Pension (1898) Department.

ORDINARY MS.

G.O., No.s 926 & 927.

DATED 15-12-98

[Despatch Abstract.]

Order

Granting an increased pension of Rs 240/- p. m. to Mr J. Stevenson, late Registrar, High Court, Original Side, Madras, and ordering that his memorial be forwarded to the Govt of India and he be informed of its despatch.

Letter

Forwarding to the Govt. of India a memorial addressed to the Secy of State by Mr J. Stevenson, late Registrar, High Court, praying for the grant of certain concessions to enable him to complete 19 years' service and for a special pension for his service; and recommending that the rule in art 521(a) CSR. prescribing a deduction may be specially relaxed in Mr Stevenson's favour and that he may be granted a pension of Rs 300/- p.m.

BACK PAPERS.

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

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
So	C.188/99 171	Pens.	11.3.99				

[P. G. / 21]
300—7-8-96.

C. No. 763 & 923

Pension Department.

PROCEEDINGS OF THE MADRAS GOVERNMENT.

Read again G.O. No 878 Pension, d/20-11-97
also
READ the following papers

From the Registrar, High Court, Madras dated 29th Augt. 1898, No. 1558.
Encl. from the Judicial Dept. d/2d Sept. 1898 No 1863.
Om to the A.G. No. 44 - d/13-10-98
Letter from-do d/10th Novr. 1898 No. DAE 481

Order 15th Decr. 1898 No. 926.

In view of Mr. Steavenson's total service including interruptions of 19 Years, 4 months & 26 days, H.E. the Governor in Council has been pleased to condone, under Article 465 A (2) of the C.S.R., the deficiency of 10 months & 8 days in his service to complete 18 years' service; and accordingly the pension of Rs. 226-10-8 p.m. granted to him in the G.O. read above will be increased to Rs. 240 p.m. with effect from the 21st. July 1897.

2. Mr. Steavenson's memorial will be forwarded to the Govt. of India & he will be informed of its despatch.

(from orders)

To the Acctt. Genl.
" Registrar, High Court.
Copy to Mr. Steavenson.

Pension Department.

No. 927 d/15th Dec 1898

To,

The Secretary to the Govt. of India

Home Department

(Judicial)

Sir, clauses (a) + (c) of
With reference to Art 100 of the C.S.R.,
I am directed to forward the accompanying memorial, with its enclosures, addressed to the Right Honble the Secretary of State for India, by Mr. J. Steavenson late Registrar of the Madras High Court Orig. Side praying that he may be allowed the concessions referred to in paras 24& 28 of his memorial so as to enable him to compl 19 years' service & that he may be grante a special pension for this service.

2. Mr. Steavenson's case was the -- subject of the correspondence marginally noted and under the instructions conveyed in the Secretary of State's Despatch No. 163,Finl,d/ 24-9-96, he was on the 21st. July 1897 superannuated on attaining the age of 55 years,and granted a - Superannuation pension of Rs. 326-10-8 p.m. for his qualifying superior service of 17 years,1 month and 22 days.As he h also rendered a nonqualifying service of 2 - & odd, H.E. the Governor in Coun ..w been pleased to condone unde article

*. Letter to the Govt. of India No 749 Jud. (C)
d/22nd April 1896.
Letter from the Govt of India No 1395
d/2nd Nov. 1896. Home Dept. (Jud.)(B)

A

article 465 A (2) of the C.S.R. the deficiency of 10 months & 8 days to complete 18 years' service; & accordingly the pension of Rs. 226-10-8 already granted has been increased to Rs. 240 p.m. with effect from the date of retirement.

3. Mr. Steavenson's prayer that he may be allowed to count the 2 years' service rendered in an acting appointment from the 25th. Feby. 1878 to 25th. Feby. 1880 is inadmissible, while his prayer that the one year's furlough at least of the furlough granted to him from 11th May 1896 to 20th July 1897 may count for pension has already been complied with.

4. As regards the third request that he may be exempted from the deduction prescribed in Art. 521(a) of the C.S.R., it will be seen that in calculating the pension of Rs. 240 now granted to him Art. 521(a) has been applied because his qualifying service began after the 20th Jany. 1871 and after he had attained the age of 30 years. But for this Art., he would have been entitled to a pension of Rs. 300 per mensem.

5. The memorialist urges that the rule contained in Art. 521(a) should not operate in the case of specialists like him/~~not~~ alt. I am to ~~point out~~ observe that by enforcing the rule in the present case, Mr. Steavenson's average emoluments has been subject to a double deduction, ~~that is~~ ~~why~~ Mr. Steavenson's average emoluments amounted to Rs. 1500 per mensem, 18/60ths of which would be Rs. 450; this amount has in the first place, with reference to Art. 518(b) of the C.S.R., to be reduced to the maximum pension ordinarily admissible viz Rs. 300, and it is further diminished by 8/40th under Art. 521(a); so that Mr. Steavenson is entitled under the rules to only Rs. 240 per mensem.

6. In the ~~case~~ circumstances of the case, ~~H. E. the Governor in Council~~ directed/~~me~~ to submit the memorial to the Government of India with the recommendation that the ~~deduction prescribed~~ rule prescribing a deduction, Art. 521(a) C. S. R. may be specially relaxed in Mr. Steavenson's favour and that he may be granted the maximum pension admissible under Art. 518(b) C.S.R./ viz., Rs. 300 per mensem.

7. As regards Mr. Steavenson's request for a special pension of Rs. 500 a month, H. E. the Governor in Council does not consider that the merits of the case are such as to justify exceptional treatment to this extent.

8. I am to add that the memorialist has appealed to the Secretary of State without first memorialising either the Local Govt. or the Govt. of India.

JAS
8/12/98

9/12/98

13/12/98

Pension Dept. 12

G.NO.752.1928

From

The Registrar, High Ct. Madras, No.1558 d/29-8-98.

To, The Judl. Dept., No.1863, dated 2nd Septr. '98.

F O R O R D E R S.

Please see G.O. 1793 A. dated 12-11-98 Judl. and No. 678 dy 21-11-97.
Pension. Owing to the re-organization of the High Court establishment, Mr.Steavenson's appointment as Registrar, High Court, Original Side, was abolished, and under the orders of the Secretary of State, he was considered to have been on furlough from 11th May 1896 to 20th July 1897, the date on which he attained the age of 55 years and then retired on a superannuation pension of Rs.226-10-8 per mensem, the full amount admissible under the rules for his qualifying superior service of 17 years 1 month and 22 days. He now memorialises the Secretary of State. The memorial is somewhat confusedly expressed; but the memorialist's requests may be divided into 2 classes (1) those for relaxations of the rules of the C.S.R. which apply to his case, and (2) for a special pension on special grounds.

As regards relaxations of the C.S.R. the memorialist prays (1) that he may be allowed to count the 2 years' service rendered in an acting appointme

rom 25th Feby. 1878 to 25th Feby. '80,

(2) that one year's furlough at least
f the furlough granted to him from -
re 11th May '96 to 20th July 1897 --
ay count for service,

(3) that he may be exempted from the
deduction prescribed in Art. 521(a) of
the C.S.R.;

The first request is, it is submitted, inadmissible, while the second has already been complied with - vide 1st page of pension application in G.O. 878 Pension, dated 20th Nov. 1897. As regards the third request, it is submitted, that in consideration of the hardship of the case, the Govt. of India may be moved to waive the application of Art. 521(a) of the C.S.R. as in the case of Dr. Oppert - G.O. 1081 Pension of 10th Oct. '93.

But please see below at A

There is also another point for consideration in this connection. Mr. Steavenson has rendered a non-pensionable service of 2 years from 1878 to 1880, and the deficiency of 10 months and 8 days to complete 18 years' service may be condoned under art. 465 A(2) C.S.R. out of the 2 years' non-pensionable service, and in this case, he will be eligible for a pension of Rs. 240 per mensem. But about this a reference should, it is submitted, be made to the Accountant-General.

A

As regards Mr. Steavenson's request for a special pension of Rs. 500 or for

The concerning would give Mr S. a pension of Rs 300 p.m. vide art 518(b) of the C.S.R.

a special pension calculated by (1) taking his case as one of compulsory retirement instead of superannuation and (2) adding a number of years to his - qualifying service on the ground of h. age and "previous experience," the Secy. of State alone can sanction these concessions. Mr. Steavenson has appealed to the Secy. of State without memorializing the Local Govt. and the Govt. of India.

The memorial has to be forwarded through the Govt of India who may if they choose withhold its further transmission and grant no countenance to the concession of exemption from the operation of Art 521(a) of the C.S.R.

Perhaps the memorial may be forwarded to the Govt of India with a recommendation that the concerning may be intimated that Govt is prepared to condone the deficiency of 10 mos & 8 days referred to above?

The former comes to the same thing as waiving the latter

Rule XIII of the Rules for transmission of memorials to the Secy of State

This if the A.G. states no technical Bar

5/10/98

Consult the A.G. as to whether there is the technical objection

P.T.O.

4

Please see O.M. No 44 d/13th Oct. 1898. to the Accts Genl. and his reply to it – CNo 928 – The Accts Genl. says that the deficiency of 10 ms. and 8 dys. in Mr. Steavenson's service required to complete 18 years' pensionable service can be condoned by Govt. under art. 465 A. (2)(a), in which case he will be eligible for a pension of Rs 240 p.m. against Rs 226. 10. 8. already granted.

16/11/98 Plse. move in addition of the Govt of India waive the application of Art 521(a) of the C.S.R. how much will Mr Steavenson get?

Ulle 16/11/98

Sir Mr Steavenson will in that case get a pension of Rs 300/- p.m.

