

ORDER—No. 901, Financial, dated 15th August 1899.

Communicated in continuation of G.O., No. 679, Financial, dated 10th June 1899, to all departments of the Secretariat.

2. With reference to paragraph 3 of the letter from the Government of India, all pending claims to the allowance prior to the 1st April 1897, which fall under the conditions prescribed in clause VI of the memorandum, should be forwarded with full particulars to the Financial Department.

(True Extract.)

for Chief Secretary.

To all Departments of the Secretariat.
„ the Accountant-General.

End. P. Seetharam.

Financial (1899) Department.

ORDINARY PRINTED.

G.O., No. 902

DATED 15-8-99

INDEXED

[Despatch Abstract.]

Exchange Compensation Allowance
to the Police
from the Govt. stating that
that holds Mr. R. J. M. Mayne, Asst. Dist.
Dep't of Police, Madras, to be personally
responsible for —

17/8/99

came out in the service of the East India
of which he has not yet divested himself
in the European Invalided Battalion of
Veterans. Mr. Mayne himself was born
in India and has never left India. He
seems also to be a Statutory Native of
India.

7. Mr. Sandell—*vide* paragraph 4 of the Inspector-General's letter, No. 3505 dated 27th September 1897—was appointed to the Police department in England and, unless he is a Eurasian, is clearly entitled to the allowance (*vide* paragraph 2 of India's letter No. 1271-Ex., dated 18th March 1898, on page 2 of G.O., No. 381, Financial, dated 19th April 1898).

(Intld.) C.M.S.
3-6-98.

C.A.—

Obtain Mr. Sandell's replies to the questions.

For the C.S.—

In his letter No. 2918, dated 27th July 1899, the Inspector-General of Police states that Mr. Sandell awaits particulars from England before replying to the questions. Submitted that the other cases may be decided.

(Intld.) C.M.S.
2-8-98.

(Intld.) A.T.A.
4-6-98.

H. M. for orders.

See above

(Intld.) G.S.
3-8-98.

(Intld.) H.W.B.
4-8-98.

FINANCIAL DEPARTMENT.

G.O., &c., Nos 789, 790, Financial, dated 14th July 1899.

Letter from the Inspector-General of Police, No. 1871, dated 10th May 1899.

Mr. R. J. M. Mayne, Assistant Superintendent of Police, submits for transmission to the Government of India an appeal against the decision in G.O., No. 679, Financial, dated 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 Assistant Superintendent of Police direct, but by promotion from the grade of inspector; and

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

3. As regards (i) Government of India Finance and Commerce Department resolution No. 4936-Ex., dated 8th November 1897, declared the offices of Assistant District Superintendent 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 Government may consider to have been appointed "as a European."

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

Paragraph 3 of notes in G.O., No. 679, Financial, dated 10th August 1898.

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 Assistant Superintendent, and that he therefore did *not* rise by promotion to his present grade;

(ii) that he falls within the purview of paragraph 21 of Government of India Finance and Commerce Department resolution No. 4847-Ex., dated 5th November 1898, regarding appointments carrying exchange compensation allowance with them;

(iii) that the Government of Madras has by admitting exchange compensation allowance to Messrs. Stevenson and Gadsden, who before being made Assistant Superintendents 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 Assistant Superintendent 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. Paragraph 21 of the resolution referred to in the previous paragraph, which was received three months after Mr. Mayne's claim was disposed of, went further than the resolution of 8th November 1897 as regards the Police department, and laid down that exchange compensation allowance may be granted to officers holding appointments lower than that of Assistant Superintendent of Police, if they have been specially appointed as Inspectors for a time only and in pursuance of a system of recruitment for Assistant 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 department from 30th May 1884 to 15th October 1889; that he was an Inspector of Police, officiating as Assistant Superintendent of Police at intervals, from the 16th October 1889 to 30th April 1895; and that he was confirmed as an Assistant Superintendent on the 1st May 1895. So far as

(Intld.) G.S.

26-6-99.
In forwarding the memorial to India this should be pointed out, and the objection withdrawn.

(Intld.) A.T.A.

