

Regt. No.

HOME 1882 DEPT.

From the Government of
Fort St. George.

Letter, dated 7th June 1882, No. 411.

High Court.—Forwarding, for transmission, a
despatch to the Secretary of State relative to
the appointment of a fifth Puisne Judge to the
local High Court.

Scott. IL27—45,00—L-11-25.

1882
Judicial (193-) Department.

Govt SERIES.

Despatch

G.O. No. 13

DATED 8. 6. 1882

Confidential

[Despatch Abstract.]

Memorial from Mr. W. D.
Horsley appealing against his
supercession in the Board of
Revenue

BACK PAPERS.

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

FURTHER PAPERS.

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

To
The Right Honorable
The Marquis of Hartington, M. P.,
Her Majesty's Secretary
of State for India.

THE HUMBLE PETITION OF WILLIAM
DOWDESWELL HORSLEY,
MEMBER OF THE COVENANTED CIVIL
SERVICE, MADRAS ESTABLISHMENT.

SHWETH,

1. That your Petitioner joined the Madras Covenanted Civil Service in 1854. That his total service up to the present time amounts to 27 years, of which 24 years have been spent on actual service. That he has served in the various grades of a District Officer, gaining practical experience in both the Revenue and Judicial branches of the service, having been seven years a District Collector, and four years a Civil and Sessions Judge.

2. In 1878 His Grace the Duke of Buckingham and Chandos having appointed your Petitioner to a temporary vacancy in the Board of Revenue, your Petitioner acted as 3rd Member for eight months, and on the return to duty of the permanent incumbent, your Petitioner reverted to his substantive post of District Collector.

3. Again in 1881 on a temporary vacancy occurring in the Board, your Petitioner was re-appointed by the late Mr. Adam, Governor of Madras, as Acting 3rd Member of the Board of Revenue, and your Petitioner has continued holding that position up to the present time, a period of 16 months, and during a portion of that time he was, by a third Governor, Mr. Hudleston, promoted to act as 2nd Member.

4. The force of this second appointment seems strengthened by the fact, that it was not made without the Government having had in your Petitioner's eight months' previous service in the Board, an ample opportunity of practically testing his capacity for the office. This second nomination was therefore not a tentative selection, but a practically confirmative appointment.

5. Additional force lies in the further fact, that this second appointment was made after your Petitioner had been 21 months absent from the Board, a period long enough to have made another selection easy, had it been necessary or fitting. That it was not thought fitting even then was declared by the re-election of your Petitioner.

6. To have passed over your Petitioner then, would have been a very gentle measure, compared with the hardship of degrading him from an office he is now holding, and has held for 16 additional months.

Wm. Horsley

7. This re-election in 1881 is further emphasised by the fact, that one vacancy in the Board having occurred in the interim, and having been filled by your Petitioner's junior, Mr. Barlow, your Petitioner respectfully remonstrated, and was informed by the Government that his services could not just then be spared from the District in which he was serving. Your Petitioner further understands that your Lordship's predecessor was informed to the same effect, but with the addition that no supersession was thereby intended. Thus again, for a fourth time, were your Petitioner's claims recognized.

8. It will thus be seen that your Petitioner has been appointed and re-appointed to the Board of Revenue, that he was promoted while in the Board, and that he was thus, in the opinion of three successive Governments, considered competent to be a Member of the Board of Revenue, and was accordingly maintained acting in it for altogether two full years.

9. On a permanent vacancy lately occurring in the Board, your Petitioner in all these circumstances naturally expected that he would be confirmed in a post in which he had acted for so long a time. The first intimation he received to the contrary was, in the accompanying copy of a letter (A), from His Excellency Mr. Grant Duff, the present Governor of Madras, stating that the Government had resolved not to confirm your Petitioner in the Board, and that your Petitioner must revert to a Collectorate.

10. As no warning had been received that the Government contemplated degrading your Petitioner, and as no specific reason was given for treating your Petitioner in this unusually harsh manner, your Petitioner in his letter, (B) enclosed, drew the attention of His Excellency to the facts of his case, which had been apparently ignored, and begged that the strong claims of your Petitioner to continue in the Board might be considered. It will be seen from the reply of the Private Secretary (enclosure C) that His Excellency declined to enter into the subject of your Petitioner's letter (B); in short that the Government had resolved to condemn your Petitioner unheard, and to inflict on him the punishment of degradation, a punishment only awarded for grave offences.

