

never been graded as an
Accountant, but
had been retired as a
clerk.

W
4-9-85



No 2150
2151
Way 15-9-85

10-21/9
10-21/9

10-21/9
10-21/9
10-21/9

Madras, 7th February 1885

From,

Messrs Grant and Short,
Solicitors,

Madras.

To,

The Secretary of State for India in Council
Madras.

Sir,

We are instructed on behalf of William Alexander Laughlin late Accountant Examiner Office Public Works Department at present a Government Pensioner residing at No 10 Langs Gardens Chintadrepettah Madras to give you notice (which we hereby do) that he will at the end of two months next after receipt hereof institute a suit against you in the High Court at Madras for and in respect of the following: that is to say

1st For a decree that it be declared that on the date of his retirement from Government service on pension he our client was or ought to have been (but for the wilful negligence and default of his then superior or other Officer under Government ~~and~~ for some further or other cause for which Government are responsible) a 4th Grade Accountant by virtue of the several Government

Government Solicitor

ders and other proceedings passed in reference to such matters.

2nd For a decree that he be removed from the list of Government Pensioners receiving compensation Pension and placed on the list of Government Pensioners receiving average pension for service above 10 years by virtue of the said several Government orders and other proceedings

3rd For arrears of Pension being the difference between the average pension he claims to be entitled to, and the compensation pension which he now receives, from 19th March 1880 to date of retirement.

4th For salary for 12 months at Rs 80/ per mensem which he claims to be entitled to as bonus, less 3 months salary at the same rate which had been paid to him as and for such bonus.

5th For house rent which he claims to be entitled to, at Rspees 10 per mensem from 12th June 1878 to 18th March 1880

6th For Presidency allowance which he claims to be entitled to from April 1879 to 18th March 1880 at Rs 30/ per mensem.

For

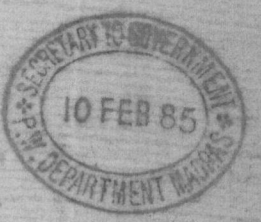
7th For interest in respect of the several money claims hereinbefore referred to;
8th and lastly For compensation for the wrongful acts complained and For such further or other relief in the premises as he may in that behalf be advised.

We have the honor to be,
Sir,
Your most Obedient Servants,
Grant & Sherrin

Government Solicitor

P.H. Cho. 1210

10 Feb 85



No. 2150
2151
May 15-9-85

No. 59.

Madras 16th February 1885.

From
Ernest Barclay
Government Solicitor
Madras
To
The Secretary to Government
Public Works Department
Madras.

Sir,

1. I beg to acknowledge receipt of your Memorandum of the 13th instant No. 292 with notice of action from Messrs Grant and Short Solicitors for Mr. Laughlin and file of papers connected with his case.
2. I have perused the papers sent to me and return them herewith. There is nothing to be done in the matter until Mr. Laughlin files the suit, notice of which is given in Messrs Grant and Short's letter. As soon as the Summons and plaint in that suit are served, I should be instructed to defend the suit. Independently of the merits of the case, Mr. Laughlin's claim seems to be barred by the law of limitation and to some extent by the Pensions Act 1871.

I am Sir
Your obedient Servant

Ernest Barclay
Government Solicitor

J. H. Cho 1472

By 17.2.85

No. 2150
2151 May 45-9-85

With Cho. 7433

Wait further
action in
S. H. Cho.

Col.
17.2.85

(8)

Madras 13th August 1885

To

The Chief Secretary to Government

Fort St George.

Sir

We have the honor to Enclose a Memorial from Mr William Alexander Langhlin, late an Accountant in the Office of Examiner Public Works Accounts, and with thank you to forward the same to the Viceroy and Governor General of India. The Government of this Presidency has already had before it the circumstances in connection with Mr Langhlin's very hard case, and you will possibly remember that, on the 7th of February 1885, Mr Langhlin addressed through us, a formal notice of action to the address of the Secretary of State for India.

Mr Langhlin is, we may add, very averse to having recourse to legal measures for very many reasons, and, not the least amongst them, is his present reduced state of circumstances. He hopes, however, that this his last appeal to the Government of India will receive your support, and that, in forwarding his Memorial, you will be pleased,
Yours

* Cannot be traced
at Coly.

from your intimate knowledge of his hard case,
to report favorably on it.

We have the honor to be
Sir

Your most Obedient Servant,

Wm. T. S. C.

at large

CURRENT NO. 1699

Recd 7433

From
Messrs Grant & Short

No. 2150 W. 15-9-85
2151

13-8-85

17-8-85
24/8/85
W. 1472
28/8/85
of Memo: to
Viceroy

Memorial to Viceroy
from Mr. W. A. Laughlin, late
Accts. Examiners Office, Madras.
No. 1501

Transferred to
the Public Works
Department.

For Mr. D. H. Trail
Chief Secretary
21/8/85

To
the P.W. Dept.

Triplicate

To

His Excellency, The Right Honorable Sir Frederick
Temple Hamilton Temple, Earl of Dufferin, K.P.,
G.C.B., G.C.M.G., P.C., F.R.S., D.C.L., Viceroy and
Governor General of India, Simla, Calcutta.