RA 19.11.98

Secy This Govt may if it is submitted give Mr Steavenson a pension of Rs 240 p.m. by condoning the deficiency of 10 m & 8 days by which his service falls short of 18 years; & in forwarding his memorial, the Govt of India may be asked to waive the application of Art 521(a). This will give Mr Steavenson Rs 300 p.m. & it will be for the Govt of India to say whether the Secy of State to say whether he should get more by way of a special pension

Ulle 22-11-98

(1) HS 24/11/98

(2) HS

Secy Please see drafts below

C. 4431/98. 5.12.98.

x maximum of pension for 18 yrs service (art 521(a)) = Rs 300-0-0
Deduct 8/40 of 300 under art. 521(a) CSR = 60-0-0
240-0-0

* Mr S. was drawing Rs 1500 during the last 3 yrs of his service. So, for 18 yrs service he should get 18/36 of 1500 = Rs 450

But the max. limit of pension for 18 years' service under art. 518(6) is = Rs 300/-

RA 14.11.98

I think this suggestion may be approved

HS – 24-11-98

A.G.H. 3.12.98

Pension (189) Department.

CURRENT No. 928

From The Accountant General Madras

Order

GOVERNMENT OF MADRAS 11 NOV 1898 PENSION DEPARTMENT

No. 1a E / 481

Dated 10 November 1898

Received

Registered

Enclosures

Spare copies

SUBJECT.

Stating if the deficiency in the Service of Mr. Steavenson be condoned by Govt under art 465 A. 2(a) C.S.R, the Pension admissible to him will be Rs 240 instead of Rs 226-10-8 and, in the event of this increased pension being sanctioned by Govt, requesting to state the date from which the order is to have effect.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Pension

DEPARTMENT.

FORT ST. GEORGE,

Accountant-General's Office,

10 November 1898.

No. J. a. E. 481

From

J. Herbert Bigge Esqr.,

ACCOUNTANT-GENERAL TO THE

GOVERNMENT OF MADRAS,

To

THE Secretary to Government,

Pension Department.

SIR,

With reference to your Memorandum No. 44 dated the 13th of October 1898, I have the honour to state that as Mr Stevenson rendered acting service for a period of 2 years prior to 26 February 1880, when he was appointed as a permanent Registrar of the High Court, Original Side, Madras the deficiency of 10 months and 8 days required to complete 18 years pensionable service, can be condoned by Government under Article 465 A 2 (a) of the Civil Service Regulations. If this be done the pension admissible will be Rs 240 a month instead of Rs 226-10-0 shown in the

office

Office report No. $\frac{Adj}{280}$ dated 15th September 1897 disposed of in Government Order No. 878 dated 20th November 1897.

In the event of an increased rate of pension being sanctioned by Government, I have the honour to request the date from which the order is to have effect may be stated.

The enclosures to your Memorandum under reply are returned herewith.

I have the honour to be.
Sir,
Your most obedient Servant;

Accountant General.

[R. E. / 43.]
1,000 -10-8-96.

Pension (1898) Department.

CURRENT No. 759

From
M^r J. Stevenson
late Registrar High Court Madras.
Orig^l side

Order

No.

Dated 18th Aug^t 98.
Received 9. Sept^r
Registered —do—
Enclosures
Spare copies.

SUBJECT.

Returning the Memorial in duplicate signed on every page.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

[O. M. 25.]
300—7-8-96.

C. No. 752.

Pension Department.

No. 44 dt 13-10-98

OFFICIAL MEMORANDUM.

It is observed from the Accountant General's remarks on the 2nd page of the pension application of Mr. J. Stravenson, late Registrar, High Court, Original Side, Madras, that he has rendered a service of 2 years in an acting appointment from 1878 to 1880 which does not count for pension. The Acctt Genl. is requested to report whether the deficiency of 10 months and 8 days in Mr. Stravenson's service to complete 18 years' qualifying service can be condoned under art. 465 A.(2)(a) of the C.S.R., and if so, to what retiring allowance he would thereby be entitled.

11/11 11.x.98

JCS 8.10.98

To

The A.G.

with Mr Se pension appn & connected papers.

~~Public~~ Judicial (1898) Department.

CURRENT No. ~~3630~~ 752

C.S.

CHIEF SECRETARIAT
-1. SEP. 1898
GOVERNMENT OF MADRAS

From

The Registrar,
High Court of Judicature,
Madras.

~~Order~~ Endorsement. No. 1863.
Transferred to the Pension Department.

GOVERNMENT OF MADRAS
6 - SEP 1898
PENSION DEPARTMENT.

No. 558

A.Chandra Aq: Under Secretary.

Dated 29th August 1898.

Received 1. 9. 98.

Registered

Enclosures 2 + 1 in duplicate

Spare copies

A.T.R. 1/9/98.

1/9/98.

Q. Sacramma 2nd Sept. 1898

SUBJECT.

Forwarding a memorial addressed to the Right Hon. the Secretary of State for India in Council for a special compensation pension from Mr. J. Steavenson, late Registrar, High Court of Judicature, Original Side.

Memo 1459 Jud. C. 4.7.98.

The Pension Department.

BACK PAPERS.

G.O.	No.	Department.	Date.
"	542	Pen	26-7-98

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Government in the course of the correspondence of 1890, relating to the reorganisation of the Court, as shown in the extracts from Letters and Orders set forth in the next paragraph.

20. In Par. 41 of the High Court Letter of September 3, 1890 (No. 2,115), the following passage occurs:— Appendix D.

"The High Court would be glad to be informed what other provision it is proposed now to make for Mr. Steavenson, for it is clear that, without adequate provision being made, his services ought not to be dispensed with."

The Madras Government replied to the above Letter by an Order (Judicial), No. 1,770, dated November 11, 1890, in Par. 3 of which it was stated:— Appendix E.

"The Government agrees with the High Court in regarding Mr. Steavenson's claims as entitled to consideration, and will be prepared to recommend to the Secretary of State the grant of a personal allowance of Rs.500 per mensem should Mr. Steavenson be willing to accept the post of Deputy-Registrar on the Original Side in the new scheme. In this way Mr. Steavenson will suffer no pecuniary loss by the change, and the High Court is requested to call on that gentleman to report at once whether he is willing to accept those terms and to point out to him that the only alternative is a proportionate pension."

Further, in 1891 the High Court expressed, by Letter from the Registrar, Appellate Side, to the Madras Government, dated November 14, 1891, No. 2,762, the following opinion:— Appendix F.

"The Chief Justice has throughout understood that it was the intention of the Government to provide for Mr. Steavenson elsewhere, and, having regard to his age and length of service, it does not appear to the Chief Justice that it would be a desirable arrangement or fair to Mr. Steavenson himself to relegate him to a subordinate position in the High Court. The decision, therefore, whether Mr. Steavenson should be appointed to another office or be compelled to retire rests entirely with the Local Government and not with the Chief Justice or with Mr. Steavenson himself."

21. In spite of the above declarations the High Court and the Madras Government in 1896 dealt with your Memorialist in a manner which they had in 1890 and 1892 declared to be incompatible with his claims and position, his position having meantime been in no way altered, except that by further service your Memorialist had established a stronger claim.

22. Your Memorialist urges that the Order of the Chief Justice of February 12, 1896, abolishing your Memorialist's appointment, is in violation of the principles laid down in the Letter of the High Court and two Orders of the Madras Government above quoted, since it did not admit his "claims to be entitled to consideration," or that "without adequate provision being made his services ought not to be dispensed with." It did not provide for the appointment of your Memorialist to any other post with a grant of a personal allowance by way of compensation, and, moreover, by a strained interpretation of Art. 220 A of the Civil Service Regulations, which he submits did not apply to his case, it deprived him of the benefit of counting for pension a furlough to which he was entitled and which had already been granted.

23. From the smallness of the pension now awarded to him your Memorialist concludes that the Right Honourable the Secretary of State's despatch referred to in Proceedings of the Madras Government, No. 1,793 A, dated November 12, 1896, and No. 2,017, dated December 21, 1896, has been construed as directing that your Memorialist should be retired on a superannuation pension under Articles 502, 503, 518, and 521, instead of on a compensation pension under Article 468, Civil Service Regulations, and that the Financial Department has applied in his case every Rule that tends to reduce and none that would go to increase the amount of his pension; reducing his Service to 16 years by disallowing his first two years (on the technical ground that he was merely officiating) and ignoring his right to one year's furlough to count towards pension; reducing the 16 sixtieths of his actual emoluments, or Rs.4,800, to the maximum of Rs.3,200, prescribed by Article 518, Civil Service Regulations, and deducting 6 fortieths because your Memorialist was $35\frac{7}{12}$ years old when he entered the Service.

24. Your Memorialist respectfully submits to your Lordship, and prays:—

(1) That he should be allowed to count the two years he acted for Mr. Shaw, not having a substantive appointment, as Mr. Shaw did not count service, being too old and too much broken in health to have any prospect of earning pension, and your Memorialist was confirmed without interruption in his service (*vide* Art. 406, Civil Service Regulations, which seems clear on this point).

Joseph Steavenson

(2) That one year at least of the furlough granted to your Memorialist by the Right Hon. the Secretary of State for India by his despatch referred to above should count for service because he had then done 18 years' continuous active service without break or interruption by leave of any kind or otherwise, and he believes the Rule entitles him to count at least one year's furlough as service for pension (*vide* Madras G. O., December 31, 1890, No. 1,006 (Financial), on Secretary of State's despatch, No. 190 (Financial), dated August 20, 1890). (See also Article 445A, Civil Service Regulations.)

(3) That he should not be brought under the stoppages and deductions referred to in Article 521, Civil Service Regulations, since he was specially selected for his office as an expert and experienced man of mature age to discharge duties and exercise authority of an eminently technical nature; and your Memorialist believes that there is a great and unprecedented hardship in making him come under the operation both of this Rule and of the 55-years' Rule (Articles 502 and 503, Civil Service Regulations), both Rules framed and intended for officers under very different conditions of service from those of your Memorialist.

