M.R.O. 1—39,000—16-10-29.

MADRAS RECORD OFFICE.

Government of Madras.

Judicial DEPARTMENT.

G.O. No. 559-560

Press
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53-59

Dated 6-4-~~19~~1867

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Not to be folded or roughly handled

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Proceedings of the Madras Government, Judicial Department, 6th April 1867.

Read the following papers:—

No. 53. From C. DALE, Esq., Government Pleader at Madras, and late Master and Commissioner of the High Court, to the Chief Secretary to Government, Fort Saint George; dated Madras, 8th February 1867, No. 23.

I do myself the honor of forwarding to you the enclosed Memorial addressed by me to the Right Honorable the Governor in Council, and of requesting that you will be good enough to take an early opportunity of laying the same before His Lordship in Council.

2. I enclose a spare copy, and can forward you more copies should you require them.

To

THE RIGHT HONORABLE FRANCIS BARON NAPIER, K. T.,
Governor of Fort Saint George in Council.

The humble Memorial of CLEMENT DALE, Esq., Barrister-at-Law, the Government Pleader to the Government of Madras, and lately Master in Equity and Commissioner and Taxing Officer of the High Court of Judicature at Madras.

SHEWETH,

1. That in 1841 your Memorialist was an Attorney and Solicitor of Her Majesty's Superior Courts at Westminster, practising in London.

2. That in August 1841 your Memorialist, being then upwards of 22 years of age, was appointed by the Honorable Court of Directors of the East India Company to be the Solicitor to the Government of Madras.

Mr. Dale appointed Honorable Company's Solicitor.

3. On the 3rd of June 1842 your Memorialist arrived at Madras, and immediately took up his appointment.

Took charge 3rd June 1842.

4. Your Memorialist continued to hold such office till the 19th of December 1856, when he resigned the same.

Held appointment till 19th December 1856.

5. On the 14th of January 1857 your Memorialist was appointed to officiate as the Government Pleader at Madras, and on the 28th of April 1857, was confirmed in such appointment, and from that time to the present has continued to hold the same.

Appointed Government Pleader.

6. In the month of October 1859 your Memorialist was appointed Master in Equity of the late Supreme Court, on the occasion of the late Charles Martin Teed, Esq., obtaining leave of absence on sick certificate.

Appointed Master in Equity.

7. On the 1st of November 1859 your Memorialist entered on the duties of such office, and continued to perform the same till the 1st of February 1860, when Mr. Teed returned from Bangalore and was re-appointed.

Mr. Teed resumed appointment.

8. On the 9th of March 1860 your Memorialist was again appointed to the office of Master, on the occasion of Mr. Teed obtaining fresh leave of absence to Europe on sick certificate, and he held the office until Mr. Teed's return to Madras on the 11th of April 1861, when Mr. Teed was re-appointed to the office by the then Acting Chief Justice of the late Supreme Court, and retained the office until his death on the

Mr. Dale re-appointed.

11th of February 1862, and on the 14th of the same month your Memorialist was for the third time appointed.

Conversation with the Chief Justice on Mr. Teed's death, regarding new appointment of Commissioner, &c., in lieu of Master.

9. Your Memorialist deems it proper to state, that the day following Mr. Teed's death your Memorialist had an interview with the Chief Justice Sir Colley Scotland, when his Lordship was pleased to intimate that he contemplated appointing your Memorialist to the vacant office of Master, but that the appointment would be made subject to any changes that might be deemed necessary on the coming into operation of the new High Court; whereupon your Memorialist begged he might be allowed to withdraw his letter offering himself for the office, as he was not disposed to throw up his practice for an appointment of so uncertain a tenure, your Memorialist making use of the expression, he would not relinquish his practice for "a pig in a poke;" his Lordship then informed your Memorialist he did not consider that in reality there was any thing on the score of uncertainty, which should deter your Memorialist from accepting the office; his Lordship guarded himself by remarking, that he could only inform your Memorialist of the views which he (the Chief Justice) entertained as to the organization of the establishment of the new Court, the Government might take a different view, but that he entertained no doubt that an office would be created under some such title as Commissioner, &c., whose duties would be similar to those exercised by the Master, but with modifications in the practice so as to facilitate the working of references, &c.; that doubtless all the Officers of the Court would be put upon salaries, and that he thought the salaries should be calculated on an average of the fees received by the Officers for the five years preceding the new arrangement; your Memorialist pointed out that, although that might be a very fair average for the other Officers, it would not be so with respect to the Master's office, because it was notorious that for some years prior to Mr. Teed's death, the state of his health had been such as greatly to impair his efficiency, and that in consequence the fees during the latter portion of his tenure of the office had greatly diminished; his Lordship, however, remarked, he could not make exceptions; your Memorialist was aware that during the time he had held the office he had increased the fees, and that the Returns for the year 1860 showed a net average of Rupees 2470-5-3 a month, and having ascertained from a calculation made by his orders that a five years, average, such as was proposed by the Chief Justice, would be likely to amount to about Rupees 2300 a month, your Memorialist agreed to accept the vacant office, and was appointed to it on the 14th of February 1862.

High Court opened.

10. On the 16th of August 1862 the High Court was opened, and under the rules passed by such Court, your Memorialist continued to hold the office and perform the duties of Master of the Court.

Offer by Chief Justice of appointment of Commissioner.

11. In 1863 the Chief Justice informed your Memorialist, that, in forming an establishment of Officers on the Original Side of the High Court, he proposed to create an office under the designation of "Commissioner and Taxing Officer;" that most of the duties to be performed by him would be similar to those theretofore performed by the Master; that the new office would be remunerated by a salary, the fees being paid to Government, and his Lordship informed your Memorialist, that for the purpose of disposing of the business connected with the suits in the late Supreme Court, which were then pending, he proposed the office of the Master should be continued for a time, and that your Memorialist, as then holding the office of Master, should be appointed to the new office, and for the business transacted in respect of the Supreme Court suits, your Memorialist should be remunerated by fees as theretofore.

Appointment, salary Rupees 933-5-4.

12. Your Memorialist consented to accept the new office on those terms, and on the 30th of May 1863, he was informed by the Registrar of the Court that he was appointed to the office on a salary of Rupees 933-5-4.

Showing how far the proposition of the Chief Justice, mentioned in paragraph 9, had been carried out.

13. So far as the creation of a new office under the title of "Commissioner and Taxing Officer," with duties similar to those performed by the Master, and the appointment of your Memorialist to it, the views expressed to your Memorialist by the Honorable the Chief Justice were carried out.

14. Not so, however, as regards the amount of salary attached to the office, the actual average of the net emoluments of the office of Master from the 1st of June 1858 to the 31st of May 1863 (when the new scheme came into operation) was Rupees 2270-14-9 a month; whereas your Memorialist understands, the Chief Justice separated the fees which had accrued for the taxation of costs during that period from the general fees earned by the Master, calculated his average on the amount of taxation fees alone, and then fixed the salary of the Commissioner and Taxing Officer at Rs. 933-5-4 a month.

