Removed from Gov. 2184

28-1-3

No. 1810 w of 7th July 1887

(Duplicate)

To,

The Right Hon'ble Viscount Cross,

HER MAJESTY'S SECRETARY OF STATE FOR INDIA,

LONDON.

THE HUMBLE MEMORIAL OF **MICHAEL ANTHONY CABRAL,** EURASIAN AND LATE FIRST WRITER IN THE OFFICE OF THE DISTRICT ENGINEER, MALABAR, CALICUT, NOW PENSIONER OF HER MAJESTY'S GOVERNMENT SERVICE,

RESPECTFULLY SHEWETH:—

That your Lordship's Memorialist, to put his painful case in a clear and comprehensive form before your Lordship in Council, feels compelled to enter into some details, which may, perhaps, extend this humble Memorial to a length not unwarranted by the circumstances of his case, for which he most respectfully craves your Lordship's kind and compassionate indulgence.

2. That your Memorialist, with due respect and humble submission, begs to place his sad case before your Lordship in Council, fully pursuaded that in exercise of the control vested in your Lordship over the acts and proceedings of your subordinate officers, he may confidently hope, that it will meet with a merciful and just consideration at your Lordship's hands, which has been guaranteed to every honest, good and deserving servant of Her Majesty's Government.

3. That your Memorialist entered the Public Service in 1835 as a Regimental Mess writer, and continued as such with the 32nd, 94th, 25th, King's Own Borderers and 74th Highlanders up to 15th May 1857; the Testimonials* attached, will testify to the uniform and steady character your Memorialist maintained throughout that long service of more than 18 years, for sobriety, earnestness and applicability to work, respectful and honest conduct, and generally satisfactory career.

* Appendix A, No. 2.

4. That in May 1857, finding the Uncovenanted Civil Service held out better prospects, your Memorialist sought for, by the recommendations of Colonel McDuff and Surgeon McBeath of 74th Highlanders, to Captain Francis, the then District Engineer of Coimbatore and obtained employment as a Storekeeper in the late District Engineer's Office on a salary of Rs. 40 per mensem, and served under Captain Francis, Mr. Fraser, Captain Goddard and Colonel Faber, his former superiors, for a period of more than six years; that those gentlemen have testified to your Memorialist to be a respectable, honest man, who understood and discharged his duties satisfactorily; that the Office Register in which the character, conduct, &c., of the servants employed in the Establishment are entered, will confirm this testimony; moreover in Appendix 2 A will be found a copy of testimonial subsequently granted to your Memorialist by Captain Goddard, R. E., who was one of his former superiors in Office as District Engineer, Coimbatore, which will, he trusts, satisfactorily show the estimation in which he was held both by that officer and his predecessors.

5. That on the re-organization of the Public Works Department in May 1863, the Coimbatore District Engineer's Office (of which your Memorialist was the Storekeeper), together with certain other District Offices, became merged into one single office, viz., the Superintending Engineer's Office, 7th Division, and your Memorialist was, in virtue of his seniority in-standing and experience as Storekeeper, appointed as such in the revised establishment of the newly created office on a salary of Rs. 50 per mensem, and that he accordingly discharged the duties of this Office for more than a year.

6. That in July 1864 the Controller of Public Works Accounts called upon the Superintending Engineer to submit a List of articles in a revised form, and the Superintending Engineer, upon the recommendation of the Manager, Mr. Fernandez,* and without having any communication with your Memorialist, issued a memo.,† dated 12th July 1864, which impeached your Memorialist's competency to discharge a simple duty, and entrusting it to an under employé, Mr. Lobo,‡ uncle of the Manager, degraded your Memorialist to an Accountantship, on Rs. 40 per mensem; that your Memorialist, was not asked to prepare the List in the new form and he is at a loss to account for this sudden supercession, except on the supposition that the Manager wished to provide for his uncle at the sacrifice of your Memorialist's interests. Your Memorialist would here add that, although so degraded on paper, it was, in effect, a mere change in Official designation in the Pay List, your Memorialist having actually performed all the duties of Storekeeper himself, also, whenever called upon to do so, those of other departments, a fact which will be borne out by the records of the Office themselves, by the several Returns and other papers transmitted from time to time to the Controller's Office up to 1871. The justice or otherwise of this supercession is the first point in your Memorialist's sad case, which he humbly submits, calls for your Lordship's merciful and pious consideration.

* Brought from Mangalore, S. Canara, by Colonel Walker, R.E., Superintending Engineer.

† Copy attached, enclosure No. 4.

‡ Also brought from Mangalore, S. Canara, by Colonel Walker, R.E.

7. That since Mr. Fernandez's accession to office as Manager, he was in charge of the entire office during the absence of Col. Walker, who was constantly at Coonoor; that your Memorialist was always annoyed and exposed to indignities by him and his relatives* at the office by indirect, and sometimes direct, and offensive remarks to your Memorialist; that he (the Manager) made several false reports† against your Memorialist to the Superintending Engineer, Col. Walker, R. E., containing untrue statements and that in order to meet, as far as possible, the general and sweeping nature of the said statements against him, your Memorialist addressed Col. Walker on the subject.

* Mr. Lobo, Storekeeper.
Mr. D'Cruz, Clerk.
Mr. Pinto " Do.
All brought from Mangalore, S. Canara, by Col. Walker.

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8. That Col. Walker being all the time absent from Coimbatore and living at Coonoor, credited all that the Manager's false reports made against your Memorialist and wrote his order,* dated 8th October 1864, calling upon your Memorialist to resign and containing reflection on his competency for his work, a point upon which he had given uninterrupted satisfaction to all his former superiors, viz., the Military Officers of four European Regiments and four District Engineers, for a period of more than 24 years, and upon which point, Col. Walker now, for the first time within his limited experience of your Memorialist of only as many months, raises a question. Your Memorialist therefore humbly trusts that this fact will not be lost sight of in disposing of your Memorialist's alleged incompetency or unwillingness to work that may now be allowed to stand against your Memorialist.