Through the Government of Madras.

The humble Memorial of WILLIAM ALEX-
ANDER LAUGHLIN, late Accountant,
Examiner's Office of Public Works
Accounts, Madras.

Enclosures. (with Original).

HUMBLY SHEWETH,

That the Madras Government have in their Order, No. 123 W, dated 16th
January 1884, required of your Lordship's humble Memo-
rialist, with a view "to re-open his case and to lay it be-
fore the Government of India for reconsideration, that he should adduce specific
"testimony, either from Colonels Conway-Gordon, C.I.E., or D. H. Trail, Royal
"Engineers, his late Superior Officers" (at present in the Service, and under the
jurisdiction of the Government of India) to prove that the omission to grade
Memorialist as an Accountant of the Fourth Grade before his retirement from the
Service, under the Resolution of the Government of India, No. 2079 P. W. D.,
dated 31st July 1879, was on the part of those Officers due to an "oversight."

2. That on a further representation of the hardships of his case, and of his
(Memorialist's) inability to submit the "requisite testimony" though repeatedly
applied for by "registered applications" to his late Superior
Officers mentioned above and to their not having vouchsafed
to him any reply whatever to his pitiful cries for help, and to his earnest solici-
tations also to the Government of Madras to generously aid Memorialist in obtain-
ing the testimony from the Officers concerned who alone are responsible for the
oversight, the Government notwithstanding his appeals to them still insisted on
the production of the testimony by your Memorialist, in their subsequent Orders,
Nos. 1946 W, dated 9th August, and 283 W, dated 12th November 1884.

3. That your Memorialist ventures most humbly to submit to your Lordship
that those Officers are now under the jurisdiction of the Government of India, and
he fervently beseeches your Lordship will be graciously and compassionately pleased
to vouchsafe to him that merciful and charitable assistance as will meet the circum-
stances of his deplorable case to call upon the above named Officers to establish
beyond a doubt the fact that the omission to grade Memorialist as an Accountant of
the Fourth Grade was manifestly an oversight on the part of the Examiner of Public
Works Accounts (Colonel D. H. Trail, R. E.) or not, as it is utterly impossible for
your Memorialist to obtain the information himself, nor will the Government of
Madras undertake to do so itself, though it lies in their power to do so.

4. That the brief particulars of the following recorded proceedings hereinafter
mentioned, will fully disclose to your Lordship that Memorialist should have been

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rightly graded before his retirement as an Accountant of the Fourth Grade, and that the omission was purely an oversight, and that he could not therefore be reasonably held accountable for it on the evidence of those official proceedings which affirm the fact (beyond a doubt) that the Examiner's predecessor was accountable for the responsible omission in question (*vide* paras. 7 and 8).

5. That the Madras Government have on behalf of those Officers "assumed" that the omission was "intentional" simply because Colonel Trail had been empowered to grade all Accountants but he did not grade your Memorialist, consequently Memorialist was considered a "Clerk," although the Government had repeatedly directed the Examiner of Public Works Accounts to grade him with the 12 Exempted Covenanted Accountants, as per their "Order No. 36, dated 14th May 1879," and also in "Government Order No. 218 W, dated 28th January 1880"—(*vide* paras. 6, 9, 15, 16 and 17).

It should here be specially noted in respect of the above said Orders to grade, that the Government of India's Order for Reduction of Establishments is dated 31st July 1879, that Memorialist had retired on the 18th March 1880, that the sanction of the Government of India for his name to be brought on the graded list of Accountants is dated 12th June 1878,—and that his "Agreement" as an Accountant of the Fourth Grade had been executed on the 25th July 1876.

The unexplained long delay unaccountably perceptible in nominating your Memorialist to the grade he was fully entitled to, could not be intentional, as his "Agreement" (*vide* paras. 16 and 17) was executed in terms of paras. 2, 3 and 8 of Controller's Circular No. 40, dated 25th July 1876, by which the Examiner established the fact that as an Accountant he was qualified for appointment to the 4th grade immediately on his signing the said Covenant as such, and this qualification had subsequently obtained for him exemption from his passing the entrance examination and sanction to Memorialist being formally nominated to the appointment in question on 12th June 1878, as will be obviously clear also from the Order of Government No. 36, dated 14th May 1879 referred to in the following para. (6).

6. That the above Government Order No. 36, dated 14 May 1879, (*vide* also para. 15) directing the grading of the "Exempted Accountants," in which category Memorialist was included, is indisputable as will be gleaned from the following:—
"Please forward a list of men now employed in the Accounts' Branch who have been recommended to you for exemption from passing Examinations, entrance and other, showing in each case whether the individual named has been exempted and whether he has been brought on the Graded List, if he has, in what grade, and if not, the reason why?"