Mr. Dale would not have accepted the office of Master, had he been aware the proposition of the Chief Justice would not have been carried out, &c.

15. If, in February 1862, your Memorialist had been made aware of the amount of salary that would be attached to the new office, and that three years after its creation such new office would be abolished, your Memorialist would not have accepted the office of Master; in May 1863, when the amount of salary was first communicated to your Memorialist, it was too late to recede, your Memorialist had relinquished his practice, and it is not an easy matter to regain practice thus voluntarily relinquished; moreover, the duties of a Master clash with the interests of the Solicitors; and it is from those Solicitors that a Practising Barrister obtains briefs, &c.

Submits grounds on which he is entitled to compensation.

16. Your Memorialist submits, for the consideration of your Lordship in Council, that the abolition of his office of Commissioner and Taxing Officer affords him just grounds for seeking at your Lordship's hands a fair amount of compensation. Your Memorialist had a good practice at the Bar, and by the retirement of Messrs. Branson and Smyth, and the absence of Mr. John Norton, there can be no doubt his practice would have greatly increased, and for some time past would have been extremely lucrative. It has been considered to be for the benefit of the public that the references and other portions of the duties heretofore performed by your Memorialist should, for the future, be performed by the Honorable the Judges. In England and Ireland alterations have been frequently made in the organization of Courts of Justice; in those cases provision has been made for as many of the men thus displaced as could be provided for, and to the others handsome remuneration has been afforded; and your Memorialist confidently appeals to your Lordship in Council, with the full assurance that the liberal policy adopted by the Imperial Government will guide your Lordship in dealing with the case of your Memorialist, which is of a similar character.

17. Your Memorialist has not been provided for by Government; this might have been done by promotion to the Bench, there to fulfil judicial duties of an analogous character to those performed by him as Master and Commissioner (in a minor degree) for seven years; and to a great extent, to complete work largely entered upon by your Memorialist in his character of Master and Commissioner, and which will now have to be completed by one or other of the Honorable the Judges and who naturally are strangers to the work which has been partly performed by your Memorialist.

18. Your Memorialist is in duty bound to bow to the decision of Government, but trusts he may be allowed to remark, that he was not only desirous, but was and is fully capable, both mentally and physically, to perform the duties which devolve upon a Judge; his average of work having been from seven to eight hours (and frequently more) each day, in every week; with very little opportunity of availing himself of the vacations allowed by the Court; having been compelled, with the exception of the year 1865, to remain in Madras the greater portion of each vacation to dispose of arrears of business.

19. As, however, Government have not considered it was for the interests of the public that your Memorialist should be promoted to the Bench, your Memorialist craves the liberal consider-

ation of your Lordship in Council as to the amounts of pension, or compensation to be awarded to your Memorialist.

The Pension Rules of 1831 and 1835 in force when he entered the Service.

20. When your Memorialist entered the service of Government, the Pension Rules for the Uncovenanted Servants were those respectively dated the 4th of January 1831, and the 18th of December 1835.

Those Rules still in force for Uncovenanted Officers who entered the Service prior to 28th February 1855,

21. Those Rules, as your Memorialist believes, have never been rescinded ; indeed they have been several times referred to by the authorities as still in force as respects all Uncovenanted Officers who entered the service prior to the 28th of February 1855 ; and as a few of the instances of which, your Memorialist solicits your Lordship's attention to the letter addressed in 1846 by the Governor-General of India in Council to the Honorable Court of Directors, and to the Court's reply of the 20th of July 1853, No. 23 ; the letter of the Governor-General of India to the Secretary of State, dated the 6th of August 1862, No. 111 ; the letter of the Secretary of State of the 30th of September 1863, No. 174, and the letter from the Government of India of the 19th of January 1865, No. 265.

Law Officers of 22 years' Service entitled to Pension, not exceeding half of salary on an average of five years. The powers of Government to increase in special cases.

22. Your Memorialist has not a copy of the Rules of the 4th of January 1831 before him, but in the Rules of the 18th of December 1835, the Law Officers of Government are expressly included ; and by those Rules, to a Law Officer who has been in the public service for 22 years, the amount of pension to be granted shall not exceed one-half of his salary, calculated on an average of five years previously to the date of the application for pension. It is, however, provided that the pension shall be fixed on a graduated scale within the prescribed limitations with reference to the responsibility and arduousness of the employment. The rules also provide for cases arising which are not therein sufficiently provided for, in which from special circumstances, Government may be pleased to deviate from them in favor of an applicant, and in the *Fort Saint George Gazette* of the 8th of May 1849, it is declared that meritorious cases will be specially considered where the service of the candidate has been such as to entitle him to favor, though he may not have served for the prescribed period in grades entitling him to pension.

23. On the 15th of May 1851 some revised rules were promulgated, but in the respects before stated the Rules of 1831 and 1835 were not altered.

The Secretary of State recognizes grounds for exception as regards Law Officers.

24. The rules have been since revised and were published under date the 8th of June 1863. In the Despatch of the Right Honorable the Secretary of State granting his sanction to such rules, after observing (in paragraph 3) that he concurred with the Government of India that a distinction between Europeans and Natives in the Uncovenanted Service could not be made, he proceeds in paragraph 4 to say, "I "think there is sufficient ground for an exception as regards Educational Officers and Law Officers "and Native Judges. In those cases a previous course of study, and in many instances practical "experience, is required, and there is consequently reason for making a distinction in regard to "that class of servants." Your Memorialist is not aware that any further communication on that subject has been received from the Secretary of State, which it would appear was contemplated when penning that Despatch. Such revised rules allow the same amount of pension, and do not vary in any material degree, the provisions particularly referred to in paragraph 22.

Referring to Despatch 22nd December 1865, and showing why not applicable to Mr. Dale.

25. It is true that in a Despatch, dated the 22nd of December 1865, No. 290, the Right Honorable the Secretary of State observes, "the offices included under the designation of Law Officers no longer exist." This doubtless alludes to the offices of Pundits, Cauzy and Mufty, abolished by Act No. XI of 1864, but your Memorialist submits for the favorable consideration of your Lordship in Council, that when the term, "Law Officers" is used in rules of the nature of those to which your Memorialist has referred, the term cannot be construed in a limited sense, but should be construed in its literal and enlarged and usually accepted sense ; the term Law Officers is used in rules and despatches where it is impossible Pundits, Cauzies and Muftees could have been contemplated ; and under that term the Administrators General have been comprehended ; in addition to which references are constantly asked for and made to "the Law Officers of Government," as applying to the Advocate General, Government Pleader, and Solicitor. Moreover, your Memorialist further submits, it could not have been intended by an expression of that nature, to deprive of his rights your Memorialist, who must be considered to come under the term as used in the rules relating to pension.

