

Revenue (1897) Department.

CURRENT No. 906



From H. A. Sim Esq. Secy.
to Private Secretary to
H. E. The Governor.

Order 17 Novr 1897 No 868.

The petition is rejected under rule 5(3) of
the petition rules below

Rule 5(3) Subt.



Dated 8th November 97

Received 11th

Registered 12th

Enclosures

Spare copies

SUBJECT.

Transfers a petition of 4th
November 97 from C. Ven-
kity Mudali, late Accountant
to the Party, Madras District,
praying for a higher rate
pension.

(By order)

The petition's request has already been negatived by this Govt.
the Govt. of India & the Secy of State; and there is nothing new in the present
petition affording a ground for a reconsideration of his case.

11/11/97

h m

Ag. Private Secy.

BACK PAPERS.

G.O.	No.	Department.	Date.
	419	Pension	2-6-76

FURTHER PAPERS.

G.O.	No.	Department.	Date.

To

His Excellency the Right Honorable
Sir Arthur Clibank Havelock
G. C. M. G., G. C. I. C.
Governor of Madras.

The humble Memorial of
C. Vembily Mudaly, late Accountant
No. IV Party Madras Survey.

Most Respectfully Sheweth:—

That your Memorialist
served on the Permanent Establishment
of the Madras Survey Department as Accountant
from 1st July 1870 to 1st April 1891 or for
20. years and 9. Months. His pay on date
of discharge was Rs. 25. per Mensem.

2. That of this Service 14. years and
11. Months was Superior and 5 years and
10. Months Inferior.

3. That Memorialist was granted
a pension of Rs. 5. 15. 9 or $\frac{14}{60}$ of average

Emoluments under Article 518 (b) of the Civil Service Regulations, taking the Service Counting for pension to be 14 years and 11 months.

4. That Memorialist applied to the Local Government, to the Government of India and to the Secretary of State, for Condonation of deficiency of one month's service and for the grant of a pension of Rs. 8. 8. 9 or $\frac{1}{3}$ rd of average Emoluments under Section 113 of the Civil Pension Code 6th Edition taking the Service Counting for pension to be 15 years. (Copy of the Memorial is submitted for perusal).

5. That either through Memorialist's misfortune or for the reason perhaps that his Memorials were not clearly worded, his prayers did not meet with the favorable consideration of the authorities -

6. That being fully confident of the justice of his claim, and of the soundness of British justice, Memorialist most respectfully begs to approach your Excellency with a very brief summary of the grounds on which -

he lays claim to the enhanced rate of pension -

7. The following are the grounds: -

(1st) Memorialist was not given the 3 months' notice of discharge required by Article 478 Civil Service Regulations; for he was given notice on 6th March 1891 and discharged from 1st April 1891.

(2nd) Memorialist was deputed to the Census Department early in March 1891 and was employed there upto 8th May 1891, but the 1. month and 8. days service in the Census Office viz from 1st April to 8th May '91 was not counted for pension.

(3rd) Memorialist was retransferred from the Census Office to the Survey Department from 9th May '91 and continued upto 30th June '91 to draw the same pay Rs 25 and to perform the same duties as before discharge, but the 1. month and 22 days' service so rendered was not allowed to count

for pension -

(4th) Memorialist should have been retained in the Service for the short period of 1 month.

(by which his Service fell short of 15 years)

under G. O. No 720 dated 21st June 1890 (Pension)

and allowed to count that Service for pension,

but although he was retained for 3 months

continuously after the date of discharge

he was not allowed to count that Service

for pension

(5th) That under Section 124 of the

Civil Pension Code 6th Edition and

also under Article 465 of the Civil

Service Regulations, both of which allow

in his case a condonation of one year's

Service, Memorialist applied for a

Condonation of only one month, but

this was not granted.

(6th) That although he was in continuous

and active Service upto 30th June '91, he

was allowed to count Service for pension

only upto 31st March '91 and the remaining

3. Months were arbitrarily and for no fault of the Memorialist treated as temporary service and not allowed to count for pension -

(7th) That in the order of the Madras Government No. 725 dated 13th August 1892 declining to grant the enhanced rate of pension applied for, it is observed that "under the rules which were in force at the time he entered the Service he would have been entitled only to a gratuity of Rs. 300 while under the new rules he has been granted a pension of Rs. 5. 15. 9 per month. He has thus benefited by the alteration of the rules -

Memorialist respectfully begs to Submit that there is some misconception here -

Article 7 of the Civil Service Regulations clearly states that pensions are governed by the rules in force at the time of an officer's discharge and not at the time

when he entered the service: and foot note 2.

to the same article provides for the non-introduction of any new rules operating harshly.

