16.6

Note

The circumstances
of the Kaushalini case
are stated fully in
the note attached
to Yp. Up 2831 W07
12.11.24 -

Cc
12.1.25

Cmm
12/25

To

His Excellency
The Right Honorable
Beilby Lawley Baron Wenlock G C I E
Governor of the Madras Presidency In Council

The humble Petition of William
Alexander Laughlin late Accountant
4th Grade, Office of Examiner of
Public Works Accounts Madras,
but now a pensioner residing at
No 10 Lang's Garden Chintadripet
Madras

May it please Your Excellency,

It is the proud boast of every
Englishman, that no where but under the standard of the
Red, White, and Blue, can justice be sought and justice
found; and it is equally the proud boast of those governed by
Your Excellency, that in no administration which ruled the
destinies of this part of the British Empire, was the love
to meet out British justice to the veriest wright in the land
more pre-eminently and conspicuously displayed than in the
present; and for this notable feature which eclipses all
past administrations, the Government, as at present constituted,
with Your Excellency at the helm may claim credit.

2 Your humble Petitioner is a
cripple now in his waning years, verging upon the utmost
limit

Wm A Laughlin

limit in the span of human life, vegetating on a meagre pension of Rupees 26? per mensem, and totally incapable of adding a fraction to his income by reason of his decrepitude. He ventured to address Government in respect of his grievance on more occasions than one, yet used to tell without any avail. Being the son of an Irish Soldier, hailing from the county of Armagh in Ireland, and who had seen action at Waterloo, Your Petitioner craves pardon if he should exhibit the martial proclivity inherited from his progenitor of returning to the charge, though as often repulsed.

3. The grievance which Your Petitioner has laboured under for years past is small, when compared with the vaunted magnanimity of the Government which inflicted it upon him, but great, when contrasted with Your Petitioner's abject condition, and penury, and it is to this selfsame Government, under its existing constitution that, Your Petitioner ventures once more to differentially raise a wail, not without a hope that it would resound through the Council-chamber, and touching the compassionate heart of Your Excellency, meet with a responsive echo.—

4. The gist of Your Petitioner's grievance may be stated in a few words. Having served Government faithfully and well, as an Accountant of the 4th Grade in the Office of the Examiner of Public Works Accounts Madras, he became entitled to an "average pension, plus a bonus of 12 months' salary". Instead of pensioning him upon that footing, he was allotted one third ordinary pension, as though he had served Government merely as a common clerk! The injury thus done to him are so flagrant, that words are in vain to express it and to expatiate on it would be a superfluity. The surprise is, that the injury should have been inflicted on him at all! but truth is stronger than fiction as the sequel would show.

5. On the 1st June 1862, Your Petitioner entered Government service as an Accountant in the Army-clothing and Agency Department Madras. In that capacity, he served till 30th April 1863, on which date he was thrown out of employment owing to a re-classification in the Office establishment.

6. In September 1863, after an hiatus of nearly 5 months, he was re-entertained as an Accountant, in the Government Printing Establishment, Fort-Saint George.

7. On the 17th May 1865, for having availed himself of the benefit of the Insolvent-Act, Your Petitioner's services were no further needed, although he was strongly recommended for his retention in the same post. But Government subsequently was graciously pleased, to re-instate Your Petitioner in the service. Upon his re-instatement, which happened on 1st September 1865, he was employed on the temporary establishment of the Controller of Public Works Accounts, and latterly after a period of nine months, he was on the 31st May 1866 drafted into the permanent establishment where he continued to serve as Accountant, till the date of his retirement, which happened on the 18th March 1880, without ever having been intermidiately

W. Laughlin

intermediately reduced or degraded, either temporarily or permanently. Your Petitioner consequently claims, the well-earned benefits of his services, as he humbly submits that he was entitled to all the emoluments and privileges that accrued to his office as an Accountant, of the 4th grade.

8. These are the main facts of his case, and a clearer case is hardly conceivable, but yet, the fact of his having retired from the service as such an Accountant, remains challenged to this day.

9. Your Petitioner is not content to allow his ipsi dixit to pass for truth, but appeals to the records of his department which he is fully conscious, teems with facts in substantiation of his case, vide history of his case drawn up by order of Colonel E Bowen R E, under Secretary to Government P W D.