When he entered the Service, Mr. Dale knew Pensions were granted to Civilians and Military Officers, &c.

26. When the Honorable Court of Directors appointed your Memorialist in August 1841, he knew nothing of the distinction of Covenanted and Uncovenanted Servants ; he knew as a matter of history that the East India Company required their European servants to enter into a Covenant, and he himself was required to execute a bond with two securities, and to enter into a Covenant similar in terms, as he was informed at the India House, to those entered into by all Governors and Civil Servants ; nor was he then familiar with the regulations under which retiring pensions were granted, he knew that Military Officers and Civilians returned to England on retiring pensions, the latter amounting to £1000 per annum after a long term of service ; he, however, *then* hoped to be as fortunate as his predecessors had been, and to be able to retire on a fortune within a few years ; on arrival in Madras your Memorialist, however, discovered, that circumstances had much changed within two years preceding his arrival with regard to the returns made by professional men, and immediately after he took charge of his office the business of Government greatly increased to the interruption of his private practice ; whereupon, fearing that his hopes of a speedy return to England might not be realized, he did ask whether he might be admitted to the advantages of the Covenanted Civil Service rules, but was informed that, although he had entered into the usual Covenant, it was considered your Memorialist did not come within the provisions for the formation *of the* Covenanted Civil Service, but came under the category of an Uncovenanted Civil Servant, and for which portion of the service separate rules existed, viz., the rules of 1831 and 1835 before alluded to.

His private practice injured by Mandamus in "the Queen versus Douglas," and no compensation has been granted him.

27. Your Memorialist may be perhaps permitted to mention, that in February 1843 the Mandamus in the case of "the Queen against Captain Douglas" was sent out, the getting up of the evidence for which so entirely occupied the whole of the time and attention of your Memorialist for upwards of two months, that his private practice was most materially injured ; for this extra work and labor and injury to practice, your Memorialist did not receive any remuneration, he was dissuaded from applying for it, on the ground that the Law Officers of Government must take the rough with the smooth, that such a case was not likely to occur again. Looking to the result of the applications to the Home authorities by Mr. Advocate General Smyth and Mr. Boyson, for remuneration in respect of their work performed under the Act No. 30 of 1858, an application by your Memorialist to the Honorable Court of Directors might have been attended with similar success, but under the advice before referred to, he unfortunately did not apply.

As Master, he had elected to accept right to pension.

28. On the 20th of February 1861, the Registrar of the Supreme Court requested your Memorialist to intimate his willingness or otherwise to accept a right to pension, in reply to which he stated, under date the 21st of March 1861, that if eligible, he was prepared to accept a right to pension under the conditions referred to in his letter.

Submits grounds why as Master he is entitled to pension.

29. If the office of Master had been continued on the footing on which it stood in February 1861, your Memorialist assumes that, under the ruling of the Right Honorable the Secretary of State, he would not have been eligible for pension in respect of his services as Master, but he submits for the favorable consideration of your Lordship in Council, that the office of Master

having been virtually dispensed with on the amalgamation of the Supreme and High Courts, and your Memorialist then being appointed to a salaried office in the High Court and precluded from practicing in his profession ; and the arrangement for his winding up the suits then pending in the Master's Office, being one solely of convenience to the Court and of a temporary character, subject moreover to its being terminated at any time the Chief Justice considered convenient, your Memorialist submits that the ruling referred to cannot apply to the case of your Memorialist ; had he been permitted to hold the office on the terms prevailing in February 1861, he would not have sought for any interpretation at variance to that given by the Secretary of State.

Refers to favorable mention of his Service.

30. The conduct of your Memorialist as Honorable Company's Solicitor and Government Pleader, has received favorable comment on several occasions from the Honorable Court of Directors, the Right Honorable the Secretary of State, and the Madras Government, as the records of this Government if referred to will shew.

On the 1st June 1864, had served 22 years. Service had been continuous, &c.

31. On the 1st of May 1860, the Registrar of the late Sudder Court made a return to Government, whereby he shewed that on that day your Memorialist had served seventeen years and eleven months, since that date he has not had any leave, consequently on the 1st of June 1864, your Memorialist had served his full term of twenty-two years. The service of your Memorialist has been continuous with the exception of the twenty-five days between the 19th of December 1856, and the 14th of January 1857, before alluded to.

Average salary for 5 years, Rupees 14,026-10-0.

32. The yearly amount of the salary received by your Memorialist, on an average of five years, from the 1st February 1862 to the 31st January 1867, is Rupees 14,026-10-0, as shewn in the following table :—

	Monthly salary received as Government Pleader.			Monhtly salary received as Commissioner and Taxing Officer.			Total amount of salary received each year.		
	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.
1862, from 1st February to 31st December.....	500	0	0	......	...	...	5,500	0	0
1863, from 1st January to 31st May...	500	0	0	......	...	...	12,533	5	4
1863, from 1st June to 31st December...........	500	0	0	933	5	4			
1864, from January to December	500	0	0	933	5	4	17,199	15	0
1855, from January to December.................	500	0	0	933	5	4	17,199	15	0
1866, from January to December.............. ...	500	0	0	933	5	4	17,199	15	0
1867, for January.....................	500	0	0	......	...	...	500	0	0
Total amount of salary for 5 years........							70,133	2	4
At an average for each year................ Rupees...				14,026	10	5			

Government may grant pension of Rupees 9000 per annum.

33. Your Memorialist submits he has shown most satisfactorily that his case comes within the purview of the rules for granting pensions to the Uncovenanted Civil Servants of Government ; and that if your Lordship thinks fit you may, as your Memorialist believes, under the rules of the 4th of January 1831, grant to your Memorialist a pension of Rupees 9,000 per annum.

Shewing the principle on which compensation has been granted in England on abolition of offices. To Masters for life £2500 per annum for retiring pension, to Officers remunerated by Fees not less than three-fourths, nor more than whole of Income on average of 3 years.

34. Your Memorialist now proceeds to shew to your Lordship in Council the principle upon which the Imperial Government has acted on the abolition of offices in England. He confines himself to the Court of Chancery as the most analogous to your Memorialist's own case.

35. In the year 1833, the Masters of that Court were put on a fixed salary of £2500 per annum, instead of being remunerated by fees as theretofore ; and on the abolition of the office and the substitution of Chief Clerks, each Master was entitled to receive during his life, by way of retiring pension, the full amount of his salary of £2500.

36. Each Master's Clerk was also entitled to receive during life, by way of retiring pension, the full amount of his salary, £1000 per annum.

37. With respect to Officers of the Court of Chancery, whose offices were abolished, but who were not paid by salary, they are paid an annual compensation of not less than three-fourths, nor more than the whole of their income on an average of three years of the net annual value of their fees and emoluments.