Memorialist had 14 years and 11 months

of Superior Service and 5 years and 10 months

of Inferior Service and as his discharge

was owing to a general reduction in the

Department and beyond the Memorialist's

Control he was entitled to Condonation

of the one month's deficiency under Section

124 of the Civil Pension Code 6th Edition

which remained ever valid so far as

pensions under the old rules were

concerned. If therefore your Memorialist

had been allowed the Condonation

of deficiency to make up 15 years of

Superior Service under Section 124 of

the Civil Pension Code or allowed

to remain in service till he could

complete his 15 years of Superior Service

under G. O. No 720 dated 21st June 1890

or permitted to count the 3 months' notice

of discharge as Service for pension, he would have been entitled to a third pension under the old rules amounting to Rs. 8. 8. 9 per mensem and not as alleged to a gratuity of Rs. 300 - Your Memorialist therefore has not benefited by the pension under the new rules.

(8th) That the following Subordinates of the Survey Department were allowed to continue in Service for short periods in order to enable them to earn a higher rate of pension.

Name	Service		Date of discharge	G.O. Sanctioning pension
	Y	M		
C. Kommarasami Mudaly	18	-	1 May '95	No 786 dated 15 July '95
M. J. Wylie	18	-	15 Jan '95	No 316 dated 28 Mar '95
P. Rama Rao	22	-	4 Feb '95	No 567 dated 27 May '95
H. Andhikesanulu Mudaly	13	-	3 April '96	No 613 dated 17 July '96

(9th) That the following Subordinates of the Survey Department, some of whom were discharged before and some after

the date of discharge of Memorialist, were allowed
a pension of $\frac{1}{3}$ rd of their pay for 15 years
service under the old rules.

Name	Service	Date of discharge	G.O. Sanctioning pension
A. Kuppu Rai	15 - 2	1 April '91	No 762 dated 25 July '93
J. Sornam Pillai	15 - 4	1 Oct '88	No 779 dated 31 July '93
Mear Mozuffer Kufain	15 - 2	23 Oct '92	No 686 dated 10 July '93
T. S. Ponnucami Pillai	15 - 2 - 9	25 April '91	No 648 dated 10 June '93
P. Seethuramier	15 - 10 - 6	1 April '91	No 328 dated 15 May '94

8 That the difference between the pension
Rs 5. 15. 9 granted to Memorialist and the
pension Rs 8. 8. 9 claimed is Rs 2. 9. 0
or nearly 43 per Cent and is of the utmost
importance to a poor man like the Memorialist.

9 That your Memorialist most respectfully
begs that in the circumstances set forth above
your Excellency will be graciously pleased
to sanction a pension of Rs 8. 8. 9
instead of the pension of Rs 5. 15. 9 already
granted

For which act of Kindness your Memorialist

is with as in duty bound ever pray -

Saint Thomas Mount

4th November

1897

C. Verulily Indraly
Late acc. No 4 Party Madras

Place of residence.

Thanner Street,
Saint Thomas Mount

(Enclosure)

To

HIS EXCELLENCY THE RIGHT HON'BLE

THE GOVERNOR IN COUNCIL,

FORT SAINT GEORGE,

MADRAS.

The humble Memorial of C. VEMBILY
MUDALI, late Accountant, No. 4 Party,
Madras Survey.

MOST RESPECTFULLY SHEWETH :—

That your memorialist entered the Madras Survey Department on 1st July 1870 and served continuously up to 1st April 1891 (a period of 20 years and 9 months). That of this period of service, 14 years and 11 months was Superior, and 5 years and 10 months Inferior.

2. That he was asked to quit the Department on reduction of Establishment on 1st April 1891 (Exhibit A). He was given only 25 days' notice of discharge whereas he was entitled to three months' notice under Article 478 of the Civil Service Regulations. If he had been given the three months' notice he would have had 15 years and 1 month of Superior Service and a total period of service of 20 years and 11 months.