11. His Excellency states in his letter (A) that the Board as at present constituted is weak, and in enclosure (C), this weakness is ascribed to the withdrawal from the Board of its Senior Member, Mr. Sullivan. As pointed out by your Petitioner in his reply (B,) this is the first time an assertion of weakness has been made or even implied. If the removal of Mr. Sullivan so materially affected the efficiency of the Board, your Petitioner submits that the remedy should have been at once applied in filling up the vacancy caused by his withdrawal, that is in the recent filling up of the 1st Membership. Your Petitioner denying as he does that the Board was weakened by the withdrawal of Mr. Sullivan, does not wish to cavil at the appointment made in his room, but argues from that appointment that the Board was, in other respects, sufficiently strong, and that its condition in the opinion of Government was such as not to call for any special selection in filling up the vacancy.

12. That the absence of Mr. Sullivan will, in any way, interfere with the efficient discharge of the Board's duties is rendered very improbable by the fact that during the greater portion of the past year Mr. Sullivan can scarcely be said to have been connected with the Board, the work of the Board during that time having been carried on by the 2nd Member and your Petitioner almost entirely without the aid of Mr. Sullivan. Of this the Government are aware, the fact having been the subject of correspondence which ended in the Government stating in a demi-official letter from their Chief Secretary that they had wittingly created that position by putting upon Mr. Sullivan so much extraneous work as to make it unavoidable, of which your Petitioner was then for the first time made aware. The obvious inference is, that the Government, which was then the same as now, was satisfied of the capacity of 2nd Member and your Petitioner to discharge the duties of the office without the aid of Mr. Sullivan.

W. W. M. Sully

That the absence of a Member from a Board of three should cause considerable inconvenience to the remaining two Members may be readily understood, but in this instance the extra work was carried on by your Petitioner and another Member, and no intimation was conveyed by the orders of Government that it was not efficiently performed.

13. It is thus made quite clear that up to the 9th May the date of His Excellency's letter (A) the Government had given no indication of an opinion that the Board was weak. That your Petitioner was an element of weakness in the Board is contradicted by the facts, that he was considered by three successive Governments as a competent Board Member, that he was ordered to perform Board duties for the long period of two years, and that he was appointed, re-appointed to and promoted in the Board. It was not until the retirement from the service of the permanent 3rd Member, when the first opportunity occurred of confirming your Petitioner in the post he had held so long, that the Board is found to require strength which your Petitioner is incapable of imparting. The Members of Council who were consenting parties to your Petitioner's appointment, re-appointment to, and promotion in the Board, are the present advisers of His Excellency; yet it is with their approval that he has determined to degrade your Petitioner. No reason for this unaccountable change of opinion on the part of the Members of Council, has been intimated to your Petitioner, and considering that His Excellency could then know nothing personally of your Petitioner's work, your Petitioner begged in his letter (B) that His Excellency would state the grounds now relied on against your Petitioner, and would take steps to acquaint himself with the nature of the work performed by your Petitioner during the two years he has served in the Board of Revenue; but to no purpose. In the enclosure (C) it is stated that His Excellency declines to listen to your Petitioner's defence. His Excellency does not care to consider whether your Petitioner has or has not claims to confirmation in the Board. He does not care to think of the disgrace and pecuniary loss inflicted on your Petitioner by degradation, and he does not wait to consider whether he has just or reasonable grounds for awarding so severe a punishment.

14. Apart from the considerations above set forth, your Petitioner ventures to think that his position in the service and length of service alone entitle him to more considerate treatment.

15. Your Petitioner would have submitted further explanations to His Excellency the Governor, but the tenor of his last letter (C) precludes his doing so and leaves him no alternative but to appeal to your Lordship. In his letter (B) your Petitioner having asked that the grounds for his degradation might be stated, so as to give him an opportunity of clearing himself, His Excellency is pleased to say in his reply (C), that "he does not desire to add anything to what he said in his letter of the 9th May (A) unless it be to observe that he is surprised that your Petitioner does not seem to perceive that the loss to the Board of Revenue of Mr. Sullivan has materially altered the circumstances with which the Government have to deal." Your Petitioner having clearly shewn the inapplicability of the argument based on Mr. Sullivan's withdrawal, concludes that there is nothing further for him to answer.