No. 679, Financial, dated 10th August 1898, 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 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 Invalidated 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 opinion of Government, contends that a 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 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

Government {1899} of Madras. FINANCIAL.

not domiciled in India. It is submitted that as regards his father drawing exchange compensation allowance it has not been contended that his father is debarred as a Statutory Native of India; that even if he were so debarred there is no reason why the son should draw what he is not entitled to; and that Mr. Mayne cannot get over the technical domicile which he inherits from his father, who by taking service under the East India Company acquired an Indian 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 as by intention, a new domicile. The Government of India has on several occasions been willing to waive objections to officers drawing exchange compensation on the ground of a technical Indian domicile, but Mr. Mayne's Indian domicile appears to be more than technical.

Letter No. 5510-Ex., dated 19th December 1898.

Letter No. 5548, dated 20th December 1898.

Letter No. 5583-Ex., dated 20th December 1898.

(Intld.) C.M.S.
24-6-99.

H. M. and circulate.

(Intld.) G.S.
26-6-99.

*Vide note at ** The memorial must of course be sent on to India. The [first] objection will be withdrawn. The objection on the ground that Mr. Mayne is a Statutory Native of India still remains and is a bar to the grant of compensation allowance, though of course if India is willing to waive the rule this Government can have no objection.

(Intld.) A.T.A.
27-6-99.

(„) A.E.H.
8-7-99.

Recd.

Enclosures

Regd.

1899.

Spare copies

G.O., No. 902, 15th August 1899.

AUGUST.

Exchange Compensation Allowance.

Communicating to the Inspector-General of Police letter from the Government of India stating that that Government holds Mr. R. J. M. Mayne, Assistant District Superintendent of Police, Madras, to be personally ineligible for —.

GOVERNMENT OF MADRAS.

FINANCIAL DEPARTMENT.

Read—again the following papers:—

G.O., Mis. No. 679, Financial, dated 10th August 1898.

Read—the following papers:—

From M. HAMMICK, Esq., I.C.S., Inspector-General of Police, to the Chief Secretary to Government, dated Madras, 27th September 1897, No. 3505.

I have the honour to address Government again with reference to G.O., No. 491, Financial, dated 24th June 1897, regarding the grant of compensation allowance to police officers and in continuation of my letter, No. 2870, dated 14th August 1897.

2. As regards the list of appointments falling within the categories (A) and (B) referred to in paragraph 5 (1) of the Government of India's resolution read in the above order, I am of opinion that none of the appointments made now to the Police department in India fall under either (A) or (B). The European recruitment of the service is effected entirely by examinations held in England, and the two methods of appointment provided to recruit the service in India appear to have been specially designed to admit natives of India to the department. It cannot be said that officers appointed under the rules in India are appointed "to offices in which European qualifications are held to be indispensable." A proportion of Europeans is held to be indispensable in the police, but that proportion is maintained by the recruitment of the service by examinations held in England.

3. As regards those officers now in the department who do not draw compensation allowance, but who now claim it under the rules, they are four—Messrs. West, Leggatt, Mayne and Sandell.

4. Mr. Sandell is clearly entitled to the allowance; he falls under paragraph 3 of the resolution [Rule II (1) of the rules]. He was appointed to the service in England after the examination held in 1895.

5. As regards the other three officers, it must, I think, be presumed that they were appointed to maintain the proportion of Europeans required in the Police department, because at the time of their appointment, no natives were ever appointed to the class to which the privilege is given under statute, 33 Victoria, chapter 3. They must, to fall under this statute, have been born and domiciled within the dominions of Her Majesty in India of parents habitually resident in India and not established there for temporary purposes only.

Mr. West was born in India, while his father was in the army. His father on retirement lived at Ootacamund and died there. Mr. West was educated in England and I doubt whether he can himself be said to be domiciled in India. His intention, no doubt, is to settle in England on retirement.

Mr. Mayne was born in India and his father is now living in India, having retired from the service. He was educated in India, and beyond that his intention is to leave India on retirement, he appears to be domiciled in India. Mr. Mayne appears to me to be a Native of India under the statute referred to.