7. That to "assume" after his retirement from the service that the omission to grade was "intentional" and that Memorialist "was retained in the position of a Clerk for good and sufficient reasons" is hardly fair or just and that thus to debar his claim to the proffered concessions of an average pension and bonus which he had rightly earned as an Accountant of the Fourth Grade (*vide* paras. 5, 6, 9, 12, 15, 16 and 17) is most arbitrary and disastrous to him. This is further borne out by the Examiner's (Mr. D. C. Gordon's) report to Government, dated 21st December 1883, "that there is nothing definite on the records of this Office to show whether the omission to grade Mr. Laughlin, was intentional on the part of the Examiner or due to an oversight."

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8. That the Examiner of Public Works Accounts (Mr. D. C. Gordon) had also reported to the Government of India in January or February 1882, "that he was unable to account for the omission, and that his predecessor was responsible for it." The above reliable and impartial avowal by a responsible Officer of the Department was made after a careful investigation of all the records in his Office and the Examiner declared that there was nothing definite to prove "intention" or "oversight." (The unaccountable and responsible omission to grade Memorialist for no valid reason, other than that assigned is obviously apparent). Memorialist consequently craves the benefit of a doubt (if any) which is mercifully conceded in equity even to a criminal on trial for a criminal offence.

9. That Colonel Conway-Gordon, C. I. E., in his letter No. 188 A, dated 26th February 1878, addressed to the Accountant General P. W. D. (Bengal) had recommended your Memorialist's name to be brought on the "Graded List of Accountants," as he was considered qualified for a Fourth Grade appointment by that Officer; (*Vide* para. 1 of that Letter) "Referring to your letter No. 32 E., dated 10th January 1878, I have the honor to forward a list containing the names of those members employed in the Accounts' Establishment of this Presidency whom I consider of being brought on the Graded List of Accountants without undergoing the prescribed Examinations." (*Vide* List.)

10. That in the above list, Memorialist's name was included as an Accountant (No. 9,) of the Fourth Grade who had duly qualified for the appointment from 25th July 1876 and whose "work and conduct" were pronounced by the Examiner himself as "satisfactory" (*Vide* paras. 9 and 12). His gradation was accordingly directed in the said Orders of Government Nos. 36, and 218 W., (*Vide* paras. 6 and 15) and for Memorialist's name to be brought on the graded list of Accountants after his appointment had been sanctioned by the highest authority in the Accounts' Branch of the Public Works Department under the Government of India (*Vide* A. G., No. 531 E., of Simla, dated 12th June 1878) and this fact is admitted by Colonel Trail R. E., in his letter No. 70 W., dated 21st July 1880 (*Vide* para. 12).

11. That from the above, and following recorded testimony, your Lordship will be pleased graciously to concede that the omission to grade Memorialist as an Accountant before his retirement on the 18th March 1880 was clearly an oversight on the part of Colonel Trail. Whilst the Examiner had graded the other Accountants of his like status who had not elected to retire under the Resolution of the Government of India No. 2,079 of 31st July 1879. Colonel Trail had assured Memorialist personally as also did Major H. Le M. Carey, Officiating Examiner, that he (Memorialist) was one of the exempted Accountants whom the Examiner was authorized to grade (*Vide* paras. 5, 6, 9, 12, 15, 16, 17 and 20) and that if Memorialist wished he would be permitted to retire from the service, which he did in the belief and trusting in the good faith of the Resolution that he would receive the concessions proffered in it; and Memorialist's application to Government for the concessions was with-held accordingly by Major Carey, to which arrangement he (Memorialist) consented.

12. That to account subsequently for the oversight, the Examiner reported to Government on the 21st July 1880, No. 70 W., (four months after Memorialist had retired) "that because he was never graded or regularly brought into the Accountants' Establishment of

"this Presidency, he was not entitled to the concessions under the Government of India Resolution No. 2079, dated 31st July 1879." The Examiner also reported that "Mr. Laughlin's name was included in the list of employes of this Office who were recommended for exemption from the entrance test of the Accounts' Branch and which recommendation was subsequently acceded to by the **Appendix Annexment D.** "Accountant General P. W. D., in letter No. 531 E., of Simla, dated 12th June 1878."

13. That in the above report it should be particularly noted that no explanation is offered by the Examiner of Public Works Accounts for not giving due effect to the repeated Orders of Government to grade your Memorialist referred to in paras. 6, and 15. But for this admitted omission by Colonel Trail (*Vide* paras. 7, 8, 12 and 13) your Memorialist was unhappily only granted a Clerk's modicum of pension and 3 month's salary as a *bonus* equally with other subordinates who did not with him possess the *special* qualifications of an Accountant (*Vide* paras. 9, 12, 15, 16, and 17). Memorialist was by those *special* qualifications fully entitled to the proffered concessions "of an average pension and bonus of 12 months' salary" which had been utilized in respect to the grant as above to "Clerks" indiscriminately and who had been peremptorily excluded therefrom by the Government of India, the majority of the recipients being merely "Clerks" throughout their services.

14. That the "omission to grade" which is reported by the Examiner as "unaccountable" (*Vide* paras. 7 and 8), and thus for a "responsible oversight," to debar Memorialist's claim to the concessions as it was clearly from no fault of his own "that he was never graded or regularly brought into the Accountants' Establishment of this Presidency," is hardly fair to advance. The Examiner had been empowered by Government formally to appoint Memorialist as a Fourth Grade Accountant (as per their Orders Nos. 36, and 218 W., referred to in paras. 5, 6, 12 and 15) for which he had duly qualified as shown in para. 9 *supra*, and paras. 16 and 17 *infra*.