16. Your Petitioner leaves his case in your Lordship's hands and trusts that your Lordship will see fit to reverse the order of the Madras Government and to direct the appointment of your Petitioner as 3rd Member of the Board of Revenue.

And your Petitioner, as in duty bound, will EVER PRAY.

W. W. M. Sully

MADRAS, 2nd June 1882.

ENCLOSURES.

A.

OOTACAMUND, May 9th, 1882.

DEAR MR. HORSLEY,

It has come to my knowledge that Mr. Longley is soon about to retire, and he is quite willing that this fact should be made public.

Under most circumstances, it would be agreeable to me to confirm in his appointment the gentleman, who was acting for an officer, who determined to retire while on leave; but the position of the Board of Revenue is at present such, that I am unable to do so, on this occasion.

After careful consultation with my colleagues, I have come to the conclusion, that if that Institution, so valuable to the Presidency, is to be preserved, it can only be preserved by greatly strengthening it. If we are to strengthen it, we must bring into it, as opportunities arise, the very ablest men in the service who are available—men who will thoroughly sift any question that comes before them, and send up all the papers that pass from them to Government in the best possible shape. By that phrase I mean—in a shape which leaves no doubt that the Members of the Board have, jointly and severally, brought to bear, upon all large questions, matured experience conscientious labour and an order of intelligence not only high but specially fitted to assist Government in arriving at right decisions.

I propose, with the entire support of the other Members of the Government to take the opportunity of Mr. Longley's retirement to make a step in that direction; but I should be extremely sorry if the necessities of the public service were to prejudice you, more than can be avoided, and I am sure that all my colleagues, as well as myself, would take into the most careful and friendly consideration any views which you might express with regard to a Collectorate.

It is no reflection upon any man to say that he is better fitted for the high and responsible work of a Collector than for the high and responsible work of a member of the Board of Revenue.

I am,

Dear Mr. HORSLEY,

Very faithfully yours,

M. E. GRANT-DUFF.

B.

Madras

OOTACAMUND, May 14th, 1882.

YOUR EXCELLENCY,

I have the honor to acknowledge the receipt of your letter of the 9th May, and to state that I am very much surprised and pained to learn from it, that the Government contemplate not to confirm me in the Board of Revenue on Mr. Longley's retirement.

The facts of my case appear to have been entirely ignored, and I cannot think that they are fully known to you. I trust that on learning them, you will perceive what an injustice you propose to do me, and that you will re-consider your decision before it is publicly expressed.

I was appointed to act as 3rd Member of the Board of Revenue so long ago as August 1878, and on very slight solicitation from me that the promotion would be acceptable. If I had any claims, I scarcely urged them. I acted in that capacity for eight months. This was during the Government of the Duke of Buckingham. After reverting to a Collectorate for nearly two years, I was on the occasion of a vacancy again preferred to the Board by your predecessor, Mr. Adam, in January 1881. When Mr. Hudleston was Governor, I was promoted in the Board to the Acting 2nd Membership. Since January 1881, I have served in the Board continuously for 16 months. It will thus be seen, that I was considered by three of your predecessors competent to fill the post which I hold, that I was brought back again a second time to the Board after an interval of nearly two years, in short that I was on two distinct occasions elected to the Board, and once promoted in it that I have thus been three times preferred to other aspirants, and that by three successive Govern-

W. Horsley

10

HER MAJESTY'S SECRETARY
OF STATE FOR INDIA.

Madras, June 2nd, 1882.

Memorial of W. D. HORSLEY, Covenanted
Civil Service, appealing against the order
of degradation passed by the Madras
Government.

ments, I have been kept for altogether two years in the Board. I naturally concluded therefore, that I had not been found wanting on the first trial or subsequently, and am extremely surprised at being told now, that in your opinion, and in that of your advisers, my presence is an element of weakness in the Board.