10. In the first place, as an argument in favor of his contention, Petitioner deferentially begs leave to state, that he executed the following required agreement or Deed of Covenant to serve dated 25th July 1876.

"I William Alexander Laughlin
"on being engaged as Accountant 4th Grade, do hereby declare
"my readiness to serve as 4th Grade Accountant in any place
"in the Presidency of Madras, and as an Accountant in the
"4th Grade 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 I clearly understand them,
and
"and I hereby bind myself to obey and abide by the instruc-
"tions 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."

Signed W A Laughlin
4th Grade Accountant.

Witnesses
Signed) J J Maddox
" A Streenevasoolu

11. This Covenant was never intended to be a dead letter, or to be treated as a sham, or consigned to the waste paper basket at the will of either party. It is a Covenant as strictly binding in effect and intention, and exacting as any that had heretofore been entered into by any of the Covenanted Officers of the Government service. The solemnity of its execution, the stringency of its terms, and conditions, the conformity of all the requisites needed to render it a legal document, are all characteristics of its truth, and it would be idle to waste words in cavilling at its genuineness, or enlarging upon its verity. Basing Your Petitioner's argument humbly on this Covenant alone, he feels confident it would suffice to obtain a verdict in any Court of Law in the British dominions in his favor on the vexata quaestio whether he was an Accountant or Clerk upon the date of his retirement. But the fact receives further strength from the circumstance, that Your Petitioner was classified as No 9, in a list amongst 12 names, described as Accountants, which was forwarded by the Examiner of

Public

W. A. Laughlin

Public Works Accounts to the Accountant General, Public Works Department, Bengal, for exemption. That list, when referred to, will corroborate Your Petitioner's Statement and place his contention beyond the pale of doubt. But this was not all. That same Officer before forwarding the list satisfied himself by question and answer, in writing, that all the men whose names appeared in the list had previously signed and delivered the agreement hereinbefore contained in extenso. Why then this superabundance of precaution were it not that the agreement meant what it actually expressed, as it was the intention of Government to require the executant to abide by its terms? That list, Your Petitioner submits, was forwarded to its destination under cover of the following letter No 188 A dated 26th February 1878

To

The Accountant General
Public Works Department
Bengal

"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 entrance examination. With "one exception, the Accountants referred to are drawing salaries "ranging from the maximum to the minimum of Accountants 4th Grade. Mr Maddox who is at present the chief Account- "ant of my Office is in receipt of a salary of Rupees "275 which brings him within the pale of a second grade "Accountantship. I shall be glad therefore to have him "graded as such, without having to undergo the prescribed "examination, so that there may be no bar to his promotion to "a higher grade. I would here mention that Mr Maddox's "conduct has recently been brought favorably to your notice "vide this Office No 165 A dated 14th January 1878."

(Signed) L C Gordon Major R E
Controller Public Works Accounts

12. The last mentioned letter elicited the following No 531 E

Reply dated Simla 12th June 1878

"In reply to your letter No 188 A of 26th February "last I have the honor to state that I have no Objection to "your proposal to have Mr Maddox Accountant of your "Office graded as Accountant 2d Grade without passing "the prescribed test, but I consider that he should pass in "Accounts before his promotion to 1st Grade. The rest of the "men referred to in your letter might be exempted from the "test prescribed for admission but from nothing else".

Signed J J Mc Leod Innes Lt. R E
Accountant General Public Works
Department Bengal.

13 Your Petitioner craves leave to draw Your Excellency's special attention to the words the "Accountant

Referred

W. A. Laughlin

referred to" in the above letter, which is replete with arguments in favor of Your Petitioner; and no torturous construction by the most ingenious and skilful intellect can wrench from it, it's plain and true meaning, and yet a contrary interpretation opposed to all laws of construction and as outraging of common sense was allowed to predominate vide G C № 2052 W^d dated 30^th August 1880.