Mr. Leggatt was born in India and was educated in this country. His father who has retired from the service is now living in India. His mother is, however, living in England and Mr. Leggatt states that his father is not permanently established in India. Mr. Leggatt appears to be entitled to the privileges given under the statute.

6. I enclose with this letter the answers to the questions which these officers have given, which will enable the Government to judge of each officer's case. I am inclined to think that Mr. West is entitled to the allowance, but Mr. Mayne and Mr. Leggatt not so.

From the Inspector-General of Police, Madras, dated 5th August 1898, No. 3031.

Order—Mis. No. 679, Financial, dated 10th August 1898.

In Government of India Finance and Commerce Department Resolution, No. 4936-Ex., dated 8th November 1897, recorded in G.O., No. 973, Financial, dated 23rd November 1897, it is laid down that the offices of Assistant District Superintendent of Police and District Superintendent of Police are offices for which European qualifications are indispensable and that exchange compensation allowance may be admitted to any European, *not being a Statutory Native*, who has been, or may hereafter be, appointed to either of these offices direct (*i.e.*, not by promotion from the subordinate grades) and whom the Local Government may consider to have been appointed "as a European."

2. The definition of a Statutory Native of India includes any person born and domiciled within the dominions of Her Majesty in India of parents habitually resident in India and not established there for temporary purposes only.

3. The Inspector-General of Police submits the claims of Messrs. (1) West, (2) Leggatt, (3) Mayne and (4) Sandell for admission to the benefits of exchange compensation allowance. From the History of Services it appears that Messrs. (1) West, (2) Leggatt and (3) Mayne were not appointed to the office of Assistant District Superintendent of Police *direct*, but by promotion from the grade of Inspector. Further from the information furnished by these officers themselves, it is clear, as will be shown below, that they come within the definition of a Statutory Native of India:—

(1) *Mr. West.*—This officer's father came out in the service of the East India Company and therefore acquired an Indian domicile, of which he did not divest himself prior to his death at Ootacamund in 1890. Mr. West was born in 1859 in Rangoon. He was educated for nine years in England (1870—79) returning to India in 1879. He fulfils the definition of a Statutory Native of India.

(2) *Mr. Leggatt.*—The father of this officer was born and educated in India where, with the exception of a period of seven months (on leave in 1875), he has always remained. Mr. Leggatt himself was born in India and has left the country only once on three months' leave. Mr. Leggatt clearly falls within the definition of a Statutory Native of India.

(3) *Mr. Mayne.*—The father of this officer came out in the service of the East India Company and thus acquired an Indian domicile of which he has not yet divested himself as he is still residing in India. Mr. Mayne himself was born in India and has never left the country. He is a Statutory Native of India.

4. These three officers are therefore debarred from the privilege of exchange compensation allowance.

5. Mr. Sandell being a European appointed in England is entitled to the allowance.

(True Extract.)

(Signed) G. STOKES,
Chief Secretary.

To the Inspector-General of Police.

" Judicial Department.

" Accountant-General.

G.O., Mis. No. 789, Financial, dated 14th July 1899.

Read—from the Acting Inspector-General of Police, Madras, dated 10th May 1899, No. 1871.

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

Order—Mis. No. 789, Financial, dated 14th July 1899.

The memorial will be forwarded to the Government of India.

(True Extract.)

(Signed) G. STOKES,
Chief Secretary.

Letter—Mis. No. 790, Financial, dated Ootacamund, 14th July 1899, to the Secretary to the Government of India, Finance and Commerce Department.

I am directed to transmit the accompanying memorial addressed to His Excellency the Viceroy and Governor-General in Council by Mr. R. J. M. Mayne, Assistant District Superintendent of Police, in which he appeals against the decision of this Government contained in its Proceedings, 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—

Firstly—that Mr. Mayne was not appointed to the office of Assistant Superintendent of Police direct, but by promotion from the grade of Inspector; and

Second—that he falls within the definition of a Statutory Native of India.