I further hear for the first time that the Board as at present constituted requires strength. No intimation thereof has appeared in Government Orders and that such was the case would hardly be inferred from an appointment made by yourself in the Board on a recent occasion. You say that in removing me from the Board, you have the entire support of your Councillors. Seeing that they are the very same Councillors who selected me as in their opinion fit for the Board in 1881-82, that one of them was in Council when I was appointed in 1878, seeing that they have selected me for, and promoted me in the Board, their change of opinion is strange. If there be any conceivable proper ground for their singular change of opinion after so long a trial of my capabilities, is it not common fairness that it should be plainly stated to me, in order that I may have an opportunity of answering it? With all due deference, I submit that it is not just I should be subjected to degradation on nothing more explicit than the generalities and implications expressed in your letter. Those intangible generalities and implications are not only opposed, as I have shown, to the judgment of former Governors and of your present Councillors on former occasions, but opposed also to fact, as I can show if opportunity is given me. The only test of truth in such matters is the evidence of work done and I will engage to show a sufficient number of cases in which my colleagues have preferred my opinions and suggestions to their own and the result has been accepted by Government. Personally, you can have no knowledge of my capacity or application. I can only conclude therefore that you have been misled by other advisers, and judging from the consideration and sense of fairness, shown by your personally addressing me, I will not abandon the hope, that on being convinced of the injustice of the step contemplated, you will not allow it to be done.

To degrade me to a Collectorate would not only be a most severe pecuniary punishment such as is meted out only for the gravest offences, but it would be a disgrace so painful, that if my means allowed, I would rather resign the service than endure it.

Possibly what I have here stated may prompt you to reconsider my case. I will therefore defer answering for the present your question regarding the Collectorate I would prefer. If however, I am to be degraded, I beg I may be informed of the date, that I may time an application for privilege leave accordingly. Thanking you for your consideration in writing to me, and committing my case to your better judgment.

I have the honor to be,
Your most obedient Servant,
W. D. HORSLEY.

(True copy.)

To

C.

OOTACAMUND, May 16th, 1882.

W. D. HORSLEY, Esq.,

SIR,

&c. &c. &c.

I am directed by His Excellency to say that his intention in writing to you was merely to make known the resolution of Government in the manner which he thought most likely to be agreeable to your feelings. He does not desire to add anything to what he said in his letter of the 9th Instant, unless it be to observe that he is surprised that you do not seem to perceive that the loss to the Board of Revenue of Mr. Sullivan's services has materially altered the circumstances with which Government have to deal and forced upon them, in the interest of good administration, changes which they would willingly have avoided.

I am further to say that the new arrangements will be announced as soon as possible, soon enough, His Excellency trusts, to enable you to make plans with reference to your privilege leave which will, in all respects, suit your convenience, which I need hardly say he is most anxious to consult.

I have the honour to be,
Sir,
Your obedient Servant,
A. AWDRY, Private Secretary.

W. D. Horsley

Madras 2nd June 1886

From W D Murley Esq^r
Civil Service

To C. G. Master Esq^r
Chief Secretary to Government

Sir I have the honor to request
that the Government will be
good enough to forward the
enclosed memorial to Her
Majesty's Secretary of State
for India, as soon as possible.
I have the honor to be

Sir
Yr. most obedient servant

W D Murley

Confidential

Public (1882) Department.
(Civil Servants)

From

W. D. Horsley Esq^r
M.C.S.

Dated 2^d }
Recd 3^d } June 1882.

C No. 1265

3-6-82

Memorial to
Secretary of State.

Public DEPARTMENT.

No. 1265

From

W. D. Horsley Esq^r M.C.S.
3^d June 1882.

FOR ORDERS.

W.D.

Ordered that the
following despatch
be addressed to the
Secretary of State

Enclosed to Mr. Horsley
despatched 12/6

N^o 13

Despatched
on the 10/6/82

My Lord Burgis,

We have the
honor to forward
herewith a memo-
rial from Mr. Williams

J.M.

The fact of Mr. Williams
being repeatedly tried on the 13th

Dorrieswell Horsley,
Madras Civil Service,
appealing to your
Lordship against
his supersession
in the appointment
of this member
of the Board of
Revenue.

The Right Honble
the Governor, having
in the exercise of
his discretion, deemed
it necessary to
strengthen the Board
on the ^{approaching} occurrence
of a vacancy, by the
^{nomination} appointment of
the best man he
could find, intima-
ted to Mr Horsley
that his services w^d
shortly be required
for district work,
and that he was
not to succeed to the
vacant seat at the

testifies to the desire
of Mr Horsley to give his
claims by seniority
very consideration
but he must be well
aware that there was
much hesitation on
the 2^d occasion
came to Mr Horsley
on that occasion & I
urge his claims & I
told him plainly the
immediate grounds
for it - & afterwards
informed the late
Mr Adams in Council
that I had done so.