14. If further argument were necessary to establish the point contended for by Your Petitioner, he takes leave to observe, that subsequent to the despatch of such list, the Examiner of Public Works Accounts was desired by Government of India to submit a further list of qualified men -- In preparing the latter list, that Officer headed it with the names in the previous list, but Colonel L Conway Gordon to whom it was referred scored out the superadded names assigning as his reason for so doing, that the men representing such names were already exempted and were serving as Accountants. In further support of this contention, Your Petitioner begs to draw the attention of Your Excellency to the following letter from Government to the then Examiner Public Works Accounts № 36 dated 14^th May 1879, the purport and tenor of which indicates beyond any doubt that the men referred to had been described as serving as duly qualified Accountants.

15. The following is the letter:-

G C № 36 dated 14^th May 1879

"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 not the reason why?"

Signed A Ford Colonel R E
Secretary to Government
Public Works Department.

16. One remarkable circumstance which attended this Government Order was, that it did not meet with an immediate reply, whereupon the Government reiterated their request and in the same communication directed and authorised Your Petitioner being at once graded and permitted to retire vide G C № 28 W dated 28^th January 1880 para 8 clause 1^st - As Petitioner had fulfilled all the conditions, and discharged the duties of an Accountant 4^th Grade, and it could not fairly be said that there was "no room" for Petitioner on the reduced establishment, whilst on the contrary Your Excellency will be pleased specially to note, that the number of "4^th Grade Accountants" was materially augmented thereby for retention and employment in the Service afterwards.

17. It will be obvious then, that Your Excellency's Petitioner retired as an Accountant, and under the full

(and)

W A Laughlin

and just belief, that he had earned and secured for himself all the advantages attached to the post of Accountant as cited in the rulings below:-

Government of India Resolution № 2079 P.W.D. Finance and Commerce Dept. dated 31st July 1879.

G.O. № 36 W dated 14th May 1879

G.O. № 218 W dated 28th Jany 1880 para 8 clause 1

Civil Pension Code Sec: 80 in force in 1880.

Civil Pension Code Sec: 102 Rules in force in 1880

Secretary of State's despatch № 174 dated 30th September 1868

Secretary of State's despatch № 92 dated 8th March 1879 appended to the Rules and Note under Section 72.

Secretary of State's despatch № 102 Clause 4 of para I.

But it was not thus to be, whilst his "vacant post" was filled by an Accountant, Fourth Grade, from another* province. An error was committed in the preparation of the Pension Roll, regardless of the provision of the Pension Code, and the concession granted under the respective Governments of Madras and of India Resolutions Nos referred to above, and which concessions were also verbally assured to him on Your Petitioner's retirement by Major H. Le M. Carey, Officiating Examiner Public Works Accounts

* Mr. Telfer

Accounts who thereupon withheld Your Excellency's Petitioner's representations made to Government with regard to his claims to same. This Officer was pleased to endorse on a subsequent Petition addressed to Government, copy of which was forwarded to the Examiner for his information, "that if we give the concession to A, we will have to give it to B. C. D also," meaning the three other Accountants who had likewise retired with him. Your Petitioner humbly begs to state, a circumstance well known in the Examiner's Office that Colonel Conway Gordon R.E had even calculated himself the average pension that another employed would receive also on his retirement, to compensate for the loss of his ordinary half pension which a few months short service to complete would entail on Mr. S. Soobroy Modelly thereby, and that Officer further stated, that the said individual would be benefited by a bonus of 12 months' salary, as "he was always employed on Accounts duties," although he was not one of the twelve men who had signed specific agreement as Accountants 4th Grade, and were serving as such. Ft. 18.

The mistake was not irremediable. It can at all times be rectified, and nothing was wanting on the part of Your Excellency's Petitioner to convince the department of its error, but it appears that that department was not willing to be convinced. Hence Your Petitioner's grievance. Assuming for argument's sake that if there was no mistake, what was done, was rightly done,

to A. Laughlin Instances

Instances were not wanting where men having no right to be pensioned as Accountants, and who never served as Accountants in all their Services, were allowed to retire as Accountants on averaged pensions. An instance will suffice. It is in the case of Mr Tirumull Row who was pensioned at the same time as Your Petitioner. He never served as an Accountant, was not one of the 12 mentioned in the first List, or of the men designated in the succeeding List, but yet this individual is restored in the enjoyment of average pension and bonus as an Accountant, whereas Your Excellency's Petitioner who duly qualified himself for the distinction is suffered hitherto to remain out in the cold, deprived of his legitimate, and well-earned rights.