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9. That for all the Manager's false* accusations against your Memorialist, he had answered to Col. Walker, but no notice was taken of his explanation, and Col. Walker, on the *exparte* statement of his Manager, reduced your Memorialist's pay, from Rs. 50 to Rs. 40, unjustly fined him for no fault, and suspended him for an unlimited time from 16th March 1865, with no reason, and at last dismissed him from the Government service. That while your Memorialist was under suspension, he submitted many humble petitions† to Col. Walker, in one of which he tendered his resignation, but no notice was taken; your Memorialist need hardly here depict to your Lordship, the suspense and anguish of mind under which he was suffering, and the difficulties

* Appendices B & C, Nos. 3 and 6.

† Appendix C, No. 6.

into which, in a pecuniary point of view, he and his large family were involved by the suspension of his allowances, that his affliction was embittered the more by the consciousness that "honesty, innocence and unswerving rectitude of "purpose and conduct"‡ were suffering under the weight of the Manager's influence, and, indeed, by the uncertainty of the period for which this state of affair was to last.

‡ Appendix A, No. 2.

10. That during the interval, or rather, after your Memorialist's suspension, he was offered* an appointment, which would have relieved him of his difficulties, and, indeed, comparatively speaking, placed him above want, to say the least of it, but, in the position in which your Memorialist was placed, under suspension, for unlimited time, and his case undisposed of by Col. Walker, he could not help declining to accept the kind offer of that well-known Firm, and thus he was virtually denied an opportunity of recovering himself.

* Appendix A, No. 2.
Framjee Nesserwanjee and Co's letter.

11. That your Memorialist thereupon appealed* to the Madras Government against Col. Walker's arbitrary and unjust proceedings. That just and benevolent Government, finding that your Memorialist was "harshly dealt with," conscientiously rendered justice, and expressed thus, in their 1st Proceedings (*vide* G. O. No. 1679, dated 28th May 1866) :—

*Copies attached, enclosures Nos. 1 & 8. Memorials, dated 8th December 1865, and 12th June 1866.

Enclosure No. 7.

"From an attentive perusal of the above papers the Government find too "much reason to believe that Mr. Cabral has been harshly dealt with and that "Col. Walker, misled by the representations of his Acting Manager, Mr. Fernandez, "failed to afford a careful and impartial hearing to Petitioner's defence. They "perceive the standing orders regarding the employment of a number of indi-"viduals belonging to the same family in one office have been disregarded by the "Manager being permitted to introduce three of his own near relations into appoint-"ments in the Superintending Engineer's Office Establishment. If the difficulty of "procuring other properly qualified candidates rendered this irregularity unavoid-"able, Col. Walker should have been all the more careful to prevent any of the "other members of the office being made, as Mr. Cabral appears to have been, a "victim of a family combination. Instead of this, however, Col. Walker is shown "not only to have punished Mr. Cabral on the *exparte* statement of the Manager but "also to have subsequently forwarded without perusal all petitioner's explanations "and appeals for mercy to the same person, who, it is very evident, was doing his "utmost to work Mr. Cabral's ruin.

2. "The Government are naturally reluctant to order the continual "employment of any one in a post where he must, under the circumstances, always "feel uncomfortable and they are similarly unwilling to force the employment of a "subordinate upon any officer against his wishes, but His Lordship in Council "cannot in justice do otherwise in this case than give Mr. Cabral the option of "returning to his former post from the date of his dismissal, should he desire to "withdraw his resignation, leaving it to the Superintending Engineer if he retain "any objection to Mr. Cabral, to make arrangements for transferring him to an "appointment of equal emolument in one of the Range Offices of the 7th Division.

3. "Should such a transfer within the limits of that Division be found "impracticable, Col. Walker will place himself in communication with other "Superintending Engineers with a view one of them providing for Mr. Cabral in a "similar situation, and a copy of this Paragraph of these Proceedings will be com-"municated to all other Superintending Engineers with a request that they will take "the first opportunity of complying with Col. Walker's requisition if he find it "necessary to make one."

In their 2nd Proceedings, the Madras Government stated as follows (*Vide* G.O., No. 2791, dated 3rd September 1866) :—

Enclosure No. 9.

"The Government having in G.O., of the 28th May 1866, No. 1679, "resolved on special grounds to give Mr. Cabral the option of returning to his "former post from the date of dismissal, now authorize the disbursement to that "individual of full salary from that date up to the period of his re-instatement, and "they are also pleased to direct that Mr. Brito, the clerk who has been displaced by "Mr. Cabral, shall likewise be allowed full salary up to the 20th August 1866.

2. "The Superintending Engineer should avail himself of an early opportunity for employing Mr. Brito.

3. "The additional charge which the payments now ordered will involve, will be defrayed from savings under establishment."

12. That the first of the Orders* of the Madras Government quoted above was entirely ignored by the Superintending Engineer, and instead of re-instatement in the Office which he held, or in any other Office of equal emolument, your Memorialist was nominated to an appointment yielding a salary of Rs. 40† per mensem; that this and a subsequent act of injustice to which your Memorialist will presently invite your Lordship's attention, very seriously affected the pension to which your Memorialist would be entitled in due course. Your Memorialist was compelled to accept his degradation, or, with his family, submit to penury and starvation.

* Enclosure No. 7.

† (*Vide* para. 9 of this Memorial.)

13. That in January 1872 when your Memorialist had only a few months more of his service to put in for one-third of his pension, he was, under the 55 years' order, compelled to retire; that your Memorialist petitioned* the Madras Government to extend its indulgence to him and permit him to remain in the service until he had attained the period qualifying him for one-third pension; that the Madras Government were graciously pleased to accede to his prayer, but that the Superintending Engineer, instead of allowing him to continue in his degraded appointment on a salary of Rs. 40† per mensem in Coimbatore, after keeping him out of it for 7 months, actually relegated him to an appointment carrying with it the reduced salary of Rs. 35‡ per mensem in the District Engineer's Office, Calicut, Malabar.

* Memorial, dated 29th May 1872. Memorial, dated 9th August 1872, copies attached enclosures Nos. 10 & 11.

† (*Vide* para. 12 of this Memorial).