15. That the Government (*Vide* para. 6) had further directed your Memorialist's gradation on the 28th January 1880, in their Order No. 218 W., will also be apparent in the following specific terms:—"That it will be fair and just to the individuals concerned as well as to the public interests, that all persons who have been regularly and *bonâ-fide* employed upon the legitimate duties of Accountants and have conducted those duties satisfactorily as shown by the Reports of the Officers concerned, shall be exempted from the "Entrance Examination" required by the Public Works Code, and shall be eligible (so far as the strength of the Establishment allows) the appointment as Accountants in the grades corresponding to their salaries now drawn by them." The above proposals were approved and sanctioned by the Government of India on the 12th February 1880, *Vide* G. O. No. 323 W. It is noteworthy that Memorialist had fulfilled all the above requirements previously to his retirement from the service (*Vide* paras. 5, 9, 16 and 17) and that his gradation was likewise directed in Order of Government No. 36 dated 14th May 1879 (*Vide* para. 6) and that as Memorialist had always been, and was from the 25th July 1876, a "Regular Covenanted Accountant of the Fourth grade." The following (paras. 16 and 17) will fully disclose to your Lordship the fact that Memorialist consequently could never have been considered a "Clerk" but that he was throughout his service a *bonâ-fide* Accountant.

16. That Memorialist had qualified for the appointment of "Accountant of the Fourth Grade" on the 25th July 1876 (*Vide* paras. 5, 6, 9, 15, 16 and 17) will be apparent to your Lordship from the following application **Appendix Annexment B.** of Memorialist and that as such he was rightly entitled to the proffered concessions in question, on his retirement. "I have the honor to inform you that I wish to be appointed to the Accounts' Branch, and that I am willing to accept the conditions of service and to qualify for the appointment." This condition of service was in terms of the Examiner's Circular No. 40 of 1876. Memorialist had the option of electing for the appointment of Accountant or of remaining on his present footing, but that he elected the former *status* to qualify for his future advancement in the service and to obtain a sufficient pension in the evening of his life which his "Agreement" had guaranteed to him as shown in the following paragraph.

17. That Memorialist accordingly had elected for the appointment of an "Accountant of the Fourth Grade" and he having *Covenanted* to serve as such, or, in any higher grade, in any place in British India. Memorialist was *de facto* a "Regular Accountant of the Fourth Grade" on the 25th July 1876 (*Vide* paras. 5, 6, 9, 10, 12, 15, 16 and 17) and the "Agreement" thus demanded of him fully establishes this assertion:—"I William Alexander Laughlin, on being engaged as Accountant Fourth Grade, do hereby declare my readiness to serve as Fourth Grade Accountant in any place in the Presidency of Madras, and as Accountant in the 4th or in any higher grade in any place in British India. I further declare that all the instructions and regulations contained in the Public Works Code have been read over by me and that I clearly understand them, and I hereby bind myself to obey and abide by the instructions and regulations contained in the Public Works Code or that may from time to time be issued by Government. As witness my hand this 25th day of July 1876."

Witnesses * * * W. A. Laughlin, Fourth Grade Accountant.

18. That, whilst the above conditions of service had been put in force and acted upon by transfer of Accountants to do duty out of the Presidency Town, the advantages accruing to them under the "Public Works Code" (paras. 33 and 37) such as Presidency, and other allowances as house-rent, and annual increments to their salaries were unhappily not accorded to your Memorialist. These allowances he had also equitably earned, and had claimed, but they were disallowed by the Examiner of Public Works Accounts on his several (7) appeals, dating from the 28th May and 10th June 1880 to 6th October 1884, simply because the Examiner had "omitted to grade" your Lordship's humble Memorialist from no fault of his own as explained above, though the Orders to grade him as authorized by the Government of Madras were not effected, and Memorialist, in consequence, is unhappily made to suffer and deplore his loss.

19. That Memorialist in conclusion most fervently supplicates your Lordship to mercifully consider the above further explanation as imparting additional and satisfactory proof that the omission formally to place him in the position of a Fourth Grade Accountant, was clearly an *oversight* on the part of Colonel Trail when effecting the reorganization and consequent extensive reductions of Public Works Establishments, Executive and Accounts' Branches of this Presidency under the Resolution of the Government of India No. 2,079 of 31st July 1879.

20. That in the faith of the Resolution quoted above Memorialist elected to retire, and it will be conceded that his duties as an Accountant were identical with

those performed by Accountants of like *status* in other Presidencies and Provinces, all of whom on retirement received these special privileges *viz.*, an average pension and bonus of twelve months' salary proffered therein and that Memorialist was never considered a Clerk but had Covenanted to serve as an Accountant in any place in British India so far back as the 26th July 1876 (*vide* paras. 5, 6, 9, 10, 16 and 17).