3. That your memorialist applied to the Superintendent, Madras Survey, on 17th March 1891 (Exhibit B) to keep him in service for one month more so as to enable him to complete his 15 years of Superior Service. In this he was guided by G. O. No. 720, dated 21st June 1890 (Pension). But the Superintendent, Madras Survey, replied (Exhibit C) that he had no option as the appointment was abolished.

4. That in G. O. No. 766, dated 12th August 1891, (Pension), he was given a compensation pension of Rs. 5-15-9 or $\frac{14}{60}$ of the average monthly emoluments of Rs. 25-10-5 on the graduated scale of the new rules of pension. Section 124 of the Civil Pension Code (6th Edition) having been modified so as not to apply to pensions granted on the graduated scale, the Superintendent, Madras Survey, did not recommend the condonation of the deficiency of a month's service to make up 15 years of superior service.

5. Government having since been graciously pleased to grant pension according to the old rules to those who suffered loss under the new rules, your memorialist submitted a petition to the Local Government, dated 1st July 1892, (Exhibit D).

It prayed to have the said deficiency of one month condoned and a third pension according to the old rules allowed him as he suffered a material loss of Rs. 2-9-0 in pension every month under the new rules. Thereon the following G. O. No. 725, dated 13th August 1892, (Exhibit E), was passed.

"The petitioner is informed that under the rules which were in force at the time he entered the service he would have been entitled only to a gratuity of Rs. 300, while under the new rules he has been granted a pension of Rs. 5-15-9 per month. He has thus benefited by the alteration of the rules. His claim for an enhanced rate of pension under the rules which were introduced after he joined the service and modified before his retirement is inadmissible."

C. Vembily Mudali

6. Your memorialist earnestly begs to appeal against this order and to seek redress on the following grounds:—

- (1) The Local Government observes that under the rules which were in force at the time your memorialist entered the service he would have been entitled only to a gratuity of Rs. 300, and that pension of Rs. 5-15-9 a month granted under the new rules did him benefit.
- (a) Article 7 of the Civil Service Regulations clearly states that pensions are governed by the rules in force at the time of an officer's discharge and not at the time when he entered the service; and foot-note 2 to the same Article provides for the non-introduction of any new rules operating harshly.
- (b) The memorialist had 14 years and 11 months of Superior Service and 5 years and 10 months of Inferior Service and as his discharge was owing to a general reduction in the Department and beyond the memorialist's control he was entitled to condonation of the one month's deficiency under Section 124 of the Civil Pension Code (6th Edition) which remained ever valid so far as pensions under the old rules were concerned. If therefore your memorialist had been allowed the condonation of deficiency to make up 15 years of Superior Service under Section 124 of the Civil Pension Code or allowed to remain in service till he could complete his 15 years of Superior Service under G. O. No. 720, dated 21st June 1890, he would have been entitled to a third pension under the old rules, amounting to Rs. 8-8-9 per mensem and not as alleged to a gratuity of Rs. 300. Your memorialist therefore has not benefited by the pension under the new rules, but has lost a sum of Rs. 2-9-0 per mensem.
- (2) As to the Local Government's opinion that your memorialist cannot claim relief under the rules which were introduced after he had joined the service and which were modified before his retirement:—
- (a) Your memorialist respectfully begs to invite your kind attention to the fact that the rule under reference is embodied in Article 465-A of the Civil Service Regulations (2nd Edition.)
- (b) Your memorialist begs to state that both Articles 465 (relating to condonation of interruption in service) and 465-A (relating to condonation of deficiency in service) were almost simultaneously introduced. Article 465 remained in force all along, being never modified, and Article 465-A underwent a temporary modification but has again been restored.
- (c) Again, Financial Order, No. 414, dated 25th January 1888 of the Government of India, while it prescribed the new scale of pensions, also added that the provisions of Section 124 of the Civil Pension Code (6th Edition) (relating to condonation of deficiency in service) would not apply to pensions under the new scale. It is therefore plain that the modification of Section 124 of the Civil Pension Code referred to was an enactment no less new than the new scale of pensions.

- (d) When therefore it is conceded, as it is in many cases, that the new rules of pension shall be relaxed in the case of those who have suffered thereby, it is but just and equitable that the modification of Section 124 referred to, which appeared along with the former, should also be relaxed.
- (e) Your memorialist begs that the new rules of pension may not be applied to him but only the old rules and it is therefore just and reasonable that the modification of Section 124 of the Pension Code should not be used against him.
- (f) Again, the modification as regards Article 465-A of the Civil Service Regulations was only temporary, and the rule as it was prior to the modification is now again in force. Your memorialist begs to ask whether it is not unreasonable to direct that Article 465-A should be construed as not applying to his case, but that the modification of Section 124 of the Civil Pension Code should apply.