‡ (*Vide* para. 4 of Memorial, dated 22nd December 1877, copy attached, enclosure No. 12.)

14. That your Lordship will not here fail to perceive how, in spite of the orders of the Madras Government, your Memorialist had a series of unmerited acts of injustice inflicted on him by his official superior; that even if the spirit of those orders had been observed by the Superintending Engineer, your Memorialist would, at the termination of his service, been on the receipt of his former salary of Rs.50 per mensem and entitled to a higher pension than that (Rs. 11-10-8) which he is now receiving.

15. That your Memorialist Memorialized* on the 31st July 1882 the Madras Government, praying under the circumstances set forth above for difference of pay between Rs. 50 and 40 from the 12th July 1864 to 30th November 1872, and between Rs. 50 and 35 from 1st December 1872 to 31st December 1877, on which date your Memorialist retired after a service of 20 years in the Civil Department, besides that of the Military as stated in para. 3 of this Memorial, viz., 18 years, for full pay at Rs. 50 per mensem from 31st December 1871 to 30th November 1872, being the period between which your Lordship's Memorialist was kept out of pay and employment as will be observed in the latter part of para. 8 of the Memorial, dated 31st July 1882, and for pension calculated on a salary of Rs. 50 per mensem. Upon this he received the enclosed Order† No. 2,453 W., dated 21st September 1882.

* Copy attached, enclosure No. 13.

† In original, enclosure No. 14.

16. Your Memorialist humbly begs here again to invite your Lordship's particular attention that the order, No. 1679, dated 28th May 1866, was entirely set aside by the Superintending Engineer, and respectfully begs to submit for your Lordship's benign and just consideration, that had the spirit of that order, as also the one, No. 2791, dated 3rd September 1866, referred to in the last Proceedings of the Madras Government (in which it is clearly worded to this effect), viz., "to give Mr. Cabral the option of returning to his former post," been adhered to, he would have been re-instated to a post carrying with it a salary of

Rs. 50; and to promotions of higher salaries than Rs. 50 during this period of his employ in the office, but not to Rs. 40, as his unjust degradation to Rs. 40 was one of the grievances for which he had prayed for redress in his Memorial, on which, the above order was passed, and that his further degradation to Rs. 35, from 1st December 1872, was also in contravention of Government Orders, will appear evident to your Lordship from the fact of another clerk on Rs. 25, much junior to your Memorialist, being sent to the same office, viz., District Engineer's Office, Calicut, Malabar, on Rs. 45, so that his being provided with only a clerkship of Rs. 35 was not because "that was the only appointment then found available for him."

17. That this order of the Madras Government was confirmed by the Indian Government* on the ground that their decision was right and cannot be interfered with.

* In original No. 160 G., dated 1st February 1883, on Memorial, dated 12th December 1882. Enclosures Nos. 15 and 16.

18. That your Memorialist now begs to appeal to your Lordship against these orders and earnestly prays your Lordship will be pleased to afford his hard case gracious consideration, and direct that Section 51 (or 105 of the latest edition) of the Civil Pension Code be made applicable to him, and that his pension be determined on his original salary of Rs. 50 per mensem, which he would virtually have been in the receipt of had the orders of Government No. 1679, dated 28th May, and No. 2791 of 3rd September 1866, been acted upon, and he be allowed the differences and arrears of pay referred to in para. 15 of this Memorial.

19. That your Memorialist entreats your Lordship to take into consideration his services, the hardships he has endured, the pecuniary losses he has sustained by the unmerited reductions of his salary, and even now, to award him justice and compassion.

20. That your Memorialist has not misconducted himself. It has not been shown he was incompetent to discharge his duties, on the contrary although he was re-employed in December 1872, just to serve for 7 months to complete the period for one-third pension, the several District Engineers retained him in service for more than 5 years.

21. That it is not for your Lordship's Memorialist to dive into the motives which actuated your Lordship's subordinate officers, to adopt such objectionable course; all that your Memorialist can do is only to complain to your Lordship that their illegal and unprecedented proceedings have greatly prejudiced and ruined your Memorialist.

22. That from what is advanced above and also from what has been represented in your Memorialist's previous Memorials, it will be clearly seen to your Lordship in Council, that your Memorialist has suffered great injustice, and that this severe and unjust punishment of being deprived, both from his proper post of Rs. 50 and all subsequent promotions in the office and claim to a higher rate of pension, inflicted upon your Memorialist, from no good origin, not only was your Lordship's Memorialist victimized to spite and conspiracy, but that justice that ought to have been meted out to him has been illegally and wilfully withheld.

23. That your Memorialist's case is, most unfortunately for him, a very complicated one, and that the delay that has taken place in addressing this Memorial, is due to causes incidental to your Memorialist's unfortunate position, both as regards to infirmity from a protracted attack of "bronchitis" and to a want of pecuniary means to get it drawn up.

24. Being the last resort of the suffered for redress, your Lordship's Memorialist, who has failed to obtain redress from the local authorities, most humbly throws himself at your Lordship's feet for that clemency and mercy which British justice is wont to extend to those that have been suppressed by high-handed

influence, and to enable your Lordship, (as a representative of Her Imperial Majesty the Queen), to arrive at an impartial judgment, he respectfully begs to submit the enclosed papers for perusal.

25. That your Lordship's Memorialist is now in his 80th year, too old and feeble to seek for, or to get, employment, and his present pension, viz., Rs. 11-10-8 per month, is barely sufficient in his dotage to maintain himself and the family, even with the commonest necessaries of life, and as well as to pay up the debts which he was compelled to contract for the support of his family while he was kept out of pay and employment, as stated in the latter part of para. 13 of this Memorial.

26. That your Memorialist in addressing for the first and the last time to your Lordship in Council, as being the only alternate tribunal where he fully knows that his pitiful case will receive a proper and an impartial judgement, most earnestly implores that your Lordship will be graciously pleased to forgive your Memorialist's boldness for so doing, and to take his deplorable and sad case into your Lordship's favorable consideration and to grant to his prayers, as set forth in the latter portion of para. 18 of this Memorial.