25. The Chief Justices of Madras who were responsible for selecting your Memorialist to fill an important public office were of opinion that the duties of the office could be satisfactorily discharged by an officer of mature professional experience only. This being so, it is submitted that your Memorialist's case falls within the principle recognised in Article 441, Civil Service Regulations, and that the deductions contemplated by Article 521, Civil Service Regulations, cannot justly be applied to his case.

26. Your Memorialist was not found inefficient on account of age or ill-health, or in any other way to render the rulings and explanations under Article 503, Civil Service Regulations, inapplicable to his case (and is now, as a matter of fact, quite efficient and thoroughly fit for further service), but was compelled prematurely to retire by the abolition of his principal office "from and after the 11th day of May, 1896," the provisions as to offer of other employment of Article 469, Civil Service Regulations, being ignored.

27. During your Memorialist's actual service under Government he had very large sums of Government and suitors' money through his hands and in his custody, superintended a considerable establishment, and had the dispensation of much patronage, but never was other than successful in his administration, giving satisfaction to and obtaining the approval of the judges, the lawyers, and the public.

28. By the last certificate of the Bank of Madras received by your Memorialist before he left Madras it was certified that there was on March 31, 1896, to the credit of the account of the Registrar of the High Court, Original Side, an account operated upon by your Memorialist alone and kept on his responsibility, a sum of Rs. 2,36,619.8.2, consisting of Rs.75,900 in Government paper and Rs.160,719.8.2 in cash.

YOUR MEMORIALIST therefore humbly prays that this his Memorial may be received, that his claims to a special compensation pension in proportion to the ordinary pension of a Judge of the High Court may be considered, and that a pension of Rs.500 a month, being one-third of the consolidated pay of his several offices, may be granted to him.

Or that, for the reasons above shown, and more especially in view of the abolition of his office (*vide* Article 468, Civil Service Regulations), and his consequent enforced and premature retirement, his case may be treated as a case of "Compulsory Premature Retirement" instead of "Superannuation," and that he may be granted a pension based on his 19 and nearly one-half years' service (*vide* Article 406, Civil Service Regulations), with a certain number of years added for age and "previous experience," as a special application to his particular case of the principle sanctioned in relation to certain public servants in Articles 441 and 708, Civil Service Regulations.

And your Lordship's humble Memorialist will ever pray, &c.

New University Club,
St. James' Street, London, S.W.
1 June 1898.

Joseph Steavenson

APPENDICES.

APPENDIX A.

"High Court, Madras: October 17, 1894.

"My dear Rawlins,—Will you be so kind as to ascertain from your office and inform "me:—

"1. To what pension I am now entitled.

"2. To what pension I shall be entitled on 25 February next, when I shall have "completed seventeen years' continuous service, without a break, in my present office, "the first two years, however, acting for the then permanent incumbent.

"3. If I can now take leave on medical certificate on half pay, and, if so, for how "long, without detriment to my right to furlough; and if after such leave I *must* rejoin, "and for how long, before claiming furlough; or if furlough could run on after such "leave without my rejoining.

"4. If I can *now*, or after such leave on medical certificate, take two years', or less, "furlough.

"Thanking you in anticipation,
"I am, yours sincerely,
"sd JOSEPH STEAVENSON.

"T. W. RAWLINS, Esq., Accountant-General, Madras."

APPENDIX B.

"PENSION DEPARTMENT.

"No. $\frac{\text{I A E.}}{317}$

"Fort St. George, Accountant-General's Office, October 24, 1894.

"*From T. W. Rawlins, Esq., Accountant-General to the Government of Madras,*
"*To Joseph Steavenson, Esq., B.A., Registrar High Court (Original Side).*

"Sir.—With reference to your letter dated the 17th inst., I have the honour to "reply as follows:—

"Question 1. You are now entitled to a pension of Rs.233 $\frac{1}{3}$d a month.

"2. On the 26th February, 1895, you will be entitled to a pension of Rs.250 a "month.

"3. You will be eligible for leave on medical certificate for fifteen months on half "average salary, subject to a maximum of £150 a quarter, if paid at the Home Treasury "of the Government of India, or Rs.500 per mensem, if paid in India, and also to a "further nine months' continuance of that leave on quarter average salary, subject to "a maximum of £120 a quarter in the one case, or Rs.400 a month in the other. "There is no objection to you taking furlough after return to duty from leave on medical "certificate, but not in continuation of it.

"4. You are now eligible for furlough for one year only; furlough for two years "will be admissible after eighteen years' service.

"I have the honour to be, sir,
"Your most obedient servant,
"sd T. RAWLINS, Accountant-General.

Joseph Steavenson

APPENDIX C.

"GOVERNMENT OF MADRAS.

"JUDICIAL DEPARTMENT.

"READ—again the following papers:—

"G.O., dated	16th April, 1890,	Nos.	691, 692,	Judicial.
" "	11th Nov., "	"	1770, 1771,	"
" "	10th April, 1891,	"	682,	"
" "	2nd June, "	"	1044, 1045,	"
" "	26th Oct., "	"	2160,	"
" "	29th Jan., 1892,	"	194, 195,	"

"READ—also the following papers:—

"Despatch from the Right Honourable Lord CROSS, Her Majesty's Secretary of State for India, to His Excellency the Most Honourable the Governor-General of India in Council, dated India Office, London, 2nd June, 1892, No 23 (Judicial).

"I have considered in Council the letter of your Government, No. 9, dated 23rd March last, forwarding a representation addressed to me by the Chief Justice and Judges of the High Court at Madras in regard to certain matters connected with the revision of the establishment of the Court, together with a copy of the correspondence which has passed between your Excellency in Council and the Madras Government on the subject.

"2. In considering this correspondence it is necessary to bear in mind the peculiar position in which, under the Letters Patent, the High Court stands in relation to the Government with reference to the appointment and salaries of its ministerial officers. By section 8 of the Letters Patent of 1866, the appointment of all the ministerial officers of the Court is vested in the Chief Justice, subject to confirmation or disallowance by the Governor in Council; and the salaries received are to be such as the Chief Justice shall fix and as the Governor in Council, subject to the control of the Government of India, shall approve of. Thus, while the initiative lies with the Chief Justice, his proposals require the approval of the Government, and, in regard to the creation of new offices, the Government cannot act independently of the Chief Justice.

"3. The sanction to which you refer in the second paragraph of your letter under reply was given by me on the assumption that all necessary details had been arranged between the Chief Justice and the Government of Madras; and I did not anticipate the question which has subsequently arisen respecting the retirement of Mr. Steavenson and Mr. Kernan.

"4. As regards the office of Clerk of the Crown, it appears that Sir Arthur Collins still declines to assent to its being abolished. And Mr. Kernan having been (prior to Sir Arthur Collins becoming Chief Justice) appointed unconditionally in 1885, I agree with you in thinking that the suggestion made in paragraph 10 of the letter of the High Court of the 14th of November last must be accepted, and that the question of the abolition of the office should remain in abeyance until Mr. Kernan vacates it.

"5. A similar course ought, as it seems to me, to be adopted with reference to the post of Registrar on the Original Side. It is true that the Chief Justice has given his general assent to the abolition of that office; but the abolition is intimately connected with and dependent on certain other arrangements, some of which at any rate require the assent of the Chief Justice. And since it now appears that as to those consequent arrangements Sir Arthur Collins and the Governor in Council are not yet in accord, it is better that the whole scheme should remain in abeyance for the present, and be reconsidered as soon as a vacancy occurs. This will necessarily involve the postponement of the proposed increase of the salary of the Registrar on the Appellate Side.

"6. Care must, of course, be taken that any appointment made hereafter, either to the office of Registrar on the Original Side or to that of Clerk of the Crown, is made subject to the condition of the office, and the duties and salary attached to it, being at any time altered or abolished.

"7. With regard to the proposed addition to the salary of Mr. Walter Morgan, the Deputy Registrar on the Appellate Side, I am not prepared to differ from your Excellency in Council and the Government of Madras in the decision that it ought not to be made at present. It is, however, to be regretted that the proposals made on this point in the Court's letter to the Government of Madras, No. 3030, dated 12th of December, 1889, were left unnoticed in the reply of that Government.

Joseph Steavenson

"8. I observe, in conclusion, that the Governor of Madras in Council, in his General Order, No. 1770, dated the 11th of November last, seems to place too wide an interpretation on the Secretary of State's despatch, No. 19, dated 31st of July, 1863. That despatch, when read in connection with the particular subject with which it dealt, conveys no more than (what is also evident on the face of section 8 of the Letters Patent) that the Chief Justice is bound to assign to the several officers of the High Court such salaries, and such only, as are approved by the Governor in Council. It does not touch the principal point raised by this correspondence, namely, whether the Government can alter, of its own authority, salaries or establishments that have once been permanently sanctioned. The initiatory duty of submitting proposals regarding the appointment of ministerial officers of the Court undoubtedly rests with the Chief Justice; nevertheless, since the changes now under discussion were, in the first instance, substantially supported by the High Court, and as there is little doubt that their introduction will be to the public advantage, I regret that they should have to be postponed by reason of the difficulty connected with the position of the present incumbents of the two offices of Registrar (O.S.) and Clerk of the Crown."

"No. 896.

"Copy forwarded to the Government of Madras, Judicial Department, for information, with reference to the correspondence ending with the letter from that Government, No. 195, dated the 29th January, 1892.

"(By Order.)

"(Signed) P. G. MELITUS,

"*Offg. Dy. Secy. to the Govt. of India.*

"HOME DEPT. (JUDICIAL), Simla, *the 4th July*, 1892.

"ORDER—dated 1st August, 1892, No. 1389, Judicial.

"Communicated to the Honorable the Judges of the High Court.

"2. The reference in paragraph 8 of the Secretary of State's despatch should apparently be to G. O., dated 10th April, 1891, No. 682, Judicial, and not to G. O., dated 11th November last (an error for November 1890), No. 1770, Judicial. The statement made in paragraph 7 to the effect that the proposals in regard to Mr. Morgan's salary were left unnoticed in this Government's reply to the letter from the Registrar of the High Court, dated 12th December, 1889, No. 3030, is also incorrect; the subject was referred to in G. O., dated 8th February, 1890, No. 203, Judicial.

