his own;

(iv) that at the time of his appointment first as probationer, and later on as an Asstt. Supdt. in 1891, those appointments were not open to Natives and that he was therefore appointed to an office in which European qualifications were held to be indispensable.

6. Para 21 of the Resolution referred to in the previous paragraph, which was received three months after

Mr.

(5)

Para 3 of Notes in G.O.No. 679, Finl.d/10-8-98.

XII

G.O.No.1081 Finl.d/19-11-98

A. Sp. 973 Fuil 23.11.98.

(margin) In forwarding the mem. to India this should be pointed out, & the objection withdrawn.

XII

35

Para 6 of the Notes (quoted)

16) (19

Mr. Mayne's claim was disposed of, went further than the Resolution of 8th November 1897 as regards the Police Dept, and laid down that exchange compensation allowance may be granted to officers holding appointments lower than that of Asstt. Supdt. of Police, if they have been specially appointed as Inspectors for a time only and in pursuance of a system of recruitment for Asstt. Superintendencies or pending the occurrence of a vacancy.

7. From the history of the services of Gazetted and other officers, it is seen that Mr. Mayne was in the Salt and Abkari Dept. from 30th May '84 to 15th Oct. '89; that he was also Inspector of Police, officiating as Asst. Supdt. of Police at intervals, from the 16th Oct. '89 to 30th April '95, and that he was confirmed as an Asst. Supdt. on the 1st May 1895. So far as his official eligibility is concerned, [redacted] para 21 of the Resolution of the Govt. of India No.4847 Ex,d/5-11-98 admits of exchange compensation allowance being granted to Mr. Mayne and renders void so much of G.O. No.679 Finl.d/10-8-98 as was based on the earlier resolution.

8. As to point (ii) which affects the question of Mr. Mayne's personal eligibility, it appears from his replies to the usual questions that his father came out in the service of the East India Company and acquired

an

(4)

an Indian domicile of which he has not yet divested himself, as he is still residing in the country and in service, being an officer in the European Invalided Battalion of Veterans, and that Mr. Mayne himself was born in India and has never left the country . Mr. Mayne was therefore held to be a statutory native.

9. As regards this objection Mr. Mayne while accepting the fact that there is legal authority for the domicile of choice can be abandoned in favour of the domicile of origin and that slighter evidence of such an abandonment will be required than would be asked to ~~suggest~~ support a change from the domicile of origin to a domicile of choice. He quotes cases in support of this view and states that the strongest possible evidence of his father having relinquished his acquired Indian domicile and re-acquired his Irish domicile consists in the fact that he (his father) is at present in receipt of exchange compensation allowance. Mr. Mayne quotes sections from the Indian Succession Act in further proof that he is not domiciled in India. It is submitted, however, that he cannot get over the technical domicile of which he has not divested himself either by act or intention. All the evidence available is in favour of Mr. Mayne's father ending his days in India, as others of his corps have done. As to Mr. Mayne himself, there can be no doubt that he was born in India and that he is domiciled in India until he acquires, by act as well

Please see Wachope & Wachope. Notes in G.O.No.305 Finl. 28.2.99. (N)

Opinion of Government, contends that a

as regards his father drawing Exchange Compensation Allowance which has not been contended that his father is declared as a Statutory Native of India is declared as a what even if he were so declared he would not be entitled to draw some reason why the Under is no

W. Mayne

he inherits from his father, who by taking service under the East India Company acquired an Indian domicile of which

3

Letter No.5510 Ex/19-12-98 (K)
" 5548/20-12-98 (D)
" 5586Ex/20-12-98 (E)

Mr Wachope (2)

Vide Notes on p. 2
The Memorial must of course be sent on to India.
The objection on p. 2 will be withdrawn.
The objection on the ground that Mr Mayne is a statutory native of India still remains & is a bar to the grant of comp. all., though of course if India is willing to waive the rule this Govt can have no objection.

Mt 27.6.99

S.E.H. 87.99

(3)

well as by intention, a new domicile. The Govt. of India has on several occasions been willing to waive the objections to Accounts drawing Ex. Comp" on the ground of a technical Indian domicile, but Mr. Mayne's Indian domicile appears to be more than technical.

Cus. 24 6 99

(2) SP

(18)

(20)

Draft Memorial omit

36

C3-7-99.
A10-7-99.