38. Bringing that principle to bear upon the case of your Memorialist, and if the most unfavorable position is to be granted to your Memorialist, then taking the salary of the Commissioner at Rupees 933-5-4 a month, the annual compensation will amount to Rupees 11,200 per annum.

On that principle annual compensation on amount of salary, Rupees 11,200, or on an average of Fees, Rupees 20,315-12-5.

39. If, however, your Lordship in Council should be pleased to view the case of your Memorialist in a more liberal spirit, and should consider that an average of three years of the net annual value of the fees and emoluments of his office as Master would be the proper mode of estimating the annual compensation to be afforded to your Memorialist, the annual amount will be Rupees 20,315-12-5 as shown by the following table :—

	Gross amount of fees and emoluments.			Office expenses for each year.			Net emoluments.		
For 1864..	22,493	0	0	2,338	11	3	20,154	4	9
,, 1865..	17,075	0	0	2,224	0	6	14,850	15	6
,, 1866..	24,846	12	0	2,372	1	6	22,474	10	6
	64,414	12	0	6,934	13	3	57,479	14	9
Half of the Establishment........	......	...	...	......	...	...	3,467	6	7
				Rupees...			60,947	5	4
At an average for one year........				20,315	12	5			

40. Your Memorialist has mentioned half of the expenses of the establishment, as the amount to be deducted from the gross amount of fees and emoluments received by your Memorialist ; this he submits is a fair and equitable principle to be acted upon ; the establishment was kept and paid for by your Memorialist to do the whole of the work, including therein the offices of Master and Commissioner and Taxing Officer.

Your Memorialist, therefore, most humbly prays your Lordship in Council, that you will be pleased to grant to your Memorialist such amount of annual compensation in respect of the abolition of his office, as under the circumstances and having reference to the principle acknowledged in England in similar cases, your Lordship in Council may deem fair and just ; or that your Lordship in Council will be pleased to grant to your Memorialist, the maximum amount of pension (Rupees 9000 per annum) which, under the rules, you are empowered to grant.

And your Memorialist, as in duty bound, will ever pray, &c.

Referred to the Examiner of Claims for report.

2. The correspondence* connected with the passing of the Pension Rules of 1831, and copies of the Proceedings of Government of the 24th February and 30th April 1863, relating to the establishment of the High Court, are sent to Mr. Donald for perusal.

Fort Saint George,
22nd February 1867.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

No. 171.

No. 54.

OFFICIAL MEMORANDUM.

The undersigned has the honor to report upon Mr. Dale's Memorial as follows:—

1. The grant of compensation to Mr. Dale, on account of the abolition of the appointment of Commissioner and Taxing Officer, is a matter that cannot be finally disposed of by the Government of Madras.

2. With regard to pension upon retirement, none of Mr. Dale's service entitles him to any remuneration upon his taking that step. His claim on account of time spent as Government Solicitor and Master is inadmissible under the Secretary of State's Despatches, dated 30th September 1859,* No. 94, and 8th January 1861,† No. 1; and paragraph 3 of the Government of India's letter to the Government of Madras, dated 19th October 1865, No. 3026, Financial, bars his claim on account of service as Government Pleader; while Section 1, Clause 2 of the Revised Uncovenanted Civil Service Pension Rules prevents him from reckoning the period during which he has been Commissioner and Taxing Officer as well as Government Pleader, as, while holding these appointments which are paid from the Government revenues, he filled the office of Receiver of the Carnatic Property, for which he was remunerated by commission charged to the estate on the sums collected by him and distributed under the provisions of the Act, and thus his whole time was not devoted to the duties of appointments paid by Government.

Office of Examiner of Claims,
Fort Saint George,
2nd March 1867.

(Signed) W. DONALD,
Examiner of Claims.

To the Chief Secretary to Government.

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* Extract Minutes oConsultation, 28th June 1831.

* Fort Saint George Gazette, p. 1161.
† Calcutta Gazette, p. 497.

No. 55. Minute by the Honorable T. PYCROFT, dated 21st March 1867.

I concur in the view of Mr. Dale's Memorial taken in the Chief Secretary's Memorandum. The substance of it might be given in our Despatch to the Secretary of State.

2. I am satisfied that neither as Government Solicitor, Government Pleader, Master in Equity of the late Supreme Court, or Commissioner and Taxing Officer of the High Court, has Mr. Dale any right to pension under the rules. This Government could not grant him one. All that they could do of their own authority would be to award him a gratuity of three months' salary, Rupees 2800, for the loss of his late appointment.

3. I am of opinion that Mr. Dale's case is one which may be properly recommended to the favorable consideration of the Home Government. Although the appointments which he has held do not confer on him a title to pension, they are all important and laborious offices, demanding much patient care and legal knowledge for their due discharge. One of them also, the Government Pleadership, is, I must say, but inadequately remunerated.

4. For nearly twenty-five years then Mr. Dale has rendered good service to the State. Throughout he has maintained a character as a hard-working and intelligent public Officer, and an honorable English gentleman. His retirement from public life now is caused solely because mainly for financial reasons his appointment in the High Court has been abolished.

5. In submitting his Memorial to the Secretary of State we shall be expected to make some specific proposal in his behalf. I am somewhat at a loss what to recommend. The only instances that occur to me in which compensation has been given for the loss of legal offices at Madras, those of Mr. Leonard Cooper and Mr. B. Brooks, clearly in no degree resemble the present case. The offices held by those gentlemen, and their public services generally bear no comparison to those of Mr. Dale. On the other hand, as shown at the end of the Memorial, in England claims to compensation for loss of judicial appointments have always been liberally dealt with. The highest rate of pension which can be granted to an Uncovenanted Civil Servant is £600 per annum. On the whole, looking to the length of Mr. Dale's service, its quality and his general character, I think that we should recommend him for a pension of not less than £500 a year, to commence from the date on which his office as Commissioner and Taxing Officer in the High Court was abolished.

(Signed) T. PYCROFT.

No. 56. Minute by the Honorable H. D. PHILLIPS, dated 23rd March 1867.

According to the rules in force, there seems to be nothing in the circumstances of Mr. Dale's career, on which he can rest a claim to *pension.*

2. He may have moderately fair ground for demanding compensation for the loss in 1862, of the office of "Master," which he was holding in the late Supreme Court at the period of its amalgamation with the late Sudder Adaulut, but it does not appear that the Government are in possession of any data or precedent for determining the amount of such compensation, even if awardable. The question in that respect would, therefore, have to be determined by the Secretary of State on a reference now to be made.

3. For the more recent loss of the lately abolished post of "Commissioner and Taxing Officer" in the High Court, the rules admit of compensation being at once awarded to Mr. Dale. But the amount thus due is very trifling (Rupees 2800), and in view of Mr. Dale's good service in the several appointments mentioned in his Memorial, it could not, I think, be offered to him with propriety.