21. That lastly, Memorialist begs deferentially to forward herewith copies of **Appendix Annexments J. M. N. Q.** his Appeals to the Madras Government, dated 19th July and 6th October 1884, with Orders thereon, for such other indulgent and compassionate Orders as your Lordship will be pleased under the circumstances of his unfortunate case graciously to direct on this his humble Memorial, and for which act of charity conferred on a zealous and faithful servant of the State, your Lordship's most humble Memorialist will, in the evening of his life with a distressed large family of 10 souls, as in duty bound, ever pray and always feel especially grateful.

W. A. Laughlin
Late Accountant 4th Grade,

Examiner's Office of P. W. Accounts.

MADRAS,
13th August 1885.

Duplicate.

To

His Excellency, The Right Honorable Sir Frederick Temple Hamilton Temple, Earl of Dufferin, K.P., G.C.B., G.C.M.G., P.C., F.R.S., D.C.L, Viceroy and Governor General of India, Simla, Calcutta.

Through the Government of Madras.

The humble Memorial of WILLIAM ALEXANDER LAUGHLIN, late Accountant, Examiner's Office of Public Works Accounts, Madras.

Enclosures. (with Original).

HUMBLY SHEWETH,

That the Madras Government have in their Order, No. 123 W, dated 16th January 1884, required of your Lordship's humble Memorialist, with a view "to re-open his case and to lay it before the Government of India for reconsideration, that he should adduce specific testimony, either from Colonels Conway-Gordon, C.I.E., or D. H. Trail, Royal Engineers, his late Superior Officers" (at present in the Service, and under the jurisdiction of the Government of India) to prove that the omission to grade Memorialist as an Accountant of the Fourth Grade before his retirement from the Service, under the Resolution of the Government of India, No. 2079 P. W. D., dated 31st July 1879, was on the part of those Officers due to an "oversight."

2. That on a further representation of the hardships of his case, and of his (Memorialist's) inability to submit the "requisite testimony" though repeatedly applied for by "registered applications" to his late Superior Officers mentioned above and to their not having vouchsafed to him any reply whatever to his pitiful cries for help, and to his earnest solicitations also to the Government of Madras to generously aid Memorialist in obtaining the testimony from the Officers concerned who alone are responsible for the oversight, the Government notwithstanding his appeals to them still insisted on the production of the testimony by your Memorialist, in their subsequent Orders, Nos. 1946 W, dated 9th August, and 283 W, dated 12th November 1884.

3. That your Memorialist ventures most humbly to submit to your Lordship that those Officers are now under the jurisdiction of the Government of India, and he fervently beseeches your Lordship will be graciously and compassionately pleased to vouchsafe to him that merciful and charitable assistance as will meet the circumstances of his deplorable case to call upon the above named Officers to establish beyond a doubt the fact that the omission to grade Memorialist as an Accountant of the Fourth Grade was manifestly an oversight on the part of the Examiner of Public Works Accounts (Colonel D. H. Trail, R. E.) or not, as it is utterly impossible for your Memorialist to obtain the information himself, nor will the Government of Madras undertake to do so itself, though it lies in their power to do so.

4. That the brief particulars of the following recorded proceedings hereinafter mentioned, will fully disclose to your Lordship that Memorialist should have been

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rightly graded before his retirement as an Accountant of the Fourth Grade, and that the omission was purely an oversight, and that he could not therefore be reasonably held accountable for it on the evidence of those official proceedings which affirm the fact (beyond a doubt) that the Examiner's predecessor was accountable for the responsible omission in question (*vide* paras. 7 and 8).

5. That the Madras Government have on behalf of those Officers "assumed" that the omission was "intentional" simply because Colonel Trail had been empowered to grade all Accountants but he did not grade your Memorialist, consequently Memorialist was considered a "Clerk," although the Government had repeatedly directed the Examiner of Public Works Accounts to grade him with the 12 Exempted Covenanted Accountants, as per their "Order No. 36, dated 14th May 1879," and also in "Government Order No. 218 W, dated 28th January 1880"—(*vide* paras. 6, 9, 15, 16 and 17).

It should here be specially noted in respect of the above said Orders to grade, that the Government of India's Order for Reduction of Establishments is dated 31st July 1879, that Memorialist had retired on the 18th March 1880, that the sanction of the Government of India for his name to be brought on the graded list of Accountants is dated 12th June 1878,—and that his "Agreement" as an Accountant of the Fourth Grade had been executed on the 25th July 1876.

The unexplained long delay unaccountably perceptible in nominating your Memorialist to the grade he was fully entitled to, could not be intentional, as his "Agreement" (*vide* paras. 16 and 17) was executed in terms of paras. 2, 3 and 8 of Controller's Circular No. 40, dated 25th July 1876, by which the Examiner established the fact that as an Accountant he was qualified for appointment to the 4th grade immediately on his signing the said Covenant as such, and this qualification had subsequently obtained for him exemption from his passing the entrance examination and sanction to Memorialist being formally nominated to the appointment in question on 12th June 1878, as will be obviously clear also from the Order of Government No. 36, dated 14th May 1879 referred to in the following para. (6).