"(True Extract.)

"J. F. PRICE,

"*Chief Secretary.*

"To the Honorable the Chief Justice, with C.L."

APPENDIX D.

"*Extract from High Court Letter to Madras Government, No.* 2115, *dated 3 September*, 1890.

"41. The last point to which I am to allude with reference to the effect the proposed measure will have with regard to the individual officers of the Court establishment is the position of the present incumbent of the office of Registrar, Original Side, and the provision which it is proposed to make for him should the enactment of the present measure result in the abolition of his office. When the subject was discussed in 1885 it was assumed that the appropriate course would be to appoint this officer to the fourth judgeship of the Small Cause Court, which it is part of the plan to create, and to grant him a personal allowance sufficient to raise his emoluments to the level of his present pay of Rs.1500. But the fact was overlooked that under the Act regulating the Small Cause Court it is imperative, owing to the present composition of the Court, that the fourth seat should be filled by an Advocate of one of the High Courts of Calcutta, Madras, or Bombay, and as Mr. Steavenson does not possess such qualification, he is not eligible for the appointment. The High Court would be glad to be informed what other provision it is proposed now to make for Mr. Steavenson, for it is clear that, without adequate provision being made, his services ought not to be dispensed with."

Joseph Steavenson

APPENDIX E.

"*Extract from Proceedings of the Madras Government, No.* 1770, *Judicial, dated* 11 *November*, 1890.

"3. The Government agree with the High Court in regarding Mr. Steavenson's "claims as entitled to consideration, and will be prepared to recommend to the Secretary "of State the grant of a personal allowance of Rs.500 per mensem should Mr. "Steavenson be willing to accept the post of Deputy Registrar on the Original Side in the "new scheme. In this way *Mr. Steavenson will suffer no pecuniary loss* by the change, "and the High Court is requested to call on that gentleman to report at once whether "he is willing to accept those terms, and *to point out to him that the only alternative is a* "PROPORTIONATE PENSION."

APPENDIX F.

"*Extract from High Court Letter to Madras Government, No.* 2762, *dated* 14 *November*, 1891.

"11. With reference to paragraph 3 of the Government of India's letter, the High "Court is unable to accept the view of the Government of India that paragraph 2 of the "Madras G. O., 11th November, 1890, No. 1770, signified no intention to encroach on "the rights and powers of the Chief Justice. The Government of Madras stated that "it would be prepared to recommend the grant of a personal allowance to Mr. Steaven-"son should he be willing to accept the post of Deputy Registrar, Original Side, and "requested the High Court to call upon him at once to report whether he was willing "to accept those terms. The existence and legal powers of the Chief Justice were "altogether ignored. The Chief Justice had not at any time given any ground for "supposing that he was likely to nominate Mr. Steavenson for the office. Moreover "when his Lordship in his letter of 23rd January, 1891, No. 220, remonstrated with the "Government for offering the post of Deputy Registrar to Mr. Steavenson as an "encroachment upon his rights and powers, the Government did not disclaim an inten-"tion to make such an offer, but in the order of 10th April, 1891, No. 682 (replying to this "letter) took no notice of the remonstrance except to assert an 'incontestable right' to "regulate the strength of the ministerial establishment of the High Court.

"12. It was not until six weeks after this Court had felt it necessary to address "the Secretary of State on the subject that the Local Government (G.O., 2nd June, 1891, "No. 1044) disclaimed any intention of offering the post to Mr. Steavenson, and even "in that letter the Government did not disclaim the power to appoint.

13. The Chief Justice has throughout understood that it was the intention of "Government to provide for Mr. Steavenson elsewhere, and having regard to his age and "length of service, it does not appear to the Chief Justice that it would be a desirable "arrangement or fair to Mr. Steavenson himself to relegate him to a subordinate "position in the High Court. The decision, therefore, whether Mr. Steavenson should "be appointed to another office or be compelled to retire rests entirely with the Local "Government, and not with the Chief Justice or with Mr. Steavenson himself."

APPENDIX G.

"JUDICIAL DEPARTMENT.

"PROCEEDINGS OF THE MADRAS GOVERNMENT.

"READ the following paper :—

"From the Government of India, Home Department (Judicial), No. 1395, dated "2nd November, 1896.

* * * * * * * * * * *

"Order :—No. 1793A, dated 12th November, 1896.

* * * * * * * * * * *

"Mr. Steavenson will be informed that the Right Honourable the Secretary of "State for India has been pleased to direct that he (Mr. Steavenson) should be "considered as being on furlough from the 11th May, 1896, to the date (20th July, 1897)

"when he attains the age of 55 years, and that he should retire from the 21st July, 1897, "his leave allowances and pension being regulated accordingly.

"(True Extract.)
"(Sd.) W. FRANCIS,
"For Chief Secretary.

"To J. STEAVENSON, ESQ., The Pension Department.
"Honourable the Chief Justice of the High Court (with C. L.)."

APPENDIX H.

"CHIEF SECRETARIAT—MADRAS. JUDICIAL DEPARTMENT.

"PROCEEDINGS OF THE MADRAS GOVERNMENT.

"READ the following paper :—

"From Mr. J. Steavenson, late Registrar of the High Court (Original Side), dated "18th November, 1896.

"Order No. 2017 : Dated 21st December, 1896.

"Mr. Steavenson has probably by this time received a copy of G.O. No. 1793 A, "Judicial, dated 12th November, 1896, from which he will see that the Secretary of State "has been pleased to direct that he should be considered as being on furlough from the "11th May, 1896, to the 20th July, 1897. The question of the minimum three months' "notice required by Article 478 of the Civil Service Regulations does not therefore now "arise, and Mr. Steavenson should apply to the India Office regarding his leave "allowances.

"1. As regards his pension, Mr. Steavenson will be requested to submit before the "21st July, 1897, to the High Court a formal application in accordance with the pro-"visions of Article 993 of the Civil Service Regulations.

"2. Mr. Steavenson will also be furnished with a copy of paragraphs 1, 2 and 3 of "the Government of India's despatch to the Secretary of State No. 278, dated 2nd "October, 1895, of the Secretary of State's despatch in reply, No. 48, Judicial, dated 21st "November, 1895, and of the Order of this Government thereon, No. 164, Judicial, dated "27th January, 1896, as he has not apparently received the copies of these papers which "the Honourable the Judges of the High Court were requested to be good enough to "send him.

"993 (a) A gazetted officer should submit his application through his official "superiors and the Audit Officer (see Article 994) to the Local "Government.

"(b) The application of a gazetted officer of the classes mentioned in Articles "330 (c) 724 and 748, whether appointed by the Secretary of State or not, "should be prepared in Form 15 A. In the case of other gazetted "officers the application should be prepared in Form (15) prescribed in "Article 990, either by the officer himself or by the head of the Depart-"ment in which he is serving, and the rules under that Article apply, "save that it is not necessary, if all the service has been gazetted, to "have the service formally verified before forwarding the application.

"(True Extract.)
"(Sd.) W. FRANCIS,
"For Chief Secretary.

"To J. STEAVENSON, ESQ.
"C/o Messrs. Henry S. King & Co.
"45 Pall Mall, London. (With papers.)"

APPENDIX J.

"CASE; AND OPINION OF MR. EVANS.

"In the month of February, 1878, Mr. Joseph Steavenson, B.A., one of the solicitors "of the High Court of Judicature at Madras, was appointed by the then Chief Justice of "the Court to officiate as Registrar of the High Court on the Original Side during the "absence of Mr. John Shaw on leave or until further orders.

"The following extract from the Fort Saint George Gazette of the 26th February,
"1878, Part I. page 120, is the notification by Government.

"'His Grace the Governor-in-Council is pleased to approve and confirm the
"'appointment made by the Honorable the Chief Justice of the High Court of
"'Judicature of Mr. Joseph Steavenson, B.A., to officiate as Registrar of the
"'High Court on the Original Side during the absence of Mr. John Shaw on
"'leave or until further orders.'

"On the 2nd March, 1880, Mr. Joseph Steavenson was appointed by the then Chief
"Justice Registrar of the High Court on the Original Side in the place of Mr. John
"Shaw resigned.

"The following extract from the Fort Saint George Gazette of the 2nd March,
"1880, Part I. page 98, is the notification by Government.

"'His Grace the Governor-in-Council is pleased to approve and confirm the appoint-
"'ment made by the Honorable the Chief Justice of the High Court of
"'Judicature, Madras, of Mr. Joseph Steavenson, B.A., to be Registrar of the
"'High Court on the Original Side, vice Mr. John Shaw resigned.'

"On the 15th October, 1889, a Despatch of this date, No. 324, was sent from the
"Government of India, Department of Finance and Commerce, Salaries and Establish-
"ments, to the Secretary of State for India (copy herewith left), proposing a scheme
"for the enlargement of the Jurisdiction of the Presidency Small Cause Court at
"Madras, and also, *inter alia*, the abolition of Registrar on the Original Side of the
"Court.

"This Despatch was replied to by the Secretary of State on the 9th January, 1890,
"No. 4, Judicial (copy herewith left), and the proposed alteration in certain offices was
"sanctioned.

"A bill was drafted for enlarging the jurisdiction of the Presidency Small Cause
"Court in accordance with the suggestions contained in the Despatch above referred to
"of the 15th October, 1889, No. 324, and sent to the Judges of the High Court with a
"request that they would favour the Government with their opinion on the provisions
"of the bill. This they did in a letter written by the officiating Registrar of the High
"Court Appellate Side to the Chief Secretary to Government, dated 3rd September,
"1890, No. 2115 (copy herewith left). Upon this letter the Madras Government pass
"an order dated 11th November, 1890, No. 1770, Judicial (a copy of which is herewith
"left), and announce (*inter alia*) the abolition, from the 1st April, 1891, of the office of
"Registrar of the High Court on the Original Side, and the substitution in place of such
"office of an office of Deputy Registrar.