4. I am bound fully to concur in all that is stated in the Chief Secretary's Memorandum and by Sir Thomas Pycroft in commendation of the high character which Mr. Dale has always borne, and the zealous and efficient manner in which he has invariably discharged the responsible duties entrusted to him. It may, therefore, tend to the removal of some difficulties if we resolve to treat the case of Mr. Dale's retirement as a special one, and to recommend, as proposed by the Chief Secretary, that a pension of not less than £500 be granted to Mr. Dale from the date of his quitting the public service.

(Signed) H. D. PHILLIPS.

No. 57. MINUTE BY HIS EXCELLENCY THE PRESIDENT, dated—March 1867.

Mr. Dale has no claim to pension for *service* in any of the official positions which he has filled under the Madras Government under existing rules.

Nor do I think that the Government of Madras could properly recommend Mr. Dale for pension *as a special case*, on the ground of the honorable and efficient manner in which he has discharged the functions with which he has been entrusted.

As Government Solicitor first and then as Government Pleader, Mr. Dale received the salaries attached to those offices, and enjoyed a private practice more or less remunerative, and for a portion of this period, as I imagine, he already held a lucrative post, that of Receiver of the Property of the Carnatic family.

When Mr. Dale accepted the post of Master of the late Supreme Court he dropped his private practice, but retained his office of Government Pleader and Carnatic Receiver.

It cannot be alleged that the position of Mr. Dale has been a hard one, or that he has been severely worked and ill-rewarded.

It is not for *services* that Mr. Dale can claim pension or compensation, but for loss of office, for the double disappointment and injury inflicted on him by the successive abolition of the posts of Master of the Supreme Court, and Commissioner and Taxing Officer of the High Court.

When Mr. Dale accepted the office of Master he was told that the office was subject to reduction, and he demurred to accept it. Then he was informed that his office would probably be transformed into another not abolished; with this encouragement he accepted it, and accordingly the office of Master was transformed into that of Commissioner. No intimation was made to him that the latter would be abrogated. Mr. Dale says that if he had had any idea that the *substitute* for the office of Master would be so shortly suppressed he never would have accepted the office of Master. He would have preferred to abide by his private practice, which would have become more extensive and lucrative with time and the departure of others. There is, I think, some force in this, and Mr. Dale may justly appeal to the equitable consideration of Government. He gave up his private practice on the understanding that he was to have an office under one name or another of a permanent nature, but it has been abolished. If the Government are disposed to take an indulgent and generous view of the case they may recommend compensation in the form of a pension of £500 per annum.

(Signed) NAPIER

No. 58. ORDER THEREON, 6th April 1867, No. 559.

Resolved that the Memorial received with Mr. Dale's letter be forwarded to the Government of India for transmission to the Right Honorable the Secretary of State.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

No. 59. To the Secretary to the Government of India, Financial Department, dated Fort Saint George, 6th April 1867, No. 560.

I am directed to submit for the consideration of His Excellency the Viceroy and Governor General in Council, and for transmission to the Secretary of State, a Memorial addressed to this Government by Mr. Clement Dale, praying either that he may be granted compensation in the form of an annuity in respect of the abolition of the offices which he recently held in the High Court at Madras as Master and Commissioner and Taxing Officer, or that he may be granted a pension of £900 a year under the Pension rules applicable to the Uncovenanted Civil Service.

2. Mr. Dale's case is briefly as follows :—He was appointed by the late Court of Directors to the office of Government Solicitor in August 1841, and entered upon his duties on the 3rd June 1842. He held the appointment until the 19th December 1856 when he resigned it, having been previously called to the Bar during a short absence in England on leave. On the 14th January 1857 he was appointed Government Pleader, and on the 18th April of the same year he was confirmed in that appointment, which he has held up to the present time.

3. On the 1st November 1859, Mr. Dale was appointed to act as Master in Equity of the late Supreme Court, and was eventually confirmed in that appointment on the 14th February 1862, and continued to hold it, latterly, in conjunction with the offices of Commissioner and Taxing Officer of the High Court, up to the 31st December last, when both appointments were abolished, the duties hitherto performed by the Master having been undertaken by the Judges, while those of Taxing Officer have been assigned to the Registrar of the High Court on the Original Side; and it has been arranged that the duties of Commissioner shall be discharged by persons appointed for the purpose from time to time as occasions arise for issuing a Commission. The two latter arrangements have been sanctioned as temporary arrangements, subject to re-consideration hereafter. It should be mentioned here that from and after the 1st June 1863, Mr. Dale was paid by fees for the discharge of his duties as Master in regard to cases pending before the Master on that date, and by a salary of Rupees 933-5-4 per mensem for his duties as Commissioner and Taxing Officer. The intention was that on the abolition of the Mastership, the salary of the Commissioner and Taxing Officer should be Rupees 1,083-5-4 per mensem, or Rupees 13,000 per annum.

4. The Governor in Council does not consider that Mr. Dale can be regarded as having any claim to pension by virtue of his services as a Government Law

Officer. Mr. Dale argues that under the rules of 1831 and 1855, which were in force at the time, and for some years after he entered the service of Government, and which expressly provide for the grant of pensions to Law Officers, he is entitled to count his service in that capacity. It is clear, however, from the correspondence which preceded the passing of the Pension rules of 1831, that the term Law Officer used therein was so used in a restricted sense, referring exclusively to the Hindoo and Mahomedan Law Officers, who at that time and for many years afterwards formed a part of the establishment of the Courts of the East India Company; nor is there an instance on record of a Government Solicitor, Government Pleader, or Advocate General, having been granted a pension. If Mr. Dale's service as a Law Officer be excluded from the calculation, his service as Master and Commissioner and Taxing Officer has been too short, amounting to only four years, ten months and fifteen days, to entitle him to a pension under the rules, and would render him eligible only to a gratuity equal to the amount of four or three months' salary, according as his service as Master or his service as Commissioner and Taxing Officer only might be admitted into the calculation.

5. But His Excellency in Council considers that there are special circumstances in the case which may fairly be regarded as entitling Mr. Dale to the liberal consideration of Her Majesty's Government. When Mr. Dale accepted the appointment of Master in Equity of the late Supreme Court he was obliged to give up his practice at the Bar, which there can be no doubt would for some years past have been very lucrative, and would have proved far more profitable than the appointments for which he was induced to abandon it. It is true that Mr. Dale, when he accepted the Mastership, was warned by the Chief Justice that the appointment would be subject to any changes which might be rendered necessary by the establishment of the High Court, but he had certainly no reason to suppose that the emoluments would be eventually reduced to little more than one-third of the average of those derived from the office during the previous five years; still less that in little more than four years after the opening of the High Court both the office itself and that which was substituted for it would be entirely abolished. Under these circumstances the Governor in Council considers that Mr. Dale has just grounds for appealing to the equitable consideration of Government, to afford to him reasonable compensation for the heavy loss which he has unquestionably sustained from the abolition of his office, and I am accordingly directed to recommend that a pension of not less than £500 per annum be granted to Mr. Dale.