19 Further Mr. D C Gordon who succeeded Colonel Trail R E as Examiner on a reference made to him by this Government distinctly and emphatically stated that "he was unable to account for the omission to grade Your Petitioner for which my predecessor is responsible." This is the crowning argument in Your Petitioner's case. From this unequivocal Statement, it is clear to those whose eyes are not steeped in prejudice that not to (formally) grade Your Petitioner was in the first place an "omission," and in the second place "it could not be accounted for." It would have been a different thing if this Officer had stated that Your Petitioner was not

graded

graded, for reasons which could be afforded if desired. That would change the complexion of the case, and lay the axe to the root of Your Petitioner's claim. But being otherwise, Your Petitioner is fraught with assurance that his grievance though due to an omission, and an omission merely, yet his present attempt is to make his claim pregnant with success, and thus obtain the long-deferred justice due to him at Your Excellency's wonted compassionate hands

20 The above is a succinct Statement of his "very hard case" as was sympathisingly expressed by Colonel J H. M Shaw-Stewart R E the then Chief Engineer and Secretary to Government P W D. Not to weary Your Excellency, Your Petitioner has conceived it expedient to avoid entering into his case with elaborate details which find place in his previous petitions, and to which Your Excellency could, if deemed necessary, direct a reference to be made to the Public Works Secretariat

21. But third is one circumstance that Your Petitioner <u>on his bended knees</u> deems absolutely necessary to advert to in closing, and that is para 3 of the Government Order № 123 W dated 16th January 1884 upon his Petition dated 24th November 1883. It runs thus: —

"In the absence of evidence to the contrary, the "Government are bound to assume that Mr Laughlin was "retained in the position of a clerk for good and sufficient "reasons. Should Mr Laughlin however be in a position

to

W. A. Laughlin

"to admit specific testimony by the Examiners under
"whom he served that his grading was omitted by
"oversight not by intention, the Government will be
"prepared to reopen his case and to lay it before the
"Government of India for consideration."

22. The burden of proving that the non-grading of * a mere formality
Your Excellency's Petitioner was not by design but by
mistake is thus cast on Your Petitioner whereas Govern-
ment by reason of its privilege not common to Your
Petitioner is able to gain access to the records and to his
Specific Covenant, and thus to ascertain for
itself beyond doubt the point at issue between Your
Petitioner and the then Examiner of Public Works Accounts.
The Officers under whom Your Petitioner served have
long since retired and to require their testimonies is
practically to impose upon Your Petitioner an utter
impossibility, and further to require the Government
virtually to stultify all their previous proceedings in
respect to their having fully constituted Your Excellency's
Petitioner a responsible and regular Accountant who
had elected at the outset to serve as such and which
status the Government have been pleased designedly to
assign to him. But the records however remain, and
Your Petitioner is content to rest his appeal upon those
records, and the high sense of justice which of the
many administrative virtues that adorn Your
Excellency shines forth conspicuously in every

act

act of Your Government, and whilst the Supreme
Government can exhibit such unparalleled magna-
nimity as to grant compensation allowances to those of
its servants who are suffering from the high rate of
Exchange to compassionately allow Your Petitioner's
claim if not of right but as an act of grace, mercy, or
concession would be exemplifying the same character-
istics of goodness as displayed by that Government.

23. Your Petitioner begs that Your Excellency
will be graciously pleased to take the foregoing facts
and circumstances into Your wonted, just and favorable
consideration, and to vouchsafe to Your Petitioner at
least as an act of grace if not of merit the due conces-
sion he had rightfully earned and generously
provided for under the Resolution of the Government
of India of the 31st July 1879 No 2079 D.W.D. -
Finance and Commerce Department referred to in para
16 above as was Your Excellency would be pleased
kindly to note granted to Mr C Subba Row Your
Petitioner's colleague No 7 in the list of the "12 exempted
Accountants." This individual was also promoted from
the 4th to the 2nd grade on his retirement from service.
That Your Petitioner was also assured by the Examiner
of Accounts Colonel D H Trail R E that he was
authorised by Government to (formally) grade and