27. That in conclusion, your Memorialist having already fully stated his case in his Memorials* submitted to your Lordship's subordinate authorities, he most humbly takes the liberty now in submitting the same in a fully and comprehensive form to your Lordship, prays that your Lordship will exercise that prerogative and mercy, in consideration of the approaching Jubilee of Her Majesty the Queen Empress, in dealing with your Memorialist's sad case with a just and impartial decision, and that your Lordship in Council will be graciously pleased to order that his right claim to the amount being over and above two thousand rupees being disbursed to him,—for which act of clemency and benevolence

Your Lordship's Memorialist and his large family shall

EVER PRAY,

COIMBATORE,
31st May 1887.

(Signed) M. A. Cabral

* 1 Memorial, dated Coimbatore, 31st July 1882. To the Right Honorable the Governor of Fort Saint George, with 12 original documents.

1 Memorial, dated Coimbatore, 12th December 1882. To His Excellency the Right Honorable the Governor of Bengal, attached to the above.

(Triplicate.)

To

The Right Hon'ble Viscount Cross,

HER MAJESTY'S SECRETARY OF STATE FOR INDIA,

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3. "The additional charge which the payments now ordered will involve,
"will be defrayed from savings under establishment."

12. That the first of the Orders* of the Madras Government quoted above was entirely ignored by the Superintending Engineer, and instead of re-instatement in the Office which he held, or in any other Office of equal emolument, your Memorialist was nominated to an appointment yielding a salary of Rs. 40† per mensem; that this and a subsequent act of injustice to which your Memorialist will presently invite your Lordship's attention, very seriously affected the pension to which your Memorialist would be entitled in due course. Your Memorialist was compelled to accept his degradation, or, with his family, submit to penury and starvation.

* Enclosure No. 7.

† (*Vide* para. 9 of this Memorial.)

13. That in January 1872 when your Memorialist had only a few months more of his service to put in for one-third of his pension, he was, under the 55 years' order, compelled to retire; that your Memorialist petitioned* the Madras Government to extend its indulgence to him and permit him to remain in the service until he had attained the period qualifying him for one-third pension; that the Madras Government were graciously pleased to accede to his prayer, but that the Superintending Engineer, instead of allowing him to continue in his degraded appointment on a salary of Rs. 40† per mensem in Coimbatore, after keeping him out of it for 7 months, actually relegated him to an appointment carrying with it the reduced salary of Rs. 35‡ per mensem in the District Engineer's Office, Calicut, Malabar.

* Memorial, dated 29th May 1872. Memorial, dated 9th August 1872, copies attached enclosures Nos. 10 & 11.

† (*Vide* para. 12 of this Memorial).

‡ (*Vide* para. 4 of Memorial, dated 22nd December 1877, copy attached, enclosure No. 12.)

14. That your Lordship will not here fail to perceive how, in spite of the orders of the Madras Government, your Memorialist had a series of unmerited acts of injustice inflicted on him by his official superior; that even if the spirit of those orders had been observed by the Superintending Engineer, your Memorialist would, at the termination of his service, been on the receipt of his former salary of Rs.50 per mensem and entitled to a higher pension than that (Rs. 11-10-8) which he is now receiving.

15. That your Memorialist Memorialized* on the 31st July 1882 the Madras Government, praying under the circumstances set forth above for difference of pay between Rs. 50 and 40 from the 12th July 1864 to 30th November 1872, and between Rs. 50 and 35 from 1st December 1872 to 31st December 1877, on which date your Memorialist retired after a service of 20 years in the Civil Department, besides that of the Military as stated in para. 3 of this Memorial, viz., 18 years, for full pay at Rs. 50 per mensem from 31st December 1871 to 30th November 1872, being the period between which your Lordship's Memorialist was kept out of pay and employment as will be observed in the latter part of para. 8 of the Memorial, dated 31st July 1882, and for pension calculated on a salary of Rs. 50 per mensem. Upon this he received the enclosed Order† No. 2,453 W., dated 21st September 1882.

* Copy attached, enclosure No. 13.

† In original, enclosure No. 14.

16. Your Memorialist humbly begs here again to invite your Lordship's particular attention that the order, No. 1679, dated 28th May 1866, was entirely set aside by the Superintending Engineer, and respectfully begs to submit for your Lordship's benign and just consideration, that had the spirit of that order, as also the one, No. 2791, dated 3rd September 1866, referred to in the last Proceedings of the Madras Government (in which it is clearly worded to this effect), viz., "to give Mr. Cabral the option of returning to his former post," been adhered to, he would have been re-instated to a post carrying with it a salary of

Rs. 50; and to promotions of higher salaries than Rs. 50 during this period of his employ in the office, but not to Rs. 40, as his unjust degradation to Rs. 40 was one of the grievances for which he had prayed for redress in his Memorial, on which, the above order was passed, and that his further degradation to Rs. 35, from 1st December 1872, was also in contravention of Government Orders, will appear evident to your Lordship from the fact of another clerk on Rs. 25, much junior to your Memorialist, being sent to the same office, viz., District Engineer's Office, Calicut, Malabar, on Rs. 45, so that his being provided with only a clerkship of Rs. 35 was not because "that was the only appointment then found available for him."

17. That this order of the Madras Government was confirmed by the Indian Government* on the ground that their decision was right and cannot be interfered with.

* In original No. 160 G., dated 1st February 1883, on Memorial, dated 12th December 1882. Enclosures Nos. 15 and 16.

18. That your Memorialist now begs to appeal to your Lordship against these orders and earnestly prays your Lordship will be pleased to afford his hard case gracious consideration, and direct that Section 51 (or 105 of the latest edition) of the Civil Pension Code be made applicable to him, and that his pension be determined on his original salary of Rs. 50 per mensem, which he would virtually have been in the receipt of had the orders of Government No. 1679, dated 28th May, and No. 2791 of 3rd September 1866, been acted upon, and he be allowed the differences and arrears of pay referred to in para. 15 of this Memorial.