Mr B. expressed
surprise & concern
at the impression he
had created & said
that Mr Horsley's
ground for his satisfaction
from this cause was
then principally his
inpracticability as
a member of the
consultative body.

^ mention that there was
considerable hesitation in
appointing Mr Horsley to act
in the 1st on the second occasion
(1881), by reason of his alleged
inpracticability as a member
of a consultative body. He
promised that he w^d endeavour
to remove the impression he had
created, but he has not succeeded
in doing so.

Board. This decision,
which was in accord-
ance with the opinion
of the collective Go-
vernment, was not
hastily made, and
Mr Horsley's claims
to confirmation
in the post in which
he had been acting
for the periods men-
tioned in his memo-
rial, was fully con-
sidered. We were
assured, however,
on enquiry, that Mr
Horsley was not well
fitted to aid in the
deliberations of the
Board, and we
held that seniority
c^d not override the
other more impor-
tant considerations
involved. We may ^

While regretting
the ^{therefore the} dis-
appointment
to the individual

we continue of opinion
that the exercise of
patronage in such
a matter should
be absolutely un-
fettered, and we
consequently have
no recommenda-
tion to make on
the memorialist's
behalf.

Ootacamund, 8 June 1882

Note. Clause 9 Rule XX
of the Memorial Rules en-
ables Govt to refuse trans-
mission of memorial
appealing against the
non-exercise of a dis-
pensatory discretion
vested in a Govt. As
however Clause 5 under
the same Rule implies
that an application for
employment by a Govt.
enanted officer can-
not be withheld, it
is submitted that
the present memorial
sh^d go forward.

Mr W. D. Horsley's mem^o
sent to Secy of State
governed entirely by
the exigencies of the public
service, and we are confident
that yr. Lordship will approve and
support our action in the matter.

FOR ORDERS.

8TH JUNE 1882, DESPATCH No. 13, PUBLIC.

CONFIDENTIAL

PUBLIC DEPARTMENT.

LETTER—to

THE MOST HONORABLE THE SECRETARY OF STATE FOR INDIA,

MY LORD MARQUIS,

We have the honor to forward, herewith, a Memorial from Mr. William Dowdeswell Horsley, Madras Civil Service, appealing to your Lordship against his supersession in the appointment of Third Member of the Board of Revenue.

2. The Right Honorable the Governor having, in the exercise of his discretion as the President of the Council, deemed it necessary to strengthen the Board on the approaching occurrence of a vacancy by the nomination of the best man he could find, intimated to Mr. Horsley that his services would shortly be required for district work, and that he was not to succeed to the vacant seat. This decision, which was in accordance with the opinion of the collective Government, was not hastily made, and Mr. Horsley's claim to confirmation in the post in which he had been acting for the periods mentioned in his Memorial, was fully con- sidered. We were assured, however, on inquiry, that Mr. Horsley was not well fitted to aid in the deliberations of the Board, and we held that seniority could not over-ride the other more important considerations involved. We may mention that there was considerable hesitation in appointing Mr. Horsley to act in the Board on the second occasion (1881), by reason of his alleged impracticability as member of a consultative body. He promised that he would endeavour to remove the impression he had created, but he has not succeeded in doing so.

3. While regretting, therefore, the disappointment to the individual, we con- tinue of opinion that the exercise of patronage in such a matter should be governed entirely by the exigencies of the public service, and we are confident that your Lordship will approve and support our action in the matter.

We have the honor to be,

My Lord Marquis,

Your Lordship's most obedient, humble servants,

(Signed) M. E. GRANT DUFF.
(") FRED. ROBERTS.
(") W. HUDLESTON.
(") DAVID F. CARMICHAEL.

OOTACAMUND,
8th June 1882.

Ed. F. R. Bantleman.

original

FORT SAINT GEORGE

JUDICIAL (1882) DEPARTMENT.

**LETTER to the Most Honorable
the Secretary of State for
India.**

Dated 8th June,

No. 13 of 1882.

*Transmitting, with remarks, Memorial from Mr.
W. D. Horsley, appealing against his superses-
sion in the Board of Revenue.*