7. Again, after 1st April 1891, the date of discharge, and in continuation with it, your humble memorialist drew pay from the Census Office to which he was transferred at Rs. 20 per mensem till 5th May 1891, and then was retransferred to Central Survey Office on Rs. 25 per mensem, which pay he drew up to 30th June 1891. All this service was not taken into account when his pension application was prepared.

8. Your humble memorialist begs to appeal against this procedure, under Article 403 of the Civil Service Regulations, and under the spirit of G. O. No. 720, dated 21st June 1890, referred to above. Your memorialist therefore prays that he may be allowed condonation of the one month's deficiency in the Superior Service in consideration, (1) of the very short notice of discharge, (2) of his title to such condonation under Section 124 of the Civil Pension Code, so far as it related to pensions under the old rules under which alone the memorialist appeals, and (3) of his additional service as just mentioned under Article 403 of the Civil Service Regulations. He further begs that this condonation being sanctioned he may be allowed to draw his one-third pension of Rs. 8-8-9 a month.

9. On appeal to the Government of India, dated 17th January 1893, stating that your memorialist has not benefited by the pension under the new rules but has lost a pension of Rs. 2-9-0 per mensem, as explained in para. 6 (1)b of this memorial, he was informed in G. O. No. 803, dated 1st August 1893, of the Local Government that the Government of India declined to interfere on his behalf. No reason was stated.

Your memorialist submits this memorial with full particulars of his case, and prays for justice at your bountiful hands.

For this act of justice and kindness, your memorialist will, as in duty bound, EVER PRAY.

(Signed) C. VEMBILY MUDALI,

Late Accountant, No. IV Party,

Madras Survey.

MADRAS,
12 February 1893
45 November 1897
Address:—

(True copy)

C. Vembily Mudali

C. VEMBILY MUDALI,

Late Accountant, No. IV Party, Madras Survey,

residing in Weaver Street, Alandur, Saint Thomas Mount.

EXHIBIT A.

To

C. VEMBILI MUDALI,

Accountant, No. IV Party, Revenue Survey.

You are hereby informed that as your appointment in the Survey Department is abolished by G. O. No. 122, dated 17th February 1891, with effect from 1st April 1891, you are transferred to the Census Department from date of reporting yourself to the Superintendent of Census Operations.

(Signed) J. H. COOK,

Deputy Superintendent, Madras Survey.

SURVEY OFFICE, MADRAS. }
6th March 1891. }

(True Copy.)

(Signed) C. VEMBILI MUDALI,

Late Accountant, No. IV Party, Madras Survey.

~~1891~~ 4 Nov '97

EXHIBIT B.

To

THE DEPUTY SUPERINTENDENT,

Central Survey Office, Madras.

MOST HONORED SIR,

In the notice of discharge, dated 6th March 1891, given me, it is stated that my appointment is abolished from 1st April 1891. My service qualifying for pension on that date is 14 years and 11 months. As fraction part of a year will not be taken into account and my service in the Census Department will not also count towards pension, I have to forfeit one year's service and pension. I lose thereby 6 annas and 8 pies per mensem.

I request therefore your honor will be graciously pleased either to keep me in the Central Survey Office at least up to the end of April 1891, or to cause my service in the Census Department for the said period to be treated as pensionable.

For this act of kindness I shall as in duty bound EVER PRAY.

I beg to remain,

Most honored Sir,

Your honor's most obedient and humble Servant,

(Signed) C. VEMBILI MUDALI,

Accountant, No. IV Party, Madras Survey.

(True Copy.)

(Signed) C. VEMBILI MUDALI,

Late Accountant, No. IV Party, Madras Survey.

~~1891~~ 4 Nov '97

19 Mar 91

EXHIBIT C.

From 1891.
THE SUPERINTENDENT,
Madras Survey.
To VEMBILI MUDALI,
Late Accountant, No. IV Party.

Dated 4. } April.
Despd. 4. }

No. 15
P.

Reference Petition, dated 19th March 1891, requesting to be kept in Central Survey Office up to the end of April 1891 to complete 15 years' service.

From Superintendent's order.

The petitioner is informed that the Superintendent has no option in a case like this as his appointment is abolished.