W. A. Laughlin

include

include Your Petitioner's name in the list of Account-
ants retiring which that Officer omitted to give
effect to assigning for reason some six years
afterwards "that it would be an irregular proce-
"ding to consider Mr Laughlin an Accountant for
"the purpose of giving him an increased rate of
"allowance on retirement." Whereas Your Excellency
will glean from the records, that Your Petitioner had
been throughout his service a regular responsible
Accountant, of the 4th Grade, from the year 1876, and
had discharged such duties by his specific Deed
or Covenant executed, and delivered, as hereinbefore
recited.

For which act of Justice Your decrepit &
Petitioner and his distressed family consisting of 10
souls would gratefully remain as in duty bound
Ever Pray

W. A. Laughlin

Madras
31st December 1894

Petition from Lt W. a Laughlin late accountant, Office of Examiner of Public Works accounts, Madras.

Dated 31st December 1894.

Transferred to the ~~Chief~~ Secretary to Public Works Department Government for disposal.

(By Order.)

[illegible]

Private Secretary.

Government House,
Madras
8 January 1895.

O.L.S.
165/1895

P. W. CURRENT No. 165

(1895) DEPARTMENT.

From A. Mac Carlie Esq. I.C.S.

THE PRIVATE SECRETARY TO THE

RIGHT HONORABLE THE GOVERNOR,

To

THE CHIEF SECRETARY

TO GOVERNMENT,

Public Works DEPARTMENT.

Dated 8 January 1895.

Received 11 January

ENCLOSURE. /

Subject.

TRANSFERS a petition from Mr. W. A. Laughlin, praying that he may be granted an average pension plus a bonus of 12 months' Salary as entitled

No. 2361A/14-8-65 ✓
" 1788 - 6-6-66 ✓
" 947 - 11-4-74 ✓
" 2379 - 21-8-74 ✓
" 2900W - 16-7-78 ✓
" 3598W - 11-9-78 ✓
" 2052W - 30-8-80 ✓
" 2232W - 28-8-79 ✓
" 2252W - 3-9-79 ✓
" 2323-GW - 11-9-79 ✓
" 2594W - 15-10-79 ✓
" 1556W - 22-6-81 ✓
" 142-W - 17-1-82 ✓
" 725W - 20-3-82 ✓
" 1689W - 3-7-82 ✓
" 2701W - 17-10-82 ✓
" 2780W - 25-10-82 ✓
" 2364C - 30-11-83 ✓
" 123W - 16-1-84 ✓
" 2831W - 12-11-84 ✓
" 292C - 13-2-85 ✓
" 2572W - 3-11-85 ✓
" 2150-1W - 15-9-85 ✓
" 21W - 5-1-86 ✓
" 1342W - 29-5-86 ✓
" 1546W - 18-6-86 ✓
" 1117W - 23-4-87 ✓
" 1854W - 4-7-87 ✓
" 1891W - 14-7-87 ✓
" 3321-2W - 5-12-87 ✓
" 73W - 9-1-88 ✓
" 2129W - 13-7-88 ✓
" 2790C - 23-7-88 ✓
" 3257W - 13-10-88 ✓
" 3258W - 13-10-88 ✓
" 3481C - 22-8-90 ✓

PUBLIC WORKS DEPARTMENT.

No 140W dt 19th January 1895

PROCEEDINGS OF THE MADRAS GOVERNMENT.

READ the following

Petition from Mr. W. A. Laughlin, late accountant, office of the examiner P.W. accounts, Madras. } H.C. No. — dated 31st December 1894

Mr. Laughlin's claims have already been rejected after full consideration by this Government, the Government of India and the Secretary of State, and the Government regrets that the case cannot be re-opened.

W
16 Jan

RECEIVED
19 JAN 95

To

Mr. W. A. Laughlin.

(40—1,000—26-11-94.)

H 8

Petition from Lee
W. A. Langhelm Esq
of Mr P.W. Arrowsmith
Office

Lo 14 Obv. d 19 January 18[illegible]

INDEX.

J. E.C.

WE 15/1. R 18/1.