"The state of the Establishment at the time of passing this order and its existing
"state is as follows: 1. Registrar and a Deputy Registrar on the Appellate Side of the
"High Court and one Registrar and two Assistant Registrars on the Original Side of
"the Court, all which offices having been duly constituted by the then Chief Justice
"with the approval of the Government under the Letters Patent.

"The present Chief Justice of Madras has not given his consent to the abolition of
"the office of the Registrar of the High Court on the Original Side and is strongly
"opposed to it.

"The Letters Patent establishing a Supreme Court of Judicature at Fort Saint
"George, dated the 26th December, 1800, vests the appointment of Clerks, Registrars,
"and other Ministerial Officers in the Supreme Court alone, as appears from the follow-
"ing section.

"'And we do further authorise and empower the said Supreme Court of Judicature
"'at Madras from time to time, as occasion shall require, to appoint so many
"'and such clerks, registers, proctors, and other Ministerial Officers as shall
"'be found necessary for the administration of justice and the due execution
"'of all the powers and authorities which are and shall be granted and com-
"'mitted to the said Court by these our Letters Patent.'

"We cannot find that any provision is made in these Letters Patent for the re-
"moval of the officers so to be appointed by the Supreme Court, though with regard to
"the Accountant General of the Supreme Court, who was appointed by the Court of
"Directors, express power is reserved to the Directors to appoint and at their pleasure
"to remove and another to appoint.

"By the Letters Patent constituting the High Court of Judicature for the Presi-
"dency of Madras, dated 26th June, 1862, the power of appointing so many and such
"clerks and other Ministerial Officers as should be found necessary for the administra-
"tion of justice and the due execution of all the powers and authorities granted and
"committed to the said High Court by the said Letters Patent, is by Section 6 vested
"in the Chief Justice of the High Court, subject to any rules and restrictions which may

Joseph Steavenson

HIGH COURT
RECEIVED
27 JUN. 93
MADRAS.

22 AUG 1898

To the Right Hon. the Secretary of State for India in Council.

THE MEMORIAL and PETITION of JOSEPH STEAVENSON, B.A., Trin. Coll. Cantab., late Registrar &c. of the High Court of Madras (Original Side):—

HUMBLY SHEWETH:

1. That your Lordship's Memorialist, having a large practice as a Solicitor, Attorney and Pleader in Madras, was at the age of 35 selected by Sir Walter Morgan, the Chief Justice in 1878, to fill the post of Registrar, Taxing Master, Receiver and Commissioner of the High Court in Madras, and Chief Clerk and Commissioner of the Court for Relief of Insolvent Debtors, and after serving in those capacities for eighteen years' continuous service with an exemplary record, has been compulsorily retired at 55 years of age (on abolition of the office of Chief Registrar, Original Side), upon a pension of Rs.226.10.8 a month, his consolidated pay during the period named having been Rs.1,500 a month.

2. The present Memorial is in effect an appeal to your Lordship under a right acknowledged to exist in the case of all officers of the Sudder or Subordinate Courts aggrieved by the order of the judicial authorities, as is declared in Par. 10 of the Letter of the Secretary of State to the Governor-General in Council (Judicial, No. 24), dated 14th May, 1862, explanatory of the Letters Patent of 1862, wherein it is stated that "the Supreme Court exercises an authority entirely independent of the Government "in regard to its ministerial officers," but declares as follows:—

"The Government, however, has always considered itself at liberty to receive repre-
"sentations from any of the officers of the Sudder or Subordinate Courts who felt
"themselves aggrieved by the orders of the judicial authorities, and to express its
"opinion on the propriety or otherwise of the proceedings of the Courts in such cases.
"It will be expedient for you to take the question into your consideration, and, after
"communication with the Courts, to adopt some rule in regard to it, which, of course,
"must be uniformly applicable to all the officers of the Court."

3. It does not appear that any rule in accordance with the suggestion in the latter part of the above paragraph was ever settled or adopted between the Court and the Government, but your Memorialist ventures to submit to your Lordship's consideration that he is entitled, under the above declaration of the Secretary of State, to appeal to your Lordship on equitable grounds for relief from a decision which has been taken in his special case by the High Court in conjunction with the Government of Madras, whereby he has been aggrieved, and, as he hereby submits, treated with serious injustice.

4. Your Memorialist understands that the pension of Rs.226.10.8 assigned to him has been calculated by the Madras Accountant-General on the basis of the Civil Service Regulations affecting the Uncovenanted Service without taking into consideration the following points:—

(*a*) The exceptional character of your Memorialist's appointment as an officer of the High Court.

(*b*) The fact that, owing to the importance and responsibility of the duties of that office, he was drafted into the Service as a legal expert in full practice (the goodwill of which he was obliged to abandon), at a mature age (35), and that he therefore could not, were the 55-year rule applicable to his case, serve for full pension.

Joseph Steavenson

(*c*) That, although before his definite appointment he discharged for half the salary all the duties of the offices named for two years, in the absence through illness of the then Registrar (Mr. Shaw), Mr. Shaw meantime only drawing a portion of his pay, your Memorialist is not allowed, despite the special circumstances above mentioned, to count any part of that service towards pension.

(*d*) That, although he had, by 18 years' continuous service, earned under the Regulations a right to one year's furlough to count toward pension, his pension has been calculated without regard to that fact.

(*e*) That, although he had been officially informed, on application to the Pension Department, Accountant-General's Office, Fort George, by letter dated 24th October, 1894, that under the Civil Service Regulations he was "then entitled to a pension of Rs.233⅓ a month," and that "on the 24th of July, 1896, he would be entitled to a pension of Rs.250 a month," the same Department has calculated his pension on retirement as from July 20, 1897, at Rs.226.10.8 a month.

Appendix A and B, Letter J. Steavenson to F.W. Rawlins, Esq., Accountant-General, Madras, dated October 17, 1894: Reply Pension Department, Fort St. George, Accountant-General's Office, No. I.A.E. 317, dated Oct. 24, 1894.

5. Thus, your Memorialist humbly submits, even if it be held by your Lordship that, notwithstanding the exceptional nature and conditions of the appointment held by your Memorialist (as hereinafter set forth), the Civil Service Regulations strictly applied to his case, it would appear that a substantial error had been made in the calculation of his pension; while, as he respectfully urges, no regard has been paid to the fact that his case comes fairly within the equitable principle laid down in the Regulations with respect to appointments of mature experts in certain Departments, under which allowance is made in estimating their claims to pension for the knowledge and experience which they bring to the Public Service.*

* See Civil Service Regulations, Arts. 441 and 708

6. The case of your Memorialist is, he respectfully submits, unique, and one which does not properly fall within the ordinary Regulations of the Uncovenanted Service. His appointment was a statutory one, derived, not from the Governments of India or Madras, but from the Chief Justice of the High Court. It was one of which few similar ones exist in India, the nomination to which vests in the Chief Justices by Charter, subject to the assent of the Government, but which is not controlled by any Civil Service Regulations, and is made by virtue of the independent prerogative of the High Court. One feature of the office was that its holder exercised by delegation from the Court judicial functions in chambers. The appointment was unconditional, no rules as to the length of tenure having ever been made regarding it, and, as will be found by reference to the history of the three High Courts of Bengal, Bombay, and Madras, the customary practice with regard to such appointments is that they are held so long as the officers capably and honestly fulfil their duties ("quamdiu se bene gesserint"). In no previous instance has an officer of the High Court in your Memorialist's position been retired under the 55-year rule, the custom of the Courts being to retain such officers, on account of their knowledge and experience, so long as their physical and mental capacity and personal integrity remain unimpaired. It appears from the India List, that Mr. Robert Belchambers who entered the service of the Bengal High Court on September 15, 1848, was made Deputy-Registrar in February 1851, and Registrar in October 1862, showing in 1896 a service of over 50 years. From the same list it appears that Mr. John W. Orr and Mr. G. H. Farran, who hold similar positions under the High Court of Bombay, have served respectively 38 and 32 years, and two at least of these officers must be over 55 years of age.

See despatch of Secretary of State (Judicial), No. 1389, dated Aug. 1, 1892, Appendix C.

7. Moreover, as will hereafter appear, the Government of Madras has in official Orders admitted that your Memorialist's office came within the principle of Art. 468 of the Civil Service Regulations, by holding in 1892 that, if his office of Registrar were abolished and he were transferred to another appointment of inferior pay, he must be granted a personal allowance. Your Memorialist submits that if one part of that Article has been admitted to apply to him he is fairly entitled to the benefit of the whole; that, in the circumstances above detailed, to turn him out of his office at 55 years and apply to him thereupon regulations which were designed for another class of officers employed under totally different conditions of service, is a grievous injustice.

See Appendix D, Letter from H. W. Foster, Official Registrar of the High Court, to Madras Government, Sept. 3, 1890, No. 2115, par. 41; also Order of Madras Government (Judicial), No. 1,770, dated Nov., 1890; see Appendix E, Letter from

8. Your Memorialist therefore humbly submits to your Lordship's consideration that, having been tenant for eighteen years of the office of Registrar of the High Court of Madras (Original Side), which it was designed upon the reorganisation of the Court to abolish for the convenience and under the exigencies of the Government, his case comes within the letter and spirit of the Civil Service Regulations, chap. xviii., Art. 468:—

Joseph Steavenson

"A Compensation Pension is awarded to an officer discharged from the public service "because, on a reduction of establishment, his appointment is abolished and other suitable employment cannot be found for him. An appointment the pay of which is reduced "as part of a general scheme of revision is abolished within the meaning of this Article. "But in such case it may sometimes be cheaper to grant a personal allowance than a "pension."

Registrar High Court, Nov. 14, 1891, 2,762, pars. 11, 12, and 13, Appendix F.

