

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No.	189	Press Mis.
23-24		
Dated	12-2-19	1859

Not to be folded or roughly handled

17

Fort St. George, Judicial Consultation, 15th February 1859.

No. 23. Read the following letter from Lieutenant Colonel H. COLBECK, Magistrate of Police; to T. PYCROFT, Esq., Chief Secretary to Government, dated 26th January 1859.

SIR,

I have the honor to forward (in duplicate) a Memorial for submission to the Right Honorable the Governor in Council.

2. In submitting my Memorial for transmission to Her Majesty's Principal Secretary of State for the affairs of India, I most respectfully and earnestly ask at the hands of the Right Honorable the Governor and the Honorable the Members of Council their kind support, for which I shall feel most deeply grateful.

To the Right Honorable LORD STANLEY, Her Majesty's Principal Secretary of State for the Affairs of India, and President of the Council.

The respectful Memorial of Henry Colbeck, a
Brevet Lieutenant Colonel of the Retired List
and Magistrate of Police for the Town of
Madras.

HUMBLY SHEWETH,

1. That your memorialist entered the Military Service of the late Honorable East India Company as a Cadet of the Season 1824, and so soon as he had passed through the requisite course of instruction and drill, he volunteered his services for Burmah in the first campaign, which was then in progress in that country, but peace shortly ensuing, your memorialist did not embark.

2. Your memorialist has on several occasions acted in various staff appointments.

3. In the year 1843 his Regiment formed part of the Reserve Force for China, and your memorialist embarked with it for Singapore.

4. In the year following your memorialist proceeded to Hongkong, and while there the Acting Governor, General D'Aguilar, selected your memorialist for the appointment of Superintendent of Police in that Colony, but the Left Wing of your memorialist's Regiment being suddenly ordered to Amoy, your memorialist was precluded accepting the appointment.

5. Shortly after this your memorialist was appointed to officiate as Vice-Consul at Amoy; and upon the return of the gentleman for whom your memorialist was acting, in consequence of a letter from the Consul, your memorialist was permitted by the Government at Hongkong to continue his services at Amoy as 1st Assistant in the Consulate, without any diminution of salary. Copy of Consul's letter, marked *A*, is appended.

6. Extreme ill health, however, from China fever, compelled your memorialist to relinquish his appointment and return to India.

7. After a few months' residence on the Neilgherries, your memorialist's health being restored, he solicited (the then Governor of Madras) the Marquis of Tweeddale for staff employ, enclosing for his Lordship's information copy of letter marked *A*.

8. This was in the middle of the year 1846; and your memorialist was shortly after nominated to act as Magistrate of Police for Major Clerk, then absent on sick certificate, but on whose return your memorialist was relieved, and letter (copy marked *B*, appended) was addressed to Government.

9. At this time the number of Captains absent from the Regiment of your memorialist precluded his permanent employ upon the staff, but Lord Tweeddale assured your memorialist that so soon as the obstacle should be removed your memorialist should be nominated to some appointment.

10. In the meantime your memorialist's Regiment was stationed at Vellore, and your memorialist acted as Fort Adjutant of that station; on vacating which appointment your memorialist's services were most favorably commented on by the late General Walpole (the then Brigadier Commanding).

11. The period of Lord Tweeddale's Government closed before the number of officers present with his Regiment would permit the services of your memorialist being withdrawn from it; but your memorialist believes Lord Tweeddale on vacating left a Minute for his successor,

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the late Sir Henry Pottinger, which eventually led to the appointment of your memorialist to his present office of Magistrate of Police.

12. This took place in the beginning of the year 1850, since which time your memorialist has unceasingly performed the arduous duties of his office.

13. In the latter end of the year 1853, an augmentation of the Army took place; at which time your memorialist was 3rd Captain of his Regiment (the 4th Native Infantry), with a speedy prospect of obtaining his Majority.

14. Unhappily, at this time, in accordance with the rules of the service, your memorialist, in consequence of his misfortune in promotion, was removed (diametrically against both his interest and his wishes) to the newly raised Corps, the 3rd Madras Europeans; as 4th Captain, under the fallacious idea that a 4th Captain in a European Regiment is equivalent to 2nd Captain in a Native Regiment. Remonstrance and solicitation were vain; the rules of the service were held to be imperative; and your memorialist, after 29 years' service, found that the very circumstance of his retarded promotion became the cause of an arrangement which completed the measure of his misfortune, and ruined his prospects.

15. Had your memorialist remained in the Regiment to which he was unwillingly removed (the 3rd Europeans) he would have now been (after a period of 33 years' service in a tropical climate) 2nd Captain of his Regiment. Whereas, had he been allowed to remain in his old Corps, he would have been a Regimental Field Officer years since.

16. In addition to the misfortunes as detailed above, consequent upon the removal of your memorialist from the 4th Regiment N. I., to the 3rd Europeans, your memorialist has to add that in his old Regiment, after 17 years of service as a Subaltern, your memorialist purchased his Company, upon the understanding in the Regiment that should your memorialist himself wish to sell at a future period, his juniors would purchase his retirement. Indeed, the Officers in his old Regiment junior to your memorialist, offered him 25,000 Rupees to retire; but even while the tender was under consideration, the removal of your memorialist took place, and his step was obtained in the 4th Native Infantry, without any payment whatever.