19. That your Memorialist entreats your Lordship to take into consideration his services, the hardships he has endured, the pecuniary losses he has sustained by the unmerited reductions of his salary, and even now, to award him justice and compassion.

20. That your Memorialist has not misconducted himself. It has not been shown he was incompetent to discharge his duties, on the contrary although he was re-employed in December 1872, just to serve for 7 months to complete the period for one-third pension, the several District Engineers retained him in service for more than 5 years.

21. That it is not for your Lordship's Memorialist to dive into the motives which actuated your Lordship's subordinate officers, to adopt such objectionable course; all that your Memorialist can do is only to complain to your Lordship that their illegal and unprecedented proceedings have greatly prejudiced and ruined your Memorialist.

22. That from what is advanced above and also from what has been represented in your Memorialist's previous Memorials, it will be clearly seen to your Lordship in Council, that your Memorialist has suffered great injustice, and that this severe and unjust punishment of being deprived, both from his proper post of Rs. 50 and all subsequent promotions in the office and claim to a higher rate of pension, inflicted upon your Memorialist, from no good origin, not only was your Lordship's Memorialist victimized to spite and conspiracy, but that justice that ought to have been meted out to him has been illegally and wilfully withheld.

23. That your Memorialist's case is, most unfortunately for him, a very complicated one, and that the delay that has taken place in addressing this Memorial, is due to causes incidental to your Memorialist's unfortunate position, both as regards to infirmity from a protracted attack of "bronchitis" and to a want of pecuniary means to get it drawn up.

24. Being the last resort of the suffered for redress, your Lordship's Memorialist, who has failed to obtain redress from the local authorities, most humbly throws himself at your Lordship's feet for that clemency and mercy which British justice is wont to extend to those that have been suppressed by high-handed

influence, and to enable your Lordship, (as a representative of Her Imperial Majesty the Queen), to arrive at an impartial judgment, he respectfully begs to submit the enclosed papers for perusal.

25. That your Lordship's Memorialist is now in his 80th year, too old and feeble to seek for, or to get, employment, and his present pension, viz., Rs. 11-10-8 per month, is barely sufficient in his dotage to maintain himself and the family, even with the commonest necessaries of life, and as well as to pay up the debts which he was compelled to contract for the support of his family while he was kept out of pay and employment, as stated in the latter part of para. 13 of this Memorial.

26. That your Memorialist in addressing for the first and the last time to your Lordship in Council, as being the only alternate tribunal where he fully knows that his pitiful case will receive a proper and an impartial judgement, most earnestly implores that your Lordship will be graciously pleased to forgive your Memorialist's boldness for so doing, and to take his deplorable and sad case into your Lordship's favorable consideration and to grant to his prayers, as set forth in the latter portion of para. 18 of this Memorial.

27. That in conclusion, your Memorialist having already fully stated his case in his Memorials* submitted to your Lordship's subordinate authorities, he most humbly takes the liberty now in submitting the same in a fully and comprehensive form to your Lordship, prays that your Lordship will exercise that prerogative and mercy, in consideration of the approaching Jubilee of Her Majesty the Queen Empress, in dealing with your Memorialist's sad case with a just and impartial decision, and that your Lordship in Council will be graciously pleased to order that his right claim to the amount being over and above two thousand rupees being disbursed to him,—for which act of clemency and benevolence

Your Lordship's Memorialist and his large family shall

EVER PRAY,

COIMBATORE,
31st May 1887.

(Signed) M. Cabral

* 1 Memorial, dated Coimbatore, 31st July 1882. To the Right Honorable the Governor of Fort Saint George, with 12 original documents.

1 Memorial, dated Coimbatore, 12th December 1882. To His Excellency the Right Honorable the Governor of Bengal, attached to the above.

To

The Right Hon'ble Viscount Cross,

HER MAJESTY'S SECRETARY OF STATE FOR INDIA,

LONDON.

THE HUMBLE MEMORIAL OF **MICHAEL ANTHONY CABRAL**, EURASIAN AND LATE FIRST WRITER IN THE OFFICE OF THE DISTRICT ENGINEER, MALABAR, CALICUT, NOW PENSIONER OF HER MAJESTY'S GOVERNMENT SERVICE,

RESPECTFULLY SHEWETH:—

That your Lordship's Memorialist, to put his painful case in a clear and comprehensive form before your Lordship in Council, feels compelled to enter into some details, which may, perhaps, extend this humble Memorial to a length not unwarranted by the circumstances of his case, for which he most respectfully craves your Lordship's kind and compassionate indulgence.

2. That your Memorialist, with due respect and humble submission, begs to place his sad case before your Lordship in Council, fully pursuaded that in exercise of the control vested in your Lordship over the acts and proceedings of your subordinate officers, he may confidently hope, that it will meet with a merciful and just consideration at your Lordship's hands, which has been guaranteed to every honest, good and deserving servant of Her Majesty's Government.

3. That your Memorialist entered the Public Service in 1835 as a Regimental Mess writer, and continued as such with the 32nd, 94th, 25th, King's Own Borderers and 74th Highlanders up to 15th May 1857; the Testimonials* attached, will testify to the uniform and steady character your Memorialist maintained throughout that long service of more than 18 years, for sobriety, earnestness and applicability to work, respectful and honest conduct, and generally satisfactory career.

* Appendix A, No. 2.

4. That in May 1857, finding the Uncovenanted Civil Service held out better prospects, your Memorialist sought for, by the recommendations of Colonel McDuff and Surgeon McBeath of 74th Highlanders, to Captain Francis, the then District Engineer of Coimbatore and obtained employment as a Storekeeper in the late District Engineer's Office on a salary of Rs. 40 per mensem, and served under Captain Francis, Mr. Fraser, Captain Goddard and Colonel Faber, his former superiors, for a period of more than six years; that those gentlemen have testified to your Memorialist to be a respectable, honest man, who understood and discharged his duties satisfactorily; that the Office Register in which the character, conduct, &c., of the servants employed in the Establishment are entered, will confirm this testimony; moreover in Appendix 2 A will be found a copy of testimonial subsequently granted to your Memorialist by Captain Goddard, R. E., who was one of his former superiors in Office as District Engineer, Coimbatore, which will, he trusts, satisfactorily show the estimation in which he was held both by that officer and his predecessors.