6. I am to add that throughout his long service in India, extending over nearly 25 years, Mr. Dale has maintained a high character as an honorable, zealous and efficient public Officer. A copy of the Order passed by this Government on the occasion of Mr. Dale's retirement from the Government Pleadership is enclosed.

28th March 1867, No. 513.

(Signed) A. J. ARBUTHNOT,
Chief Secretary.

Exd. J. Tulloch.

Judicial Department

Memorandum for orders

Letter from Mr C. Dale Govt. Pleader dated 8 February 1867 No. 23 submitting a Memorial in which he prays either for annual compensation in respect of the abolition of his Office of Master & Commissioner and Taxing Officer of the High Court, or for a pension of Rs 9000 per annum under the Pension Rules applicable to the Uncovenanted Civil Service.

Mr Dale has served the Madras Govt. with a very brief interval since the 3d of June 1842 when he entered upon his duties as Govt. Solicitor having been previously appointed to that office by the Court of Directors. He held that appointment until the 19 Decr. 1856 when having been called to the Bar, he was compelled to resign. On the 14 January 1857, Mr Dale was appointed to the Office of Govt. Pleader, which he still holds, in succession to Mr. Boyson who succeeded him as Govt. Solicitor. It does not appear why the two appointments which practically amounted to an exchange of appointments, were not made simultaneously, but it is not probable that the short break of 25 days would be regarded as affecting Mr. Dales claim to pension if his claim were otherwise valid. It will be seen however from the report* of the Examiner of Claims that service as Govt. Pleader or as Govt. Solicitor is inadmissable as constituting a claim for pension, it having been ruled in certain Despatches from the Secretary of State & from the Govt. of India quoted by Mr Donald that service in Offices of the Supreme Courts paid by fees or in salaried offices held in conjunction with other Professional engagements does not render the holder eligible to pension. In regard to the Office of Govt. Pleader it is distinctly laid down by the Govt. of India in their letter of the 19 October 1865 No 3026 that the grant of pension to this class of servants is contrary to Clause 11 of Section 1 of the Uncovenanted Service Pension rules of 13 April 1864. The clause in question describes among the persons not entitled to Pension" Officers whose "whole time is not devoted to "the duties of their Offices"

Mr. Dale argues in the 20 to the 25th paras of his Memorial that Law Officers having been expressly included in the list of persons eligible to pension in the Pension Rules of

no 81. WDM

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* dated 2 March /67 No. 439

of 1831 which were the rules in force when he entered the service of Govt. in 1842, his service as a Law Officer ought to be allowed to count for pension. It is clear however from the correspondence which preceded the passing of the pension rules of 1831 that the term Law Officer used therein was so used in ~~the~~ a restricted sense and that it referred exclusively to the Hindoo & Mahommedan Law Officers who at that time and for many years afterwards formed a part of the establishment of the Company's Courts. There is no case on record of a Govt. Solicitor, Govt. Pleader or Advocate General having been a granted a pension and as it so happens that Mr George Norton who held the office of Advocate General when Mr Dale first came to India, and for nearly 11 years afterwards retained that office for a considerably longer period than was necessary to entitle a Law Officer under the rules of 1831 to pension, it is not to be supposed that, had those rules been susceptible of the interpretation put upon them by Mr Dale, Mr Norton would not have been granted a pension on retirement. Mr Dale has informed me since his Memorial was submitted that Mr Norton did make an application for a pension to the Home Govt. some years after his retirement, but was told, +

+ that he ought to have applied before or at the time of his retirement, that his application could not then be entertained and that if it could have been it must have come through the Govt: of Madras.

~~that his application must~~ [illegible] ~~ment~~. I have very little doubt that Mr Dale is under a misapprehension as to the grounds upon which Mr Norton's ~~reasons which withheld Mr Norton from prosecuting his application~~ application was rejected at the India Office and ~~advice~~ as to the reasons which prevented his applying to the Govt. of Madras. It is far more probable that the information which Mr Norton ~~he~~ received at the India Office satisfied him that the rules were not really applicable to his case.

The Examiner of Claims reports that Mr Dale's service as Master of the late Supreme Court & of the High Court, and as Commissioner and Taxing Officer of the High Court is also inadmissible as constituting a claim for pension. The rule which restricts the claim to pension to offices paid by fixed salaries and to which the whole time of the incumbent is devoted, excludes the Mastership + which was paid by fees, while in regard to the office of Commissioner and Taxing Officer, Mr Donald considers

It is possible that Mr N. may have been answered as represented by Mr Dale but if so it was merely as a way of putting him off & affords no ground for presuming that had he applied thro' the Govt. of Madras for a pension on retirement he would have got one. I am sure that he would not –

Mr Smyth Mr Norton's successor told me that when at home in 1857 he strongly urged Mr Hogg then an E.I.C. Director to grant pensions to the Law Officers of Govt. – but without success. JP

+ any way Mr D's service as Master was not long enough to qualify him for pension

considers that the fact of Mr Dale having held in conjunction with it, the office of Receiver of the Carnatic Property, an office not paid by Govt. but by commission charged to the estate, again bars his claim to pension. This last argument I would submit is open to question. The Receivership of the Carnatic Property was a special appointment created for a special purpose. It might have been held by a Covenanted Civil Servant and would have been so held I imagine without prejudicing the claim of the holder to an annuity under the rules of the Covenanted Civil Service. Under these circumstances it could scarcely affect any claim to pension which Mr Dale's service as Commissioner and Taxing Officer might otherwise have conferred

I think it is not valid
certainly not a good objection
ADy

no

conferred upon him, but Mr. Dale held the office in question for only three years & some months or from the 1st June 1863 to 3rd Decr. 1866 – and this, under the Uncovenanted Civil Service rules, as interpreted would entitle him at the utmost to a gratuity of three months salary or Rs. 2800. ~~The facts~~ The facts of the case then are shortly these – First – Mr. Dale will have served on the 27th of this month on which date I understand he purposes to go to England, 24 years, 2 months & 29 days in the offices of Govt. Solicitor and Govt. Pleader – but in neither of these offices does service count for pension or gratuity under the rules. Secondly – Mr. Dale served as Master of the late Supreme Court & High Court for periods amounting in the aggregate to ~~[illegible]~~ eight ~~seven~~ years ~~[illegible]~~ ~~fourteen~~ two months & ~~[illegible]~~ seventeen days but service in this office does

by the Govt. of India

G.O. No. 38, 25 January 1866.
G.O. No. 113, 14 April 1866.