17. Thus unhappily situated, and after nearly a life's service, your memorialist foreseeing nothing but bitter disappointment and subordinate duties in prospect, considered it his wisest course to retire, which he was permitted to do upon the pension of a Major.

18. Your memorialist, however, being still employed in the service of the Government, his pension is denied him, or rather it is paid with one hand by the Government, and withdrawn with the other, being monthly deducted from the salary of his office.

19. This your memorialist conceives to be a hardship, as the pension is for service past and rendered; and whoever held the Office your memorialist now holds would draw the same salary as your memorialist even though he had never rendered a day's previous service to the State.

20. Should your memorialist's health be spared, it is his intention to serve yet for many years; still your memorialist feels that should the infirmities of age or failing health incapacitate him for further work, and he be compelled to retire, a very pittance only is available to him.

21. Under the peculiar circumstances of your memorialist's isolated, and perhaps unprecedented case, and taking into consideration his compulsory removal from one Regiment to another, thereby entailing upon your memorialist a grievous and heavy misfortune (although the measure was intended for his benefit,) your memorialist's prayer and petition is that your Lordship in Council will do what may be in your power to assist him, and that your memorialist may at least be accorded the advantage of being placed upon the same footing in regard to claim for pension as his fellow laborers in the Uncovenanted Service, to which your memorialist now belongs.

22. Your Lordship will bear in mind that your memorialist has up to the present time drawn not one shilling of pension. His service, as he has explained, has been passed partly in the Covenanted and partly in the Uncovenanted branch. If left to the operation of existing rules the period in the one branch serves to neutralize the period passed in the other. That is, your memorialist's employment as an Uncovenanted Servant deprives him of the pension due to him for Military Service, while the period of Military Service at the same time does not count in creating title to pension as an Uncovenanted Servant. Against this double disadvantage your memorialist would respectfully ask to be guarded.

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23. He would solicit either that he may receive his pension as a retired Major, with arrears from the date of retirement, or that the combined period of his service in the army and as an Uncovenanted Servant may be permitted to count in entitling him to pension in his present position of an Uncovenanted Servant.

24. To enlist still further your Lordship's sympathies, your memorialist would bring to notice that of his lengthened service of 33 years, 29 have been passed continuously in tropical climates, and that during the last 10 years, in which he has served as a Magistrate, he has been absent on leave but for ten days.

25. Your memorialist would humbly ask that his position may be viewed relatively with that even of the native employes, passing their time in their native land, in a climate congenial to them, and encircled by their compatriots, their relatives, and their friends; the native officials, in whatsoever capacity employed, become entitled to pension after 20 years' service, and your memorialist hopes that with the evils he has had to struggle with in a foreign and distant land and trying climate, he may not be cast into a more disadvantageous position.

26. Your memorialist is not one who has other resources than the means he now solicits at your hands to fall back upon. The expenses of bringing up a family in Europe have prevented his making any accumulation for declining years, and unless your Lordship extends to him the consideration he solicits he has no prospect but that of passing the remainder of his days in exile.

Leaving his case for the kind consideration of your Lordship in Council, your memorialist will, as in duty bound,

Ever Pray.

A.

BRITISH CONSULATE AMOY, December 12th, 1846.

SIR,

I have the honor to acknowledge the receipt of your Excellency's Despatch No. 49, dated November 19th, 1844, authorizing the continuance of Captain Colbeck's services as Officiating First Assistant to the Consulate until the appointment shall be permanently filled up by the arrival of Mr. Hertslett at Amoy.

Captain Colbeck has requested me to convey his sense of obligation to your Excellency for the favourable consideration of my letter. I feel it due to that Officer and to the service to state my conviction from the zealous and able manner in which he has discharged all the duties of the office confided to him, that if his services could be made permanently available to the Consular Department, consistently with your Excellency's arrangements, they would be found very valuable either in this or any other Consulate in China.

I have taken the liberty of bringing this subject under consideration now, as Mr. Hertslett's anticipated arrival will at once supersede Captain Colbeck as Officiating First Assistant at this Consulate.

I have &c.,

(Signed) RUTHERFORD ALCOCK.

(A true Copy.)

(Signed) H. COLBECK.

B.

MADRAS, GENERAL POLICE OFFICE,
23rd December 1846.

From

CONWAY STAFFORD, ESQUIRE,

Acting Chief Magistrate and Superintendent of Police.

To

J. F. THOMAS, ESQUIRE,

Chief Secretary to Government, Fort Saint George.

SIR,

Captain F. G. Clerk having resumed his duties as Police Magistrate agreeably to G. O. G. dated 22nd current, whereby Captain Henry Colbeck of the 4th Regiment N. I., is relieved from acting for him.