5. That on the re-organization of the Public Works Department in May 1863, the Coimbatore District Engineer's Office (of which your Memorialist was the Storekeeper), together with certain other District Offices, became merged into one single office, viz., the Superintending Engineer's Office, 7th Division, and your Memorialist was, in virtue of his seniority in-standing and experience as Storekeeper, appointed as such in the revised establishment of the newly created office on a salary of Rs. 50 per mensem, and that he accordingly discharged the duties of this Office for more than a year.

6. That in July 1864 the Controller of Public Works Accounts called upon the Superintending Engineer to submit a List of articles in a revised form, and the Superintending Engineer, upon the recommendation of the Manager, Mr. Fernandez,* and without having any communication with your Memorialist, issued a memo.,† dated 12th July 1864, which impeached your Memorialist's competency to discharge a simple duty, and entrusting it to an under employé, Mr. Lobo,‡ uncle of the Manager, degraded your Memorialist to an Accountantship, on Rs. 40 per mensem; that your Memorialist, was not asked to prepare the List in the new form and he is at a loss to account for this sudden supercession, except on the supposition that the Manager wished to provide for his uncle at the sacrifice of your Memorialist's interests. Your Memorialist would here add that, although so degraded on paper, it was, in effect, a mere change in Official designation in the Pay List, your Memorialist having actually performed all the duties of Storekeeper himself, also, whenever called upon to do so, those of other departments, a fact which will be borne out by the records of the Office themselves, by the several Returns and other papers transmitted from time to time to the Controller's Office up to 1871. The justice or otherwise of this supercession is the first point in your Memorialist's sad case, which he humbly submits, calls for your Lordship's merciful and pious consideration.

* Brought from Mangalore, S. Canara, by Colonel Walker, R.E., Superintending Engineer.

† Copy attached, enclosure No. 4.

‡ Also brought from Mangalore, S. Canara, by Colonel Walker, R.E.

7. That since Mr. Fernandez's accession to office as Manager, he was in charge of the entire office during the absence of Col. Walker, who was constantly at Coonoor; that your Memorialist was always annoyed and exposed to indignities by him and his relatives* at the office by indirect, and sometimes direct, and offensive remarks to your Memorialist; that he (the Manager) made several false reports† against your Memorialist to the Superintending Engineer, Col. Walker, R. E., containing untrue statements and that in order to meet, as far as possible, the general and sweeping nature of the said statements against him, your Memorialist addressed Col. Walker on the subject.

* Mr. Lobo, Storekeeper.
Mr. D'Cruz, Clerk.
Mr. Pinto Do.
All brought from Mangalore, S. Canara, by Col. Walker.

† Copy not furnished to Memorialist.

8. That Col. Walker being all the time absent from Coimbatore and living at Coonoor, credited all that the Manager's false reports made against your Memorialist and wrote his order,* dated 8th October 1864, calling upon your Memorialist to resign and containing reflection on his competency for his work, a point upon which he had given uninterrupted satisfaction to all his former superiors, viz., the Military Officers of four European Regiments and four District Engineers, for a period of more than 24 years, and upon which point, Col. Walker now, for the first time within his limited experience of your Memorialist of only as many months, raises a question. Your Memorialist therefore humbly trusts that this fact will not be lost sight of in disposing of your Memorialist's alleged incompetency or unwillingness to work that may now be allowed to stand against your Memorialist.

* Copy attached, enclosure No. 5.

9. That for all the Manager's false* accusations against your Memorialist, he had answered to Col. Walker, but no notice was taken of his explanation, and Col. Walker, on the *exparte* statement of his Manager, reduced your Memorialist's pay, from Rs. 50 to Rs. 40, unjustly fined him for no fault, and suspended him for an unlimited time from 16th March 1865, with no reason, and at last dismissed him from the Government service. That while your Memorialist was under suspension, he submitted many humble petitions† to Col. Walker, in one of which he tendered his resignation, but no notice was taken; your Memorialist need hardly here depict to your Lordship, the suspense and anguish of mind under which he was suffering, and the difficulties

* Appendices B & C, Nos. 3 and 6.

† Appendix C. No. 6.

into which, in a pecuniary point of view, he and his large family were involved by the suspension of his allowances, that his affliction was embittered the more by the consciousness that "honesty, innocence and unswerving rectitude of "purpose and conduct"‡ were suffering under the weight of the Manager's influence, and, indeed, by the uncertainty of the period for which this state of affair was to last.

‡ Appendix A, No. 2.

10. That during the interval, or rather, after your Memorialist's suspension, he was offered* an appointment, which would have relieved him of his difficulties, and, indeed, comparatively speaking, placed him above want, to say the least of it, but, in the position in which your Memorialist was placed, under suspension, for unlimited time, and his case undisposed of by Col. Walker, he could not help declining to accept the kind offer of that well-known Firm, and thus he was virtually denied an opportunity of recovering himself.

* Appendix A, No. 2.
Framjee Nosserwanjee and Co's letter.

11. That your Memorialist thereupon appealed* to the Madras Government against Col. Walker's arbitrary and unjust proceedings. That just and benevolent Government, finding that your Memorialist was "harshly dealt with," conscientiously rendered justice, and expressed thus, in their 1st Proceedings (*vide* G. O. No. 1679, dated 28th May 1866) :—

*Copies attached, enclosures Nos. 1 & 8. Memorials, dated 8th December 1865, and 12th June 1866.

Enclosure No. 7.