6. That the above Government Order No. 36, dated 14 May 1879, (*vide* also para. 15) directing the grading of the "Exempted Accountants," in which category Memorialist was included, is indisputable as will be gleaned from the following:—"Please forward a list of men now employed in the Accounts' Branch who have been recommended to you for exemption from passing Examinations, entrance and other, showing in each case whether the individual named has been exempted and whether he has been brought on the Graded List, if he has, in what grade, and if not, the reason why?"

7. That to "assume" after his retirement from the service that the omission to grade was "intentional" and that Memorialist "was retained in the position of a Clerk for good and sufficient reasons" is hardly fair or just and that thus to debar his claim to the proffered concessions of an average pension and bonus which he had rightly earned as an Accountant of the Fourth Grade (*vide* paras. 5, 6, 9, 12, 15, 16 and 17) is most arbitrary and disastrous to him. This is further borne out by the Examiner's (Mr. D. C. Gordon's) report to Government, dated 21st December 1883, "that there is nothing definite on the records of this Office to show whether the omission to grade Mr. Laughlin, was intentional on the part of the Examiner or due to an oversight."

8. That the Examiner of Public Works Accounts (Mr. D. C. Gordon) had also reported to the Government of India in January or February 1882, "that he was unable to account for the omission, and that his predecessor was responsible for it." The above reliable and impartial avowal by a responsible Officer of the Department was made after a careful investigation of all the records in his Office and the Examiner declared that there was nothing definite to prove "intention" or "oversight." (The unaccountable and responsible omission to grade Memorialist for no valid reason, other than that assigned is obviously apparent). Memorialist consequently craves the benefit of a doubt (if any) which is mercifully conceded in equity even to a criminal on trial for a criminal offence.

9. That Colonel Conway-Gordon, C. I. E., in his letter No. 188 A, dated 26th February 1878, addressed to the Accountant General P. W. D. (Bengal) had recommended your Memorialist's name to be brought on the "Graded List of Accountants," as he was considered qualified for a Fourth Grade appointment by that Officer; (*Vide* para. 1 of that Letter) "Referring to your letter No. 32 E., dated 10th January 1878, I have the honor to forward a list containing the names of those members employed in the Accounts' Establishment of this Presidency whom I consider of being brought on the Graded List of Accountants without undergoing the prescribed Examinations." (*Vide* List.)

10. That in the above list, Memorialist's name was included as an Accountant (No. 9,) of the Fourth Grade who had duly qualified for the appointment from 25th July 1876 and whose "work and conduct" were pronounced by the Examiner himself as "satisfactory" (*Vide* paras. 9 and 12). His gradation was accordingly directed in the said Orders of Government Nos. 36, and 218 W., (*Vide* paras. 6 and 15) and for Memorialist's name to be brought on the graded list of Accountants after his appointment had been sanctioned by the highest authority in the Accounts' Branch of the Public Works Department under the Government of India (*Vide* A. G., No. 531 E., of Simla, dated 12th June 1878) and this fact is admitted by Colonel Trail R. E., in his letter No. 70 W., dated 21st July 1880 (*Vide* para. 12).

11. That from the above, and following recorded testimony, your Lordship will be pleased graciously to concede that the omission to grade Memorialist as an Accountant before his retirement on the 18th March 1880 was clearly an oversight on the part of Colonel Trail. Whilst the Examiner had graded the other Accountants of his like status who had not elected to retire under the Resolution of the Government of India No. 2,079 of 31st July 1879. Colonel Trail had assured Memorialist personally as also did Major H. Le M. Carey, Officiating Examiner, that he (Memorialist) was one of the exempted Accountants whom the Examiner was authorized to grade (*Vide* paras. 5, 6, 9, 12, 15, 16, 17 and 20) and that if Memorialist wished he would be permitted to retire from the service, which he did in the belief and trusting in the good faith of the Resolution that he would receive the concessions proffered in it; and Memorialist's application to Government for the concessions was with-held accordingly by Major Carey, to which arrangement he (Memorialist) consented.

12. That to account subsequently for the oversight, the Examiner reported to Government on the 21st July 1880, No. 70 W., (four months after Memorialist had retired) "that because he was never graded or regularly brought into the Accountants' Establishment of

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"this Presidency, he was not entitled to the concessions under the Government of India Resolution No. 2079, dated 31st July 1879." The Examiner also reported that "Mr. Laughlin's name was included in the list of employes of this Office who were recommended for exemption from the entrance test of the Accounts' Branch and which recommendation was subsequently acceded to by the

Appendix Annexment D. "Accountant General P. W. D., in letter No. 531 E., of Simla, dated 12th June 1878."

13. That in the above report it should be particularly noted that no explanation is offered by the Examiner of Public Works Accounts for not giving due effect to the repeated Orders of Government to grade your Memorialist referred to in paras. 6, and 15. But for this admitted omission by Colonel Trail (*Vide* paras. 7, 8, 12 and 13) your Memorialist was unhappily only granted a Clerk's modicum of pension and 3 month's salary as a bonus equally with other subordinates who did not with him possess the special qualifications of an Accountant (*Vide* paras. 9, 12, 15, 16, and 17). Memorialist was by those special qualifications fully entitled to the proffered concessions "of an average pension and bonus of 12 months' salary" which had been utilized in respect to the grant as above to "Clerks" indiscriminately and who had been peremptorily excluded therefrom by the Government of India, the majority of the recipients being merely "Clerks" throughout their services.