Yes

and is for that besides
WDN

does not count for pension or gratuity – Thirdly – Mr. Dale served as Commissioner and Taxing Officer in the High Court for three years & seven months at the end of which period the office was abolished, and in consideration of such abolition Mr. Dale would be entitled under the rules to a maximum gratuity of Rupees 2,800 –

It remains therefore for the Govt. to determine whether Mr. Dale shall be granted such a gratuity or whether his memorial shall be forwarded to the Secy. of State with an expression of the opinion of this Govt. that that part of the application which refers to the grant of Compensation for the loss of his office as Master of the late Supreme Court & High

Court and as Commissioner and Taxing Officer of the latter Court is entitled to the favorable consideration of Her Majesty's Government

Mr Dale has always stood high in the estimation of the Public and of the Govt. as an honorable conscientious and efficient officer - As Govt. Solicitor & as Govt. Pleader he has discharged his duties with great assiduity and with considerable efficiency and has invariably made the interests of the Govt. his first Care. The physical infirmity of deafness under which he has labored for some years past has been considered to preclude his promotion to the Bench of the High Court, but his services notwithstanding this drawback have, I submit, been such as to entitle his present application

for

for compensation for the loss of his Office to that liberal consideration with which similar losses are usually treated in the case of Officers in the Home Service of the British Govt. In the event of the application being forwarded to the Secy of State, the local Govt. will be expected to submit a definite recommendation as to the amount of annual Compensation which should be granted. Perhaps under the circumstances an annuity of £500 would not be deemed excessive -

Mr C. Dale

Judicial 1867 Papers
Recd 6 April /67
No 33.

I concur in the view of Mr Dale's Memorial taken in the Chief Secretary's memorandum - The substance of it might be given in our Despatch to the Secretary of State.

I am satisfied that neither as Govt Solicitor, Govt Pleader, Master in Equity of the late Supreme Court or Commissioner & Taxing Officer of the High Court, has Mr Dale any right to pension under the Rules. This Govt could not grant him one. All that they could do of their own authority would be to award him a gratuity of three months salary

R 2800 for the loss of his late appointment -

I am of opinion that Mr Dale's case is one which may be properly recommended to the favorable consideration of the Home Govt - Altho' the appointments which he has held do not confer on him a title to pension, they are all important and laborious offices demanding much patient care and legal knowledge for their due discharge - One of them also the first-Pleadership is I must say but inadequately remunerated -

For nearly twenty five years then Mr Dale has rendered good service to the State - Throughout he has maintained a character as a hardworking & intelligent public officer and an honorable English gentleman - His retirement from public life now is caused solely because mainly for financial reasons his appointment in the High Ct. has been abolished.

In submitting his memorial to the Secretary of State he would be expected to make some specific proposal in his behalf. I am somewhat at a loss what to recommend - The only instances that occur to me in which

Off —
5 quote in the margin the above passage in the second cover
J.P.

compensation has been given for the loss of legal offices at Madras — those of Mr Leonard Cooper & Mr B Brodie ~~are~~ clearly in no degree resemble ~~[illegible]~~ the present case — The offices held by those gentlemen, and their public services generally bear no comparison to those of Mr Dale — On the other hand as shown at the end of the Memorial in England claims to compensation for loss of judicial appointments have always been liberally dealt with — The highest rate of pension which can be granted to an uncovenanted Civil Servant is £600 p.a. On the whole looking to the length of Mr Dale's services, its quality & his general character I think that he should be recommended for a pension of not less than £500 a year — to commence from the date on which his office as Commissioner & Taxing Officer in the High Court was abolished

J Pycroft

March 21. 1867

Pros 6 April
Judicial 1867 Dept

Minute by the Hon
Sir T. Pycroft KCSI

S.O. No 55

d/ 21st March

No 1042

Commenting upon
Mr Dale's services
under this Govt.

Mr Dale.

According to the rules in force, there seems to be nothing in the circumstances of Mr Dale's career, on which he can rest a claim to pension.

He may have moderately fair ground for demanding compensation for the loss in 1862, of the office of "Master", which he was holding in the late Supreme Court at the period of its amalgamation with the late Sudder Adawlut, but it does not appear that the Government are in possession of any data or precedent for determining the amount of such compensation, even if awardable. The question in that respect would therefore have to be determined by the Secretary of State on a reference now to be made.

For the more recent loss of ~~the~~ [illegible] the lately abolished post of "Commissioner and Taxing Officer" in the High Court, the rules admit of compensation being at once awarded to Mr Dale. But the amount thus due is very trifling (Rs 2800) and in view of Mr Dale's good service in the several ~~[illegible]~~ appointments mentioned in his Memorial, it could not, I think, be offered to him with propriety.

I am bound fully to concur in all that is stated in the Chief Secretary's Memo. and by Sir Thomas Pycroft in commendation of the high character which Mr Dale

55

has always borne and the zealous and efficient manner in which he has invariably discharged the responsible duties entrusted to him. It may therefore tend to the removal of some difficulties if we resolve to treat the case of Mr Dale's retirement as a special one & to recommend as proposed by the Chief Secretary that a pension of not less than £500 be granted to Mr Dale from the date of his quitting the public service

23 March 1867

Judicial 1867 Dept
Prov 7 Aug

Minute of the Honble
W. B. Phillips

S.C. 45 535

of 23 March

No. 1045

Commenting upon
Mr Dale's services
under the Govt.

56

178

6

Mr Dale has no claim to pension for Service in any of the official positions which he has filled under the Madras Government under existing rules.

Nor do I think that the Govt of Madras could properly recommend Mr Dale for pension as a special case on the ground of the honorable and efficient manner in which he has discharged the functions with which he has been entrusted.

As Govt. Solicitor first and then as Govt. Pleader Mr Dale received the Salaries attached to those offices and enjoyed a private

in the form of a pension of £500. Secretary practice more or less remunerative and for a portion of this period, as I imagine he already held a lucrative post that of receiver of the Property of the Carnatic family.

When Mr Dale accepted the Post of Master of the late Supreme Court he dropped his private practice but retained his office of Govt. Pleader and Carnatic Receiver.

It cannot be alleged that the position of Mr Dale has been a hard one or that he has been severely worked and ill rewarded.

It is not for services that Mr. Dale can claim pension or compensation but for loss of office for the double disappointment and injury inflicted on him by the successive abolition of the posts of Master of the Supreme Court and Commissioner & Taxing officer of the High Court.

When Mr Dale accepted the office of Master he was told that the office was subject to reduction and he demurred to accept it. Then he was informed that his office would probably be transformed into another not abolished; with this encouragement he accepted it and accordingly the office of Master was transformed into that of Commissioner. No intimation was made to him that the latter would be abrogated. Mr Dale

says that if he had had any idea
that the Substitute for the office of
Master would be so shortly superseded
he never would have accepted the
office of Master. He would have
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practice which would have
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others. There is I think, some force
in this and Mr Dale may justly
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of Govt. He gave up his private practice
on the understanding that he was to have
an office under one name or another
of a permanent nature, but it has been
abolished. If the Govt. are disposed
to take an indulgent & generous view
of the case they may recommend compensation

Pros 6 April
Judicial 1867 Dept

SD No 559

Minute by the Right Hon the President

No 1041

Commenting upon Mr. Dale's services under this Government–

57.