"From an attentive perusal of the above papers the Government find too "much reason to believe that Mr. Cabral has been harshly dealt with and that "Col. Walker, misled by the representations of his Acting Manager, Mr. Fernandez, "failed to afford a careful and impartial hearing to Petitioner's defence. They "perceive the standing orders regarding the employment of a number of indi-"viduals belonging to the same family in one office have been disregarded by the "Manager being permitted to introduce three of his own near relations into appoint-"ments in the Superintending Engineer's Office Establishment. If the difficulty of "procuring other properly qualified candidates rendered this irregularity unavoid-"able, Col. Walker should have been all the more careful to prevent any of the "other members of the office being made, as Mr. Cabral appears to have been, a "victim of a family combination. Instead of this, however, Col. Walker is shown "not only to have punished Mr. Cabral on the *exparte* statement of the Manager but "also to have subsequently forwarded without perusal all petitioner's explanations "and appeals for mercy to the same person, who, it is very evident, was doing his "utmost to work Mr. Cabral's ruin.

2. "The Government are naturally reluctant to order the continual "employment of any one in a post where he must, under the circumstances, always "feel uncomfortable and they are similarly unwilling to force the employment of a "subordinate upon any officer against his wishes, but His Lordship in Council "cannot in justice do otherwise in this case than give Mr. Cabral the option of "returning to his former post from the date of his dismissal, should he desire to "withdraw his resignation, leaving it to the Superintending Engineer if he retain "any objection to Mr. Cabral, to make arrangements for transferring him to an "appointment of equal emolument in one of the Range Offices of the 7th Division.

3. "Should such a transfer within the limits of that Division be found "impracticable, Col. Walker will place himself in communication with other "Superintending Engineers with a view one of them providing for Mr. Cabral in a "similar situation, and a copy of this Paragraph of these Proceedings will be com-"municated to all other Superintending Engineers with a request that they will take "the first opportunity of complying with Col. Walker's requisition if he find it "necessary to make one."

In their 2nd Proceedings, the Madras Government stated as follows (*Vide* G.O., No. 2791, dated 3rd September 1866) :—

Enclosure No. 9.

"The Government having in G.O., of the 28th May 1866, No. 1679, "resolved on special grounds to give Mr. Cabral the option of returning to his "former post from the date of dismissal, now authorize the disbursement to that "individual of full salary from that date up to the period of his re-instatement, and "they are also pleased to direct that Mr. Brito, the clerk who has been displaced by "Mr. Cabral, shall likewise be allowed full salary up to the 20th August 1866.

2. "The Superintending Engineer should avail himself of an early oppor-
"tunity for employing Mr. Brito.

3. "The additional charge which the payments now ordered will involve,
"will be defrayed from savings under establishment."

12. That the first of the Orders* of the Madras Government quoted above was entirely ignored by the Superintending Engineer, and instead of re-instatement in the Office which he held, or in any other Office of equal emolument, your Memorialist was nominated to an appointment yielding a salary of Rs. 40† per mensem; that this and a subsequent act of injustice to which your Memorialist will presently invite your Lordship's attention, very seriously affected the pension to which your Memorialist would be entitled in due course. Your Memorialist was compelled to accept his degradation, or, with his family, submit to penury and starvation.

* Enclosure No. 7.

† (*Vide* para. 9 of this Memorial.)

13. That in January 1872 when your Memorialist had only a few months more of his service to put in for one-third of his pension, he was, under the 55 years' order, compelled to retire; that your Memorialist petitioned* the Madras Government to extend its indulgence to him and permit him to remain in the service until he had attained the period qualifying him for one-third pension; that the Madras Government were graciously pleased to accede to his prayer, but that the Superintending Engineer, instead of allowing him to continue in his degraded appointment on a salary of Rs. 40† per mensem in Coimbatore, after keeping him out of it for 7 months, actually relegated him to an appointment carrying with it the reduced salary of Rs. 35‡ per mensem in the District Engineer's Office, Calicut, Malabar.

* Memorial, dated 29th May 1872. Memorial, dated 9th August 1872, copies attached enclosures Nos. 10 & 11.

† (*Vide* para. 12 of this Memorial).

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15. That your Memorialist Memorialized* on the 31st July 1882 the Madras Government, praying under the circumstances set forth above for difference of pay between Rs. 50 and 40 from the 12th July 1864 to 30th November 1872, and between Rs. 50 and 35 from 1st December 1872 to 31st December 1877, on which date your Memorialist retired after a service of 20 years in the Civil Department, besides that of the Military as stated in para. 3 of this Memorial, viz., 18 years, for full pay at Rs. 50 per mensem from 31st December 1871 to 30th November 1872, being the period between which your Lordship's Memorialist was kept out of pay and employment as will be observed in the latter part of para. 8 of the Memorial, dated 31st July 1882, and for pension calculated on a salary of Rs. 50 per mensem. Upon this he received the enclosed Order† No. 2,453 W., dated 21st September 1882.

* Copy attached, enclosure No. 13.

† In original, enclosure No. 14.

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Rs. 50; and to promotions of higher salaries than Rs. 50 during this period of his employ in the office, but not to Rs. 40, as his unjust degradation to Rs. 40 was one of the grievances for which he had prayed for redress in his Memorial, on which, the above order was passed, and that his further degradation to Rs. 35, from 1st December 1872, was also in contravention of Government Orders, will appear evident to your Lordship from the fact of another clerk on Rs. 25, much junior to your Memorialist, being sent to the same office, viz., District Engineer's Office, Calicut, Malabar, on Rs. 45, so that his being provided with only a clerkship of Rs. 35 was not because "that was the only appointment then found available for him."

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* In original No. 160 G., dated 1st February 1883, on Memorial, dated 12th December 1882. Enclosures Nos. 15 and 16.

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20. That your Memorialist has not misconducted himself. It has not been shown he was incompetent to discharge his duties, on the contrary although he was re-employed in December 1872, just to serve for 7 months to complete the period for one-third pension, the several District Engineers retained him in service for more than 5 years.

21. That it is not for your Lordship's Memorialist to dive into the motives which actuated your Lordship's subordinate officers, to adopt such objectionable course; all that your Memorialist can do is only to complain to your Lordship that their illegal and unprecedented proceedings have greatly prejudiced and ruined your Memorialist.

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influence, and to enable your Lordship, (as a representative of Her Imperial Majesty the Queen), to arrive at an impartial judgment, he respectfully begs to submit the enclosed papers for perusal.

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Your Lordship's Memorialist and his large family shall

EVER PRAY,

M. Gabriel

COIMBATORE,
27th *May* 1887.