14. That the "omission to grade" which is reported by the Examiner as "unaccountable" (*Vide* paras. 7 and 8), and thus for a "responsible oversight," to debar Memorialist's claim to the concessions as it was clearly from no fault of his own "that he was never graded or regularly brought into the Accountants' Establishment of this Presidency," is hardly fair to advance. The Examiner had been empowered by Government formally to appoint Memorialist as a Fourth Grade Accountant (as per their Orders Nos. 36, and 218 W., referred to in paras. 5, 6, 12 and 15) for which he had duly qualified as shown in para. 9 *supra*, and paras. 16 and 17 *infra*.

15. That the Government (*Vide* para. 6) had further directed your Memorialist's gradation on the 28th January 1880, in their Order No. 218 W., will also be apparent in the following specific terms:—"That it will be fair and just to the individuals concerned as well as to the public interests, that all persons who have been regularly and *bona-fide* employed upon the legitimate duties of Accountants and have conducted those duties satisfactorily as shown by the Reports of the Officers concerned, shall be exempted from the "Entrance Examination" required by the Public Works Code, and shall be eligible (so far as the strength of the Establishment allows) the appointment as Accountants in the grades corresponding to their salaries now drawn by them." The above proposals were approved and sanctioned by the Government of India on the 12th February 1880, *Vide* G. O. No. 323 W. It is noteworthy that Memorialist had fulfilled all the above requirements previously to his retirement from the service (*Vide* paras. 5, 9, 16 and 17) and that his gradation was likewise directed in Order of Government No. 36 dated 14th May 1879 (*Vide* para. 6) and that as Memorialist had always been, and was from the 25th July 1876, a "Regular Covenanted Accountant of the Fourth grade." The following (paras. 16 and 17) will fully disclose to your Lordship the fact that Memorialist consequently could never have been considered a "Clerk" but that he was throughout his service a *bona-fide* Accountant.

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16. That Memorialist had qualified for the appointment of "Accountant of the Fourth Grade" on the 25th July 1876 (*Vide* paras. 5, 6, 9, 15, 16 and 17) will be apparent to your Lordship from the following application

Appendix Annexment B. of Memorialist and that as such he was rightly entitled to the proffered concessions in question, on his retirement. "I have the honor to inform you that I wish to be appointed to the Accounts' Branch, and that I am willing to accept the conditions of service and to qualify for the appointment." This condition of service was in terms of the Examiner's Circular No. 49 of 1876. Memorialist had the option of electing for the appointment of Accountant or of remaining on his present footing, but that he elected the former status to qualify for his future advancement in the service and to obtain a sufficient pension in the evening of his life which his "Agreement" had guaranteed to him as shown in the following paragraph.

17. That Memorialist accordingly had elected for the appointment of an "Accountant of the Fourth Grade" and he having Covenanted to serve as such, or, in any higher grade, in any place in British India. Memorialist was *de facto* a "Regular Accountant of the Fourth Grade" on the 25th July 1876 (*Vide* paras. 5, 6, 9, 10, 12, 15, 16 and 17) and the "Agreement" thus demanded of him fully establishes this assertion:—"I William Alexander Laughlin, on being engaged as Accountant Fourth Grade, do hereby declare my readiness to serve as Fourth Grade Accountant in any place in the Presidency of Madras, and as Accountant in the 4th or in any higher grade in any place in British India. I further declare that all the instructions and regulations contained in the Public Works Code have been read over by me and that I clearly understand them, and I hereby bind myself to obey and abide by the instructions and regulations contained in the Public Works Code or that may from time to time be issued by Government. As witness my hand this 25th day of July 1876."

Witnesses * * * W. A. Laughlin, Fourth Grade Accountant.

18. That, whilst the above conditions of service had been put in force and acted upon by transfer of Accountants to do duty out of the Presidency Town, the advantages accruing to them under the "Public Works Code" (paras. 33 and 37) such as Presidency, and other allowances as house-rent, and annual increments to their salaries were unhappily not accorded to your Memorialist. These allowances he had also equitably earned, and had claimed, but they were disallowed by the Examiner of Public Works Accounts on his several (7) appeals, dating from the 28th May and 10th June 1880 to 6th October 1884, simply because the Examiner had "omitted to grade" your Lordship's humble Memorialist from no fault of his own as explained above, though the Orders to grade him as authorized by the Government of Madras were not effected, and Memorialist, in consequence, is unhappily made to suffer and deplore his loss.

19. That Memorialist in conclusion most fervently supplicates your Lordship to mercifully consider the above further explanation as imparting additional and satisfactory proof that the omission formally to place him in the position of a Fourth Grade Accountant, was clearly an oversight on the part of Colonel Trail when effecting the reorganization and consequent extensive reductions of Public Works Establishments, Executive and Accounts' Branches of this Presidency under the Resolution of the Government of India No. 2,079 of 31st July 1879.