[G. / 24]
350—13-6-99.

Financial DEPARTMENT.

12/7/99

C. No 1879 From the Inspector General of Police, No. 1871, dated 10th May 1899.

" " " " " 189.

" " " " " 189.

" " " " " 189.

C8

Order
Secy. Mr. 789 of 14-7-99.

H.E. the Governor

A.S.H. 8.7.99

The memorial will be forwarded to the Government of India

Issue 11 1779.
See sheet
end

10? 1771

copied 12/7/99

Dec'd 14/7/99

To The Inspector General of Police (Q.R.O)

No 790.

Letter to the Government of India, Finance and Commerce Department

No. dated

With memorial and enclosures

A.S.H.

Sir,

I am directed to transmit

addressed to the Viceroy & Governor-General in Council.

The accompanying memorial from Mr R. J. M. Mayne, Assistant District Superintendent of Police in which he is appealing against the decision contained in this Govt. No. 679 Financial, dated the 10th August 1898, debarring him from drawing Exchange Compensation allowance.

2. The decision in those proceedings was based on the grounds (1st) that Mr. Mayne was not appointed to the office of Assistant Superintendent of Police direct, but by promotion from the grade of Inspector; and (2nd) that he falls within the definition of a Statutory Native of India.

3. The first objection was based on the terms of the reference to the Government of India, Finance and Commerce department Resolution No 4936 Ex, dated the 8th November 1897, which declared the offices of Assistant District Superintendent of Police and District Superintendent of Police to be offices for which European qualifications are indispensable and decided that exchange compensation allowance might be admitted to any European, not being a Statutory Native of India, who has been or may

A Vol I
J.O. No 973 Mil & 23-4-97.

hereafter be appointed to either of those offices direct (i.e not by promotion from the subordinate grades), As, however, para 21 of Government of India Finance and Commerce department Resolution No 4847 Ex, dated the 5th November 1898, which was received three months after Mr Mayne's claim was disposed of, refers that exchange compensation allowance may be granted to officers whose appointments are lower than that of Assistant Superintendent of Police, if they have been specially appointed as Inspectors for a time only and in pursuance of recruitment for Asst. Superintendencies, & pending the occurrence of a vacancy, Mr Mayne's claim for exchange compensation allowance as he shows, is admissible and G.O. No 679 Fin. dated 10th August 98 as was based on the earlier resolution of November 1897 is rescinded. A

the first objection is withdrawn.

4. As regards the second objection, which affects the question of Mr. Mayne's personal eligibility, I am to point

and whom the Local Govt. may consider to have been appointed "as a European"

N.S.
G.O. 1087 Mil & 19th Nov 98. XII

first appt. in the Police Dept. was in a post lower

So far as it is based on his official eligibility,

XV

N56

~~Ord~~ that his father, ~~came into the~~ by accepting service under the ~~service of the~~ East India Company, ~~and~~ acquired an Indian domicile of which he has not yet divested himself as he is still residing in the Country and in Service, ~~and that Mr Mayne himself was born in India and has never left the country, the~~ Mayne was therefore held to be a ~~Statutory native~~. This objection still remains and is a bar to the granting of the ~~any~~ compensation allowance. If however the Govt of India is willing to waive the rule, this judgment will cause no objection.

5. The delay in the submission of ~~this~~ his memorial by Mr. Mayne ~~is reported to be~~ has been due to ~~the protracted~~ illness of the Major.

There can be no doubt that Mr. Mayne, who was born in India and has never left the country, acquired a technical Indian domicile from his father ~~which he has not divested and that~~ this domicile ~~will remain~~ prevails until he acquires, by act as well as by intention, a new domicile; ~~the prolonged residence in India of his father~~ and that, ~~to~~ owing to the prolonged residence of his father in India, Mr. Mayne is a Statutory Native of India. The second objection must therefore still remain, unless the Govt. of India consider that the case may be specially treated.

D.S.H. 8.7.99

P. 6528 Chd. S. 30. VI. 99

When given for copying ____
When copied ____
When examined ____
When signed ____
} 189.

READ AGAIN G.O., No. 189, DATED

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT	A	A	A	A	A	A	A
LETTER OF GOVERNMENT.							
STATEMENT WITH DITTO.							
PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH ORIGINAL.							

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29