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I consider it but due to the latter Officer to acquaint you for the information of the Most Noble the Governor in Council, that in every respect I have reason to be fully satisfied with his correct performance of the duty; and I beg more especially to bring to notice the intelligence, quickness, and correctness of judgment which I consider peculiarly qualify him for the duties from which he is now relieved.

I have the honor to be, &c.,

(Signed) CONWAY STAFFORD,

Acting Chief Magistrate and Superintendent of Police.

(A true Copy.)

(Signed) H. COLBECK.

No. 24. ORDER THEREON, No. 189; dated 12th February 1859.

Resolved that Lieutenant Colonel Colbeck's Memorial be forwarded to the Principal Secretary of State for India.

(Signed) T. PYCROFT,

Chief Secretary.

Memorandum shewing the Orders which preclude a Military retired officer from drawing his military pension whilst employed on civil duty - & also those which debar Military service being taken into account in reckoning service for Civil Pension.

Courts Dec. spatch - 12 Sept. No. 24 of 1849. } "The salary of 1000 Rupees a month to the Police Magistrate at Madras being a consolidated allowance where the office is filled by a Military man, Major Conway Stafford's Pay prior to his retirement from the Army merged in that sum. His retired Pay or Pension must therefore be governed by the same principle so long as he continues to hold the office of Police Magistrate."

G. I. Mil. Dept. No. 91 dated 2nd Jan'y 58. } "The Honble Ct. have decided in the case of Capt. Hay, a retired Mily. officer, subsequently appointed as Commissioner at Ferooz in the Punjab, that the rule under which Civil Pension is merged in the salary of office should apply to the case of Military officers drawing pensions for Military service, & that upon this principle Capt. Hay should be allowed the av. retired salary of his appointments minus the amount of his pensions."

H. C. to G. I. 21 April No. 74/1847. } Paras. 27 & 28 * * * "We regard the practice of holding salaried offices together with pensions from Govt. as a great abuse, & rely on your vigilance for putting an end to it."

H. C. No. 22 dated 10th Sept. 56. } "Military service does not count as service for Pension in the Civil Dept."

Case of the Head Mr. of the H. C. D. Asylum. } "The Honble Ct. have decided in the case of Mr. D. on his transfer dated 25 Sept. to the Sub-Collector's Office, ought to retain such pension as he may now be entitled to claim by virtue of his past services."

- in the

Memorandum to the

of the
Lt Col Colbeck with his appeal to the
Home for securing by on the grounds -

1st That he was engaged against his
will & to his prejudice from the 4th
Sept. to the 30th Nov. 1891 -

2. That he draws no retiring pension
while employed as Police Magistrate
as it merges in the consolidated
salary of the latter appointment -

3^d. That he is not allowed to reckon
his military service with his present
unconnected civil service in any
- mention of

of his Pension -

As respects Col Colbeck individually
he has perhaps no great grievance to
allege on these two last notes. He has
these conditions, when he left the service
and he did just it & at the time
appointment in the magistracy because
with these drawbacks it suited him
better than any other position in his history.
So far - it is a very good deal.

At the same time it is to be noted
that the rules in question are not
equitable in themselves not for the purpose
of the public service -
His pension is not to be paid in full.

* Civil Service is for order secured - for duty
understand - The salary of any mercenary
- like officer is, it is to be presumed, no
more than commensurate with its
labors & responsibilities - Why should
such officers be required to forego money
which they have fairly earned, if they
accept mercenary appointments - or
why should their services be obtained
at a cheaper rate than those of others?

Again if a man serves for a longer
period, why should not his pension be
increased in proportion - whether his ser-
vice be purely military or composite
purely military & purely civil -

I say civil as I imagine the rules apply to
civilians also & that pay in this pension -

Such rules must further expedite
as they tend to keep out of the way of
- hunted service - Indian men of
local knowledge & experience whose
past service would make them
more valuable.

I am not sure however whether
they do not exist in the service
service - proper -

3/2/59

JP

Mount his term of service

for his term of service

They will have to be shown

They will have to be shown

They will have to be shown

No. 189.

Resolved that Lt. Col. Colbeck's
Memorial ^{be forwarded} to the Principal Secretary
of State for India, be transmitted
& that the following letter be
despatched ~~as an accompaniment~~
sent to it.

will

To the Secy, &
19 February 1859

JP

To Lt. Col. Colbeck - Secy of State - Sir 10th

Ind. L. to Eng. 12th
Feb 4 No. 5 of 1859
Repts to in Prov. Govt.
in the L. to Dept. 2/14th
Nov 4 1859 at 027-

70-186

75-186

3000 760

29-5-65

24-4-65

C328.

R7"

C10"

R12"

23424

C328.

In 89. 5. 15. February
Judicial. 1859. Sept.

From

Lieut. Col. H. Colbeck
Magistrate of Police

To J. Pycroft Esq.
Chief Secretary to
Government
Fort St. George

Dated 26th January 1859
Recd 27

10133.

Submits Memorial for
transmission to Her Majesty's
Principal Secretary of
State for the affairs of
India. on the subject of
his retiring pension.
With an Order.

30/10/16
1859
of 1859-1860

C328.
I lay the above before the
Hon. Secy to Govt.