* 1 Memorial, dated Coimbatore, 31st July 1882. To the Right Honorable the Governor of Fort Saint George, with 12 original documents.

1 Memorial, dated Coimbatore, 12th December 1882. To His Excellency the Right Honorable the Governor of Bengal, attached to the above.

fo. 16
P.W. General 1/7

Petition from Mr Cabral

Dated 31st & 7th May 1887.

Transferred to the Chief Secretary to Government for disposal.

(By Order.)

Illegible

Private Secretary.

Government House,
7th June 1887.

6-4-1 07

B. No 2453 W dy 21.9.82
Genl. Dept G. 6 483 dy 25-10-78
Mis. No 3864 W " 2.10.78
Gov. for Engl. No 258 dy 28.8.72
P.W.D. G. 6 No 2791 dy 3.9.1866
" " " 1946 " 21.6.67
P.W.D " 1679 " 28.5.68

P.W. No 4491

(1887) DEPARTMENT.

From

THE PRIVATE SECRETARY

TO THE RIGHT HON. THE GOVERNOR.

To

THE CHIEF SECRETARY TO GOVERNMENT,

DEPARTMENT.

Dated 7th June 1887.
Recd. 9
13.6.87

ENCLOSURE. 17 21

Subject.

Transfers a petition from Mr. Cabral praying that his memorial may be forwarded to the Secretary of State

PUBLIC WORKS DEPARTMENT.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the

READ the following

Petition from Mr. M. A. Cabral dated 31st May 1887. c.,

Endorsement thereon by the Private Secretary to H.E. the Governor dated 7th June 1887.

It seems unreasonable to trouble the Secy of State with such an untenable memorial as this. The Petr's whole case is that his pay was reduced in '64 from 50 to 40, & in '72 from 40 to 35 Rs. The memorial ought be withheld under Rule 12 (h) – Bds S.O. 225 MM 25 June

Ordered to be forwarded to the Secretary of State for India.

H.E. No. W d/.

To

The Right Honble the Secretary of State for India.

My Lord.

We have

To Mr. M. A. Cabral.

C. 47-87
C. 47-87

the honor to forward a Memorial addressed to Your Lordship by Mr. M. A. Cabral a pensioner from the clerical establishment of the P. W. Department.

2. The Memorialists' case is briefly as follows. Having held the appointment of Store keeper in the Suply Engineers office 7th division from 1st July 1863. to 12th July 1864, he was on the latter date, reduced on account of inefficiency, to a lower post on Rs 40 per mensem. On the 1st March 1865, or nearly 8 months afterwards, he was suspended, and subsequently dismissed;

+ Pro. Govt. No. 1679 of 28th May 1866.

but on appeal, the Government, considering that he was somewhat harshly dealt with, directed his reinstatement in his former post, which was accordingly done. The petitioner considers that he should have been restored to Rs 50/- per mensem, but it is observed that the order of Government No. 1679 dated 28th May 1866 took no cognisance of his reduction in July 1864, and his reemployment on Rs 40/- per mensem was specially reported to and approved by the Government in their order No. 2791 dated 3rd September 1866.

3. Again, on the 31st December 1871, the petitioner was discharged on a gratuity under the 55 years Order, but subsequently, as an act of grace, the Government ‡ directed that opportunity should be taken in the reorganisation of the P.W.D. Department, to

‡ Pro. Govt. No. 2558 of 28th August 1872.

reemploy him in one of the new offices for the period of time necessary to qualify him for a pension - The only appointment then found to be available for him was a clerkship on Rs 35/- per mensem, and this post he held from the 1st December 1872 to the 31st December 1877, when he retired + on pension - He now prays for difference of pay between Rs 50 and 40 from 12th July 1864, the date of his reduction, to 30th December 1871, the date of his discharge on gratuity; to full pay at Rs 50 per mensem from the latter date to 30th Novr. 1872, the period during which he was out of employ; for difference of pay between Rs 50 and 35 from 1st Decr 1872 to 31st Decr. 1877, the date of his retirement, and for pension calculated on a salary of Rs 50 per

+ Prom. of Govt. No 483 of 25th Oct 1878, Pension dept.

In August 1882, Rev. Cabral submitted a petition to Govt praying

per mensem.

4. The petitioner submitted similar claims to this Government in August 1882, but it was decided in G.O. No 2453 W dated 21st September 1882, that as the order of May 1866, directing his reinstatement in the service, had nothing to do with his reduction in July 1864 from Rs 50 to Rs 40, he had no title to the former rate of pay; and that as his reemployment on Rs 35 per mensem, on 1st Decr. 1872, was a special indulgence, without which he could not have earned a pension at all, his pension was rightly calculated on the lower rate of pay.

5. From this decision Mr. Cabral appealed to the Viceroy, and it will be seen from letter No 1606 dt. 1st Febry 1886, in the file, that the Govt of India considered

Vide annexure to petition

6-4-07.

that the orders of the Madras Govt were right, and could not be interfered with—

6. We now see no reason to recommend a modification of the decision arrived at by this Government in September 1882—

The Hon P R Hutchins
His Excellency the Governor

What is the Rule referred to?

Jch
23/6/87.

Corresponds with Rule X(8) para 821 PW Code.

Cer

Jch
23/6/87

Cer
R. 7.7.87.

PUBLIC WORKS DEPARTMENT.

No 1810 W

1

PROCEEDINGS OF THE MADRAS GOVERNMENT.

UNDER date the 7th July 1887.

READ the following

Memorial from Mr Wm A. Cabral to the Secy of State for India, dated 31 May 1887
Endorsement thereon by the Pr. Secy. to HE. the Govr
" dated 7 June 1887.

The transmission of the memorial will be withheld with reference to Rule X Clause 8, para 821 of the P. W. Code.

W.R. Corrects for quarterly retention
Jch
1917

Jch
2/7/87.

Cer
7.7.87

To Mr Wm. A. Cabral
with 8 enclos. &
copy of Rule X(8) para
821 PW Code.

Cer

8.4.7.87