3. The first objection was based on the terms of 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 might be admitted to any European, not being a Statutory Native of India, who has been, or may hereafter be, appointed to either of those offices direct (i.e., not by promotion from the subordinate grades), and whom the Local Government may consider to have been appointed "as a European." As, however, paragraph 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, rules that exchange compensation allowance may be granted to officers whose first appointment in the Police department was in a post lower than that of Assistant Superintendent, if they have been specially appointed as Inspectors for a time only in pursuance of recruitment for Assistant Superintendencies, or pending the occurrence of a vacancy, Mr. Mayne's claim for exchange compensation allowance, so far as it is based on his official eligibility, is, as he shows, admissible and 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 out that his father, by accepting service under the East India Company, acquired an Indian domicile of which he has not yet divested himself as he is still residing in the country and in service. 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; that this domicile prevails until he acquires, by act as well as by intention, a new domicile; and that, looking 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 Government of India considers that the case may be specially treated.

5. The delay in the submission of his memorial by Mr. Mayne has been due to illness.

(Signed) G. STOKES,
Chief Secretary.

READ—also the following paper:—

From W. S. MEYER, Esq., Deputy Secretary to the Government of India, Finance and Commerce Department, to the Chief Secretary to the Government of Madras, dated Simla, 24th July 1899, No. 3354-Ex.

I am directed to acknowledge the receipt of your letter No. 790, dated 14th July 1899, forwarding a memorial to His Excellency the Viceroy from Mr. R. J. M. Mayne, Assistant District Superintendent of Police, Madras, on the subject of his claim to exchange compensation allowance.

2. In reply, I am to say that the Government of India hold Mr. Mayne to be personally ineligible for the allowance and I am to request that, with the permission of His Excellency the Governor in Council, he may be informed accordingly.

ORDER—No. 902, Financial, dated 15th August 1899.

Communicated to the Inspector-General of Police who will make the necessary intimation to Mr. Mayne.

(True Extract.)

G. STOKES,
Chief Secretary.

To the Inspector-General of Police.
Judicial Department.

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4. As regards the second objection, which affects the question of Mr. Mayne's personal eligibility, I am to point out that his father, by accepting service under the East India Company, acquired an Indian domicile of which he has not yet divested himself as he is still residing in the country and in service. 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; that this domicile prevails until he acquires, by act as well as by intention, a new domicile; and that, looking 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 Government of India considers that the case may be specially treated.

5. The delay in the submission of his memorial by Mr. Mayne has been due to illness.

(Signed) G. STOKES,
Chief Secretary.

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2. In reply, I am to say that the Government of India hold Mr. Mayne to be personally ineligible for the allowance and I am to request that, with the permission of His Excellency the Governor in Council, he may be informed accordingly.

ORDER—No. 902, Financial, dated 15th August 1899.

Communicated to the Inspector-General of Police who will make the necessary intimation to Mr. Mayne.

(True Extract.)

G. STOKES,
Chief Secretary.

To the Inspector-General of Police.
Judicial Department.

[1/2]
1,000-20-7-06.

Financial (1899) Department.

CURRENT No. 2691

Read again F.O. No. 679. [C. No. 4157 with enclos = A vbo = Q.
Order = A]
- F.O. - 759/90 [C. No. 1879 = P. Order & letter = A]
C. No. 2691 (A) 14.7.99

Order W. 902 of 15-8-99.
14.8.99
Communicated to the

From
The Govt of India
Fin & Com. Dep't

Inspector General of Police
who will make the necessary
intimation to Mr. Mayne.

No. 3354 &c.

Dated 24 July 99

Received } 31

Registered

Enclosures -

Spare copies. -

22 of Police (A-10)
Tud. Dept. desd.
30-8-99

SUBJECT.
Stating in reply to letter
No 790 of 14 July 99 that the
Govt of India hold Mr Mayne
to be personally ineligible for
exchange compensation allowance
and requesting that Mr Mayne
may be informed accordingly.

Please return to Ref after indexing.

Ref Print up letters connected with F.O. 679
10.5.98 759/90 consecutively
14.7.99
Match the originals accordingly - Show proof

Cul 10.8.99

11.8.99 sent
SAS 15.8.99

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ORDER OF GOVERNMENT

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

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IN ORIGINAL.

A.B. —

A = Print in full
B = Not to be printed.
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