(Signed) J. H. COOK,
Deputy Superintendent, Madras Survey.
(True Copy.)
(Sd.) C. VEMBILI MUDALI,
Late Accountant, No. IV Party, Madras Survey.

1894. 4th Nov '97

EXHIBIT D.

To HIS EXCELLENCY THE RIGHT HONORABLE,
THE GOVERNOR IN COUNCIL,
FORT SAINT GEORGE, MADRAS.

MAY IT PLEASE YOUR EXCELLENCY:—

The humble petition of C. VEMBILI MUDALI, Late Accountant, No. IV Party, Madras Survey.

MOST RESPECTFULLY SHEWETH,

- That your Excellency's petitioner entered the Madras Survey Department on 1st July 1870.
- That his service qualifying for pension on the superior scale began from 1st May 1876.
 - That under G. O. dated 17th February 1891, No. 122, he was discharged on reduction of Establishment from 1st April 1891.
 - That his total superior service qualifying for pension on 1st April 1891 is 14 years and 11 months.
 - That his average emoluments for the last five years of his service is Rs. 25-10-5.
 - That he has been granted a compensation pension of Rs. 5-15-9, or $\frac{14}{60}$ of Rs. 25-10-5 under the new rules of Pension Article 518 (b) of the Civil Service Regulations. *Vide* G. O. dated 12th August 1891, No. 766 (Pension).
 - That besides petitioner's qualifying superior service for 14 years and 11 months he has also rendered inferior service for 5 years and 10 months.
 - That the deficiency of one month in the 15 years' superior qualifying service required for $\frac{1}{3}$ pension under the old rules that were in force at the time of his entertainment may be condoned from his inferior service of 5 years and 10 months under Section 124, Rule 2 (a) of the Civil Pension Code, 6th Edition, which contains the old rules—provision being made in the same section for condonation of half of the inferior service not exceeding in any case 12 months.
 - That if the new rules of pension had not been introduced he would have been granted a pension of Rs. 8-8-9 or $\frac{1}{3}$ of the average emoluments of Rs. 25-10-5, which he naturally expected according to rules in force at the time of his entertainment.

10. That your Excellency's petitioner has actually undergone a loss of a portion of his pension, namely, Rs. 2-9-0 a month out of a poor pension of Rs. 8-8-9 to which he is entitled under old rules after serving Government for more than 20 years which is really a great hardship to the petitioner.

11. That your Excellency's humble petitioner having learnt from the Notification in the *Fort Saint George Gazette*, dated 15th December 1891, page 1236, that the petitioner's loss of a portion of his pension falls under exceptional case of hardship, he has brought his own sad and deserving case to light and humbly craves that your Excellency will be graciously pleased to order the payment of pension under the old rules to which he is entitled and thus to redress his grievance.

For this act of charity and kindness, your Excellency's petitioner will, as in duty bound, EVER PRAY.

(Signed) C. VEMBILI MUDALI,
Late Accountant, No. IV Party, Madras Survey.

1st July 1892.

(True Copy)

(Signed) C. VEMBILI MUDALI,
Late Accountant, No. IV Party, Madras Survey.

1894. 4th Nov '97

EXHIBIT E.

C. No. 725,
(Pension Department.)

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read the following paper:—

From C. VEMBILI MUDALI, dated 1st July 1892.

ORDER 13th August 1892, No. 725.

The petitioner is informed that under the rules which were in force at the time he entered the service he would have been entitled only to a gratuity of Rs. 300 while under the new rules he has been granted a pension of Rs. 5-15-9 per month. He has thus benefited by the alteration of the rules. His claim for an enhanced rate of pension under the rules which were introduced after he joined the service and modified before his retirement is inadmissible.

(True Extract)

(Signed) R. H. CAMPBELL,
Acting Under-Secretary to Government.

(True Copy)

(Signed) C. VEMBILI MUDALI,
Late Accountant, No. IV Party, Madras Survey.

1894. 4th Nov '97

To

G. C. M. G., G. C. S. C.

CS

Subject

C. Venkily Mudaly late
Accountant Vol IV Party
Madras Survey: —
Memorial from —
Claiming enhanced
rate of pension.

Pension
Revenue (1897) Department.

DEPARTMENT

Paper taken out of the Records from the charge of the Referencer.

Press
Miscellaneous
Routine

No. 808, dated 17 11 1909.

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