9. The circumstances under which your Memorialist has been compulsorily retired from the offices he had held under the High Court of Madras by Order 1,793 A, dated November 12, 1896, are set forth in the papers annexed to this Memorial as Appendices G to J, which show the facts hereinafter detailed.

10. In February 1878 your Memorialist, then an attorney of the High Court of Judicature in Madras, was appointed by the Chief Justice, under the existing Charter, with the approval of the Government, to officiate as Registrar of the High Court on the Original Side during the absence of Mr. John Shaw on leave until further orders. On February 28, 1880, your Memorialist was confirmed in the office, and appointed to be Registrar in the place of Mr. John Shaw, resigned, by the new Chief Justice, Sir Charles Turner.* During the two years of his acting appointment your Memorialist discharged all the duties of the office, receiving only half the pay, a portion only of the other half being paid to Mr. Shaw, who was incapacitated by age and ill-health. Your Memorialist had given up a lucrative practice at the age of 35–6, and accepted the acting appointment in the belief that he would be given the permanent appointment on the retirement of Mr. Shaw.

* Fort St. George Gazette, Feb. 26, 1898, part 1, p. 120.

11. The appointment of your Memorialist was unconditional, as was recognised in a despatch of the Hon. Secretary of State, dated June 2, 1892, No. 23 (Judicial):— Appendix C.

"4. As regards the office of Clerk of the Crown, it appears that Sir Arthur Collins "still declines to assent to its being abolished. And Mr. Kernan having been (prior to "Sir Arthur Collins becoming Chief Justice) appointed unconditionally in 1885, I agree "with you in thinking that the suggestion made in Par. 10 of the Letter of the High "Court of the 14th Nov. last must be accepted, and that the question of the abolition of "that office should remain in abeyance until Mr. Kernan vacates it.

"5. A similar course ought, it seems to me, to be adopted with reference to the "post of Registrar on the Original Side.* It is true that the Chief Justice has given his "general assent to the abolition of that office, but the abolition is intimately connected "with and dependent on certain other arrangements, some of which, at any rate, require "the assent of the Chief Justice. And since it now appears that, as to those consequent "arrangements Sir Arthur Collins and the Governor in Council are not yet in accord, it "is better that the whole scheme should remain in abeyance for the present, and be "reconsidered as soon as a vacancy occurs. . . .

* Held by Mr. Steavenson.

"6. Care must, of course, be taken that any appointment made hereafter either to "the office of Registrar on the Original Side or to that of Clerk of the Crown is made "subject to the condition of the office, and the duties and salaries attached to it being "at any time altered and abolished.

"8. . . . The initiatory duty of submitting proposals regarding the appointment of "ministerial officers of the Court undoubtedly rests with the Chief Justice; nevertheless, "since the changes now under discussion were, in the first instance, substantially supported "by the High Court, and as there is little doubt that their introduction will be to the "public advantage, I regret that they should have to be postponed by reason of the difficulty connected with the position of the present incumbents of the two offices of "Registrar (Original Side) and Clerk of the Crown."

12. Your Memorialist humbly submits to your Lordship that the above extracts from the despatch of the Secretary of State not only show that, in his opinion, the offices of Registrar and Clerk of the Crown, then* held respectively by your Memorialist and Mr. Kernan, could not be abolished without the concurrence of the Chief Justice, but also clearly imply (see Par. 6) that the interest which Mr. Kernan and your Memorialist had by their unconditional appointment acquired in those offices was of a nature which it was inexpedient then to interfere with, since it would involve an equitable liability for providing by extra allowance or other compensation for the abolition of those offices. The adoption of an important scheme of reorganisation was thus postponed by the Secretary of State both in the case of Mr. Kernan and of Mr. Steavenson (your Memorialist) until they "vacated" their offices; and that the Secretary of State regarded their position as having attached to it at least an equitable claim on the consideration of the Government is proved by the suggestion in Par. 6 of the above despatch, that in future care must be taken to attach to an appointment conditions for its alteration or abolition.

* 1892

13. At the time when the scheme of reorganisation referred to in the Secretary of

Joseph Steavenson

State's despatch of June 2, 1892, was under consideration, your Memorialist, being concerned about the manner in which the proposed changes would affect his own position, caused a case to be prepared and submitted for the opinion of Mr. G. H. P. Evans (now Sir G. H. P. Evans, a Member of the Viceregal Legislative Council), a copy of which case, with the opinion of Mr. Evans (dated March 24, 1891), is subjoined to this Memorial.

Appendix J.

14. At that time the Government had made an Order altering the organisation of the High Court (*inter alia*, abolishing the office held by your Memorialist) without the consent of the Chief Justice, and, as appears in the opinion of Sir G. H. P. Evans, counsel held that the Order was *ultra vires*, and that "a suit would lie" at the instance of your Memorialist "against the Secretary of State for a declaration that "the Registrar is entitled to perform the duties of the office and to receive the "appointed salary, and for arrears of the salary when this falls due after the Order purporting to abolish the office."

15. On a subsequent reference to the Secretary of State of the question whether the Governor-General in Council and the Madras Government had the power to issue orders for the reorganisation of the High Court offices without the concurrence of the Chief Justice (the Chief Justice, in fact, having declined to obey the Order of the Government), the Secretary of State (Lord Cross) wrote the before-mentioned despatch of 2 June 1892, No. 23 (Judicial), from which the extracts in Par. 11 of this Memorial are taken, and in which he ordered that the scheme of reorganisation of the ministerial offices of the High Court of Madras should be left in abeyance until Mr. Kernan and your Memorialist vacated their offices.

Appendix C.

16. Mr. Kernan still holds his office, and your Memorialist continued to exercise the duties and functions set forth in Par. 1 of this Memorial up to the 18th of April, 1896. On the 11th of Jan. 1896, having learned that, under G. O., 31st Dec. 1890, No. 1,006, one year's furlough would count towards persion, he applied for furlough as follows:—

"OFFICIAL MEMORANDUM.

"11 JANUARY 1896.

"The Registrar of the High Court, Original Side, and the Chief Clerk of the Court "for the Relief of Insolvent Debtors has the honour to apply to the Honourable the "Chief Justice for furlough to Europe for fifteen months from 1st April next, or such "day thereafter as he may be able to obtain a passage and avail himself of it.

"The Accountant-General has informed the Registrar that he is at present entitled "to two years' furlough without medical certificate."

17. Ten days after, your Memorialist got the following endorsement on his application:—

"The Chief Justice grants the Registrar, O. S., the furlough he asks for—viz. fifteen "months from the 1st day of April 1896, subject, however, to any orders that may be "passed relating to the duties of his appointment.—A. C. 21, 1, 96."

18. But before your Memorialist had completed his arrangements for leaving—namely, on the 12th Feb. 1896—your Memorialist received the following:—

"PROCEEDINGS OF THE HIGH COURT OF JUDICATURE, MADRAS.

"The Chief Justice of Madras, with the concurrence of H.E. the Rt. Hon. the "Governor of Madras in Council, and with the approval of the Rt. Hon. the Secretary "of State for India, abolishes the office of the Registrar, Original Side, of the High "Court, Madras, from and after the 11th day of May, 1896. Mr. Joseph Steavenson, "Registrar, Original Side, will therefore vacate his appointment on that day.

"The furlough granted to Mr. Joseph Steavenson on the 21st January, 1896, having "been conditional, and subject to any order that might be passed relating to the "abolition of his appointment, is hereby cancelled, 12th Feb. 1896.

(Signed) ARTHUR COLLINS,
Chief Justice.

"To J. STEAVENSON, Esq.,
"Registrar of the High Court of Justice, *Original Side.*"

19. Your Memorialist ventures humbly to submit that the above Order worked him a double injustice. The first was that it deprived him of the benefit of the protection which had been admitted as due and accorded to him both by the High Court and the

Joseph Steavenson

HIGH COURT
RECEIVED
27 JAN 13
MADRAS.

To the Right Hon. the Secretary of State for India in Council.

THE MEMORIAL and PETITION of JOSEPH STEAVENSON, B.A., Trin. Coll. Cantab., late Registrar &c. of the High Court of Madras (Original Side):—

HUMBLY SHEWETH:

1. That your Lordship's Memorialist, having a large practice as a Solicitor, Attorney and Pleader in Madras, was at the age of 35 selected by Sir Walter Morgan, the Chief Justice in 1878, to fill the post of Registrar, Taxing Master, Receiver and Commissioner of the High Court in Madras, and Chief Clerk and Commissioner of the Court for Relief of Insolvent Debtors, and after serving in those capacities for eighteen years' continuous service with an exemplary record, has been compulsorily retired at 55 years of age (on abolition of the office of Chief Registrar, Original Side), upon a pension of Rs.226.10.8 a month, his consolidated pay during the period named having been Rs.1,500 a month.

2. The present Memorial is in effect an appeal to your Lordship under a right acknowledged to exist in the case of all officers of the Sudder or Subordinate Courts aggrieved by the order of the judicial authorities, as is declared in Par. 10 of the Letter of the Secretary of State to the Governor-General in Council (Judicial, No. 24), dated 14th May, 1862, explanatory of the Letters Patent of 1862, wherein it is stated that "the Supreme Court exercises an authority entirely independent of the Government "in regard to its ministerial officers," but declares as follows:—

"The Government, however, has always considered itself at liberty to receive repre-"sentations from any of the officers of the Sudder or Subordinate Courts who felt "themselves aggrieved by the orders of the judicial authorities, and to express its "opinion on the propriety or otherwise of the proceedings of the Courts in such cases. "It will be expedient for you to take the question into your consideration, and, after "communication with the Courts, to adopt some rule in regard to it, which, of course, "must be uniformly applicable to all the officers of the Court."