20. That in the faith of the Resolution quoted above Memorialist elected to retire, and it will be conceded that his duties as an Accountant were identical with

those performed by Accountants of like *status* in other Presidencies and Provinces, all of whom on retirement received these special privileges *viz.*, an average pension and bonus of twelve months' salary proffered therein and that Memorialist was never considered a Clerk but had Covenanted to serve as an Accountant in any place in British India so far back as the 26th July 1876 (*vide* paras. 5, 6, 9, 10, 16 and 17).

21. That lastly, Memorialist begs deferentially to forward herewith copies of **Appendix Annexments** his Appeals to the Madras Government, dated 19th July and 6th October 1884, with Orders thereon, for such other indulgent and compassionate Orders as your Lordship will be pleased under the circumstances of his unfortunate case graciously to direct on this his humble Memorial, and for which act of charity conferred on a zealous and faithful servant of the State, your Lordship's most humble Memorialist will, in the evening of his life with a distressed large family of 10 souls, as in duty bound, ever pray and always feel especially grateful.

MADRAS,
13th August 1885.

W. A. Laughlin
Late Accountant 4th Grade,
Examiner's Office of P. W. Accounts.

No. 2150 *W* PUBLIC WORKS DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the 15th Sept/85

READ the following

*Letter from Messrs Grant & Short
Attorneys-at-Law, enclosing
a memorial addressed to the
Viceroy, from Mr W. A.
Laughlin, late clerk in
the office of the Ex. P.W.
Accounts*

N.E. No. — of 13th Augt/85

End^d in Financial Dept. — " — 1501 of 21st do

*ordered to be
forwarded to the Government
of India.*

(N.E. No. 2151 - W of 15 Sept/85)

To

Mr W. A. Laughlin

thru Messrs Grant & Short Sir,

To

*The Secy. to the
Govt. of India, P.W.
with adverter*

your letter N^o 37 A.B. of
7th March 1882, I am direct-
ed to forward, for the
consideration of the Govt.
of India, a further memorial
from Mr. W. A. Laughlin,
a Government pensioner,
formerly employed in the
office of the Examiner
P.W. Accounts.

2. The ultimate object
of Mr. Laughlin's present
appeal is the same as that
of the memorial previously
submitted to the Government
of India, namely that he
may be regarded as having
been graded as an accountant
prior to his retirement, and

thus he declared eligible
to the concessions specially
sanctioned by the Govt.
of India in Finance and
Commerce Resolution N^o 2079
dated 31st July 1879. He
also claims arrears of
Presidency allowance and
house rent at the rates
admissible to graded ac-
countants.

3. The grounds on which
this Government rejected the
petitioners claims will be
found in Pros. N^o 2052 W
of 30 August 1880, a copy of
which was forwarded with
this office letter N^o 143 W of
17th January 1882, and

another copy of which is
now transmitted for
reference. On a report
from Major (now Lt Col.)
D.H. Traill M.B., the
Government decided, in
the Pres. of August 1880
above quoted, that, as
Mr. Laughlin had never
been regularly graded or
brought on to the ac-
countants establishment,
his case could not be
treated exceptionally.

4. Since the transmission
of the last memorial to the
Government of India, a new
element has been introduced

C.No. 1215
1472

S. G. W.

The two months
notice given by
the solicitors has
already expired
~~and~~ these papers
are now submitted
for any further
disposal that
may be considered
necessary.

20 S.G.W.

19/6.

These papers
should lie over
pending receipt
of a summons
and a copy of
the plaint filed.
The High Court

into the case. Mr. Laughlin
having contended that the
omission to grade him as an
accountant was apparently
a pure oversight, this
Government, desirous of
giving him the benefit
of the doubt, expressed
their willingness to reopen
his case, if the petitioner
could produce specific
testimony from the examiners
under whom he had served,
that his grading was
omitted by oversight, ~~and~~
not by intention.

5. Mr. Laughlin sub-
sequently reported that
he had addressed Lieut.

Col. Traill and Major Conway
Gordon, the examiners in
question, but that he had
failed to elicit any
reply from those officers;
and, in the absence of the
required proof, this Govt.
were unable to afford the
petitioner any relief.

6. Mr. Laughlin, in
his present memorial to
His Excellency the Viceroy,
prays that Lt. Col. Traill
and Major Conway Gordon
may be called upon to
establish beyond a doubt
the fact that the omission
to grade him was manifestly
an oversight; and I am

Pro. 2 9.8.84, no 1946 W
(appendix (m) to memorial)
Pro. 2 12.11.84, no 283 W
(appendix (2) to memorial)

Current
full connected
with Mr. W. H.
Laughlin in
case of

200. A. W.

24/3/85

Ms. 85/8.

to state that, if the
Government of India see
fit to comply with the
petitioner's request, and
if the officers named
can supply the required
testimony, this Government
will be glad to recommend
a reconsideration of the
petitioner's claims.

7. The fact remains
however that Lt. Col.
Traill, the officer who
had it in his power to
grade Mr. Laughlin,
reported in 1880, immediately
after the latter's retirement,
that the petitioner had