8

Judicial Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following Papers:

From C. Dale Esq — 8 February 1867 No 232
Report of the Examiner of Claims — 2 March " 171
Minute { the Hon'ble Sir J. [illegible] K.C.S.I.
Minute { the Hon'ble H. D. Phillips
Minute { His Excellency the Governor ~~Order thereon~~

Order – 6 April 1867 No 559.

Resolved that the Memorial received with Mr. Dale's letter be forwarded to the Govt. of India for transmission to the Right Hon the Secretary of State–

Judicial 1867. Department.

No. 559

PROCEEDINGS OF GOVERNMENT.

F.A. 470/68.

Dated. 6 April 1867

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desptd 7/4 Per Steamer "Nubia"

Judicial DEPARTMENT.

No. 560. OF 1867.

To

~~The Right Honorable~~ to the Govt. of India

The Secretary ~~of State for India.~~ Financial Dept.

~~Rt. Honble Sir,~~

~~My Lord,~~ Sir

I am directed to ~~We have the honor~~ of submit for the ~~submitting for the favor~~ of H.E. the Viceroy & Govr. Genl. in Council & for transmission to the consideration ~~a memorial~~ Secretary of State a memorial addressed to ~~us~~ this Govt. by Mr Clement Dale, praying either that he may be granted compensation in the form of an Annuity in respect of the abolition of the offices which he recently held in the High Court at Madras as Master and Commissioner & Taxing Officer, or that he may be granted a pension of £900 a year under the pension rules applicable to the Uncovenanted Civil Service

2. Mr Dale's case is briefly as follows. He was appointed by the late Court of Directors to the office of Govt Solicitor in August 1841 and entered upon his duties on the 3d June 1842. He held the appointment until the 19 December 1856 when he resigned it having been previously called to the Bar during a short absence in England on leave - On the 14 January 1857 he was appointed Govt Pleader and on the 18 April

of

of the same year he was confirmed in that appointment which he has held up to the present time.

3 On the 1st Novr 1859 Mr Dale was appointed to act as Master in Equity of the late Supreme Court and was eventually confirmed in that appointment on the 14 February 1862 and continued to hold it, latterly in conjunction with the offices of Commissioner & Taxing Officer of the High Court, up to the 31st December last, when both appointments were abolished, the duties hitherto performed by the Master having been

undertaken by the Judges while those of Taxing Officer have been assigned to the Registrar of the High Court on the Original Side, and it has been arranged that the duties of Commissioner shall be discharged by persons appointed for the purpose from time to time as occasions arise for issuing a Commission. The two latter arrangements have been sanctioned as temporary arrangements subject to reconsideration hereafter. It should be mentioned here that from and after the 1st June 1863, Mr Dale was paid by fees for the

the discharge of his duties as Master in regard to cases pending before the Master on that date, and by a salary of Rs 933. 5. 4 per mensem for his duties as Commissioner & Taxing Officer. The intention was that on the abolition of the Mastership, the salary of the Commissioner and Taxing Officer should be Rs. 1083.5.4 per mensem or Rs. 13000 per annum.

4. His Excellency in Council ~~We~~ does not consider that Mr. Dale can be regarded as having any claim to pension by virtue of his services as a Govt. Law Officer. Mr. Dale argues that under the rules of 1831

and 1855 which were
in force at the time,
and for some years
after, he entered the
service of Govt. and
which expressly provide
for the grant of pensions
to Law Officers, he is
entitled to count his
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It is clear however
from the correspondence
which preceded the
passing of the pension
rules of 1831 that the
term Law officer used
therein was so used
in a restricted sense
referring exclusively
to the Hindoo and
Mahomedan Law Officers
who at that time and
for many years afterwards
formed

formed a part of the
Establishment of the
Courts of the East India
Company; nor is there
An instance on record of
a Govt. Solicitor, Govt.
Pleader, or Advocate
General having been
granted a pension. If
Mr. Dale's service as a
Law Officer be excluded
from the calculation,
his service as Master
and Commissioner and
Taxing Officer has been
too short, amounting
in the aggregate to only
eight two
seven years, fourteen
months & seventeen days,
to entitle him to a pen-
-sion under the rules
and would render
him eligible only to
a

a gratuity equal to the amount of eight seven or three months' salary according as his service as Master or his service as Commissioner and Taxing Officer only might be admitted into the calculation.

5. But ~~we~~ His Excellency in Council considers that there are special circumstances in the case which may fairly be regarded as entitling Mr Dale to the liberal consideration of Her Majesty's Govt. When Mr Dale accepted the appointment of Master in Equity of the late Supreme Court he was obliged to give up his practice at the Bar which

which ~~we have~~ three years ago no doubt would for some years past have been very lucrative and would have proved far more profitable than the appointments for which he was induced to abandon it. It is true that Mr Dale when he accepted the Mastership was warned by the Chief Justice that the appointment would be subject to any changes which might be rendered necessary by the Establishment of the High Court, but he had certainly no reason to suppose that the emoluments would be eventually reduced to little more than one third of the average of those derived from the office during the previous five years; still less that in little more than four years after the opening of the High Court, itself a much higher [illegible] was substituted for it, ~~the~~ of the office would be entirely abolished. Under these circumstances ~~we~~ the Govt. in Council consider that Mr Dale has just grounds for appealing to the Equitable consideration of Govt, to afford to him reasonable compensation for the heavy loss which he has unquestionably sustained from the abolition of his office and I am accordingly directed ~~we beg leave~~ to recommend that a pension of

of not less than £ 500 per annum be granted to Mr. Dale. —

6. I am ~~We think it right~~ to add that throughout his long service in India extending over nearly 25 years, Mr Dale has maintained a high character as an honorable zealous and Efficient public officer. ~~Copies of the minutes which we have recorded on Mr Dale's memorial~~ were ~~such~~ a copy of the Order passed by ~~we~~ this Govt on the occasion of ~~his~~ Mr Dale's retirement from the Govt. Pleadership ~~are~~ is Enclosed.

Fort St. George
6 April 1867 -

16

Pension to Mr Dale

FORT SAINT GEORGE.

Judicial (1867.) DEPARTMENT.

Letter to the ~~Right Honorable~~
~~the~~ Secretary the Govt. of ~~of State for~~ India,
Financial Dept
Dated April
No. of 1867.

Judicial 1867 Departt
559
No. 500
To
The Secy. to the Govt.
of India

F.k. 470/68.

Dated 6 April 1867.

Submitting a memorial from Mr.
Clement Dale, and recommending
the grant to him of a pension
of £500 per annum. —