3. It does not appear that any rule in accordance with the suggestion in the latter part of the above paragraph was ever settled or adopted between the Court and the Government, but your Memorialist ventures to submit to your Lordship's consideration that he is entitled, under the above declaration of the Secretary of State, to appeal to your Lordship on equitable grounds for relief from a decision which has been taken in his special case by the High Court in conjunction with the Government of Madras, whereby he has been aggrieved, and, as he hereby submits, treated with serious injustice.

4. Your Memorialist understands that the pension of Rs.226.10.8 assigned to him has been calculated by the Madras Accountant-General on the basis of the Civil Service Regulations affecting the Uncovenanted Service without taking into consideration the following points:—

(*a*) The exceptional character of your Memorialist's appointment as an officer of the High Court.

(*b*) The fact that, owing to the importance and responsibility of the duties of that office, he was drafted into the Service as a legal expert in full practice (the goodwill of which he was obliged to abandon), at a mature age (35), and that he therefore could not, were the 55-year rule applicable to his case, serve for full pension.

A

Joseph Steavenson

(*c*) That, although before his definite appointment he discharged for half the salary all the duties of the offices named for two years, in the absence through illness of the then Registrar (Mr. Shaw), Mr. Shaw meantime only drawing a portion of his pay, your Memorialist is not allowed, despite the special circumstances above mentioned, to count any part of that service towards pension.

(*d*) That, although he had, by 18 years' continuous service, earned under the Regulations a right to one year's furlough to count toward pension, his pension has been calculated without regard to that fact.

(*e*) That, although he had been officially informed, on application to the Pension Department, Accountant-General's Office, Fort George, by letter dated 24th October, 1894, that under the Civil Service Regulations he was "then entitled to a pension of Rs.233⅓ a month," and that "on the 24th of July, 1895, he would be entitled to a pension of Rs.250 a month," the same Department has calculated his pension on retirement as from July 20, 1897, at Rs.226.10 8 a month.

Appendix A and B, Letter J. Steavenson to F.W. Rawlins, Esq., Accountant-General, Madras, dated October 17, 1894: Reply Pension Department, Fort St. George, Accountant-General's Office, No. I.A.E. 317, dated Oct. 24, 1894.

5. Thus, your Memorialist humbly submits, even if it be held by your Lordship that, notwithstanding the exceptional nature and conditions of the appointment held by your Memorialist (as hereinafter set forth), the Civil Service Regulations strictly applied to his case, it would appear that a substantial error had been made in the calculation of his pension; while, as he respectfully urges, no regard has been paid to the fact that his case comes fairly within the equitable principle laid down in the Regulations with respect to appointments of mature experts in certain Departments, under which allowance is made in estimating their claims to pension for the knowledge and experience which they bring to the Public Service.*

* See Civil Service Regulations, Arts. 441 and 708

6. The case of your Memorialist is, he respectfully submits, unique, and one which does not properly fall within the ordinary Regulations of the Uncovenanted Service. His appointment was a statutory one, derived, not from the Governments of India or Madras, but from the Chief Justice of the High Court. It was one of which few similar ones exist in India, the nomination to which vests in the Chief Justices by Charter, subject to the assent of the Government, but which is not controlled by any Civil Service Regulations, and is made by virtue of the independent prerogative of the High Court. One feature of the office was that its holder exercised by delegation from the Court judicial functions in chambers. The appointment was unconditional, no rules as to the length of tenure having ever been made regarding it, and, as will be found by reference to the history of the three High Courts of Bengal, Bombay, and Madras, the customary practice with regard to such appointments is that they are held so long as the officers capably and honestly fulfil their duties ("quamdiu se bene gesserint"). In no previous instance has an officer of the High Court in your Memorialist's position been retired under the 55-year rule, the custom of the Courts being to retain such officers, on account of their knowledge and experience, so long as their physical and mental capacity and personal integrity remain unimpaired. It appears from the India List, that Mr. Robert Belchambers who entered the service of the Bengal High Court on September 15, 1848, was made Deputy-Registrar in February 1851, and Registrar in October 1862, showing in 1896 a service of over 50 years. From the same list it appears that Mr. John W. Orr and Mr. G. H. Farran, who hold similar positions under the High Court of Bombay, have served respectively 38 and 32 years, and two at least of these officers must be over 55 years of age.

See despatch of Secretary of State (Judicial), No. 1389, dated Aug. 1, 1892, Appendix C.

See Appendix D, Letter from H. W. Foster, Official Registrar of the High Court, to Madras Government, Sept. 3, 1890, No. 2115, par. 41; also Order of Madras Government (Judicial), No. 1,770, dated Nov., 1890; see Appendix E, Letter from

7. Moreover, as will hereafter appear, the Government of Madras has in official Orders admitted that your Memorialist's office came within the principle of Art. 468 of the Civil Service Regulations, by holding in 1892 that, if his office of Registrar were abolished and he were transferred to another appointment of inferior pay, he must be granted a personal allowance. Your Memorialist submits that if one part of that Article has been admitted to apply to him he is fairly entitled to the benefit of the whole; that, in the circumstances above detailed, to turn him out of his office at 55 years and apply to him thereupon regulations which were designed for another class of officers employed under totally different conditions of service, is a grievous injustice.

8. Your Memorialist therefore humbly submits to your Lordship's consideration that, having been tenant for eighteen years of the office of Registrar of the High Court of Madras (Original Side), which it was designed upon the reorganisation of the Court to abolish for the convenience and under the exigencies of the Government, his case comes within the letter and spirit of the Civil Service Regulations, chap. xviii., Art. 468:—

Joseph Steavenson

"A Compensation Pension is awarded to an officer discharged from the public service "because, on a reduction of establishment, his appointment is abolished and other suit- "able employment cannot be found for him. An appointment the pay of which is reduced "as part of a general scheme of revision is abolished within the meaning of this Article. "But in such case it may sometimes be cheaper to grant a personal allowance than a "pension."

Registrar High Court, Nov. 14, 1891, 2,762, pars. 11, 12, and 13, Appendix F.

9. The circumstances under which your Memorialist has been compulsorily retired from the offices he had held under the High Court of Madras by Order 1,793 A, dated November 12, 1896, are set forth in the papers annexed to this Memorial as Appendices G to J, which show the facts hereinafter detailed.

10. In February 1878 your Memorialist, then an attorney of the High Court of Judicature in Madras, was appointed by the Chief Justice, under the existing Charter, with the approval of the Government, to officiate as Registrar of the High Court on the Original Side during the absence of Mr. John Shaw on leave until further orders. On February 28, 1880, your Memorialist was confirmed in the office, and appointed to be Registrar in the place of Mr. John Shaw, resigned, by the new Chief Justice, Sir Charles Turner.* During the two years of his acting appointment your Memorialist discharged all the duties of the office, receiving only half the pay, a portion only of the other half being paid to Mr. Shaw, who was incapacitated by age and ill-health. Your Memorialist had given up a lucrative practice at the age of 35–6, and accepted the acting appointment in the belief that he would be given the permanent appointment on the retirement of Mr. Shaw.

* Fort St. George Gazette, Feb. 26, 1898, part 1, p. 120.

11. The appointment of your Memorialist was unconditional, as was recognised in a despatch of the Hon. Secretary of State, dated June 2, 1892, No. 23 (Judicial):— Appendix C.

"4. As regards the office of Clerk of the Crown, it appears that Sir Arthur Collins "still declines to assent to its being abolished. And Mr. Kernan having been (prior to "Sir Arthur Collins becoming Chief Justice) appointed unconditionally in 1885, I agree "with you in thinking that the suggestion made in Par. 10 of the Letter of the High "Court of the 14th Nov. last must be accepted, and that the question of the abolition of "that office should remain in abeyance until Mr. Kernan vacates it.

"5. A similar course ought, it seems to me, to be adopted with reference to the "post of Registrar on the Original Side.* It is true that the Chief Justice has given his "general assent to the abolition of that office, but the abolition is intimately connected "with and dependent on certain other arrangements, some of which, at any rate, require "the assent of the Chief Justice. And since it now appears that, as to those consequent "arrangements Sir Arthur Collins and the Governor in Council are not yet in accord, it "is better that the whole scheme should remain in abeyance for the present, and be "reconsidered as soon as a vacancy occurs. . . .

* Held by Mr. Steavenson.

"6. Care must, of course, be taken that any appointment made hereafter either to "the office of Registrar on the Original Side or to that of Clerk of the Crown is made "subject to the condition of the office, and the duties and salaries attached to it being "at any time altered and abolished.

"8. . . . The initiatory duty of submitting proposals regarding the appointment of "ministerial officers of the Court undoubtedly rests with the Chief Justice: nevertheless, "since the changes now under discussion were, in the first instance, substantially supported "by the High Court, and as there is little doubt that their introduction will be to the "public advantage, I regret that they should have to be postponed by reason of the diffi- "culty connected with the position of the present incumbents of the two offices of "Registrar (Original Side) and Clerk of the Crown."

12. Your Memorialist humbly submits to your Lordship that the above extracts from the despatch of the Secretary of State not only show that, in his opinion, the offices of Registrar and Clerk of the Crown, then* held respectively by your Memorialist and Mr. Kernan, could not be abolished without the concurrence of the Chief Justice, but also clearly imply (see Par. 6) that the interest which Mr. Kernan and your Memorialist had by their unconditional appointment acquired in those offices was of a nature which it was inexpedient then to interfere with, since it would involve an equitable liability for providing by extra allowance or other compensation for the abolition of those offices. The adoption of an important scheme of reorganisation was thus postponed by the Secretary of State both in the case of Mr. Kernan and of Mr. Steavenson (your Memorialist) until they "vacated" their offices; and that the Secretary of State regarded their position as having attached to it at least an equitable claim on the consideration of the Government is proved by the suggestion in Par. 6 of the above despatch, that in future care must be taken to attach to an appointment conditions for its alteration or abolition.

* 1892

13. At the time when the scheme of reorganisation referred to in the Secretary of

Joseph Steavenson

State's despatch of June 2, 1892, was under consideration, your Memorialist, being concerned about the manner in which the proposed changes would affect his own position, caused a case to be prepared and submitted for the opinion of Mr. G. H. P. Evans (now Sir G. H. P. Evans, a Member of the Viceregal Legislative Council), a copy of which case, with the opinion of Mr. Evans (dated March 24, 1891), is subjoined to this Memorial. Appendix J.

14. At that time the Government had made an Order altering the organisation of the High Court (*inter alia*, abolishing the office held by your Memorialist) without the consent of the Chief Justice, and, as appears in the opinion of Sir G. H. P. Evans, counsel held that the Order was *ultra vires*, and that "a suit would lie" at the instance of your Memorialist "against the Secretary of State for a declaration that "the Registrar is entitled to perform the duties of the office and to receive the "appointed salary, and for arrears of the salary when this falls due after the Order purporting to abolish the office."

15. On a subsequent reference to the Secretary of State of the question whether the Governor-General in Council and the Madras Government had the power to issue orders for the reorganisation of the High Court offices without the concurrence of the Chief Justice (the Chief Justice, in fact, having declined to obey the Order of the Government), the Secretary of State (Lord Cross) wrote the before-mentioned despatch of 2 June 1892, No. 23 (Judicial), from which the extracts in Par. 11 of this Memorial are taken, and in which he ordered that the scheme of reorganisation of the ministerial offices of the High Court of Madras should be left in abeyance until Mr. Kernan and your Memorialist vacated their offices. Appendix C.

16. Mr. Kernan still holds his office, and your Memorialist continued to exercise the duties and functions set forth in Par. 1 of this Memorial up to the 18th of April, 1896. On the 11th of Jan. 1896, having learned that, under G. O., 31st Dec. 1890, No. 1,006, one year's furlough would count towards persion, he applied for furlough as follows :—

"OFFICIAL MEMORANDUM.

"11 JANUARY 1896.

"The Registrar of the High Court, Original Side, and the Chief Clerk of the Court "for the Relief of Insolvent Debtors has the honour to apply to the Honourable the "Chief Justice for furlough to Europe for fifteen months from 1st April next, or such "day thereafter as he may be able to obtain a passage and avail himself of it.

"The Accountant-General has informed the Registrar that he is at present entitled "to two years' furlough without medical certificate."

17. Ten days after, your Memorialist got the following endorsement on his application :—

"The Chief Justice grants the Registrar, O. S., the furlough he asks for—viz. fifteen "months from the 1st day of April 1896, subject, however, to any orders that may be "passed relating to the duties of his appointment.—A. C. 21, 1, 96."

18. But before your Memorialist had completed his arrangements for leaving—namely, on the 12th Feb. 1896—your Memorialist received the following :—

"PROCEEDINGS OF THE HIGH COURT OF JUDICATURE, MADRAS.

"The Chief Justice of Madras, with the concurrence of H.E. the Rt. Hon. the "Governor of Madras in Council, and with the approval of the Rt. Hon. the Secretary "of State for India, abolishes the office of the Registrar, Original Side, of the High "Court, Madras, from and after the 11th day of May, 1896. Mr. Joseph Steavenson, "Registrar, Original Side, will therefore vacate his appointment on that day.

"The furlough granted to Mr. Joseph Steavenson on the 21st January, 1896, having "been conditional, and subject to any order that might be passed relating to the "abolition of his appointment, is hereby cancelled, 12th Feb. 1896.

(Signed) ARTHUR COLLINS,
Chief Justice.

"To J. STEAVENSON, Esq.,
"Registrar of the High Court of Justice, *Original Side.*"

19. Your Memorialist ventures humbly to submit that the above Order worked him a double injustice. The first was that it deprived him of the benefit of the protection which had been admitted as due and accorded to him both by the High Court and the

Joseph Steavenson

Government in the course of the correspondence of 1890, relating to the reorganisation of the Court, as shown in the extracts from Letters and Orders set forth in the next paragraph.

20. In Par. 41 of the High Court Letter of September 3, 1890 (No. 2,115), the following passage occurs :— Appendix D.

"The High Court would be glad to be informed what other provision it is pro-"posed now to make for Mr. Steavenson, for it is clear that, without adequate provision "being made, his services ought not to be dispensed with."

The Madras Government replied to the above Letter by an Order (Judicial), No. 1,770, dated November 11, 1890, in Par. 3 of which it was stated :— Appendix E.

"The Government agrees with the High Court in regarding Mr. Steavenson's "claims as entitled to consideration, and will be prepared to recommend to the Secretary "of State the grant of a personal allowance of Rs.500 per mensem should Mr. Steaven-"son be willing to accept the post of Deputy-Registrar on the Original Side in the new "scheme. In this way Mr. Steavenson will suffer no pecuniary loss by the change, and "the High Court is requested to call on that gentleman to report at once whether he is "willing to accept those terms and to point out to him that the only alternative is a pro-"portionate pension."

Further, in 1891 the High Court expressed, by Letter from the Registrar, Appellate Side, to the Madras Government, dated November 14, 1891, No. 2,762, the following opinion :— Appendix F.

"The Chief Justice has throughout understood that it was the intention of the "Government to provide for Mr. Steavenson elsewhere, and, having regard to his age "and length of service, it does not appear to the Chief Justice that it would be a desirable "arrangement or fair to Mr. Steavenson himself to relegate him to a subordinate position "in the High Court. The decision, therefore, whether Mr. Steavenson should be ap-"pointed to another office or be compelled to retire rests entirely with the Local Govern-"ment and not with the Chief Justice or with Mr. Steavenson himself."

21. In spite of the above declarations the High Court and the Madras Government in 1896 dealt with your Memorialist in a manner which they had in 1890 and 1892 declared to be incompatible with his claims and position, his position having meantime been in no way altered, except that by further service your Memorialist had established a stronger claim.

22. Your Memorialist urges that the Order of the Chief Justice of February 12, 1896, abolishing your Memorialist's appointment, is in violation of the principles laid down in the Letter of the High Court and two Orders of the Madras Government above quoted, since it did not admit his "claims to be entitled to consideration," or that "without adequate provision being made his services ought not to be dispensed with." It did not provide for the appointment of your Memorialist to any other post with a grant of a personal allowance by way of compensation, and, moreover, by a strained interpretation of Art. 220 A of the Civil Service Regulations, which he submits did not apply to his case, it deprived him of the benefit of counting for pension a furlough to which he was entitled and which had already been granted.

23. From the smallness of the pension now awarded to him your Memorialist concludes that the Right Honourable the Secretary of State's despatch referred to in Proceedings of the Madras Government, No. 1,793 A, dated November 12, 1896, and No. 2,017, dated December 21, 1896, has been construed as directing that your Memorialist should be retired on a superannuation pension under Articles 502, 503, 518, and 521, instead of on a compensation pension under Article 468, Civil Service Regulations, and that the Financial Department has applied in his case every Rule that tends to reduce and none that would go to increase the amount of his pension; reducing his Service to 16 years by disallowing his first two years (on the technical ground that he was merely officiating) and ignoring his right to one year's furlough to count towards pension; reducing the 16 sixtieths of his actual emoluments, or Rs.4,800, to the maximum of Rs.3,200, prescribed by Article 518, Civil Service Regulations, and deducting 6 fortieths because your Memorialist was $35\frac{7}{12}$ years old when he entered the Service.

24. Your Memorialist respectfully submits to your Lordship, and prays :—

(1) That he should be allowed to count the two years he acted for Mr. Shaw, not having a substantive appointment, as Mr. Shaw did not count service, being too old and too much broken in health to have any prospect of earning pension, and your Memorialist was confirmed without interruption in his service (*vide* Art. 406, Civil Service Regulations, which seems clear on this point).

Joseph Steavenson

(2) That one year at least of the furlough granted to your Memorialist by the Right Hon. the Secretary of State for India by his despatch referred to above should count for service because he had then done 18 years' continuous active service without break or interruption by leave of any kind or otherwise, and he believes the Rule entitles him to count at least one year's furlough as service for pension (*vide* Madras G. O., December 31, 1890, No. 1,006 (Financial), on Secretary of State's despatch, No. 190 (Financial), dated August 20, 1890). (See also Article 445A, Civil Service Regulations.)

(3) That he should not be brought under the stoppages and deductions referred to in Article 521, Civil Service Regulations, since he was specially selected for his office as an expert and experienced man of mature age to discharge duties and exercise authority of an eminently technical nature; and your Memorialist believes that there is a great and unprecedented hardship in making him come under the operation both of this Rule and of the 55-years' Rule (Articles 502 and 503, Civil Service Regulations), both Rules framed and intended for officers under very different conditions of service from those of your Memorialist.

25. The Chief Justices of Madras who were responsible for selecting your Memorialist to fill an important public office were of opinion that the duties of the office could be satisfactorily discharged by an officer of mature professional experience only. This being so, it is submitted that your Memorialist's case falls within the principle recognised in Article 441, Civil Service Regulations, and that the deductions contemplated by Article 521, Civil Service Regulations, cannot justly be applied to his case.

26. Your Memorialist was not found inefficient on account of age or ill-health, or in any other way to render the rulings and explanations under Article 503, Civil Service Regulations, inapplicable to his case (and is now, as a matter of fact, quite efficient and thoroughly fit for further service), but was compelled prematurely to retire by the abolition of his principal office "from and after the 11th day of May, 1896," the provisions as to offer of other employment of Article 469, Civil Service Regulations, being ignored.

27. During your Memorialist's actual service under Government he had very large sums of Government and suitors' money through his hands and in his custody, superintended a considerable establishment, and had the dispensation of much patronage, but never was other than successful in his administration, giving satisfaction to and obtaining the approval of the judges, the lawyers, and the public.

28. By the last certificate of the Bank of Madras received by your Memorialist before he left Madras it was certified that there was on March 31, 1896, to the credit of the account of the Registrar of the High Court, Original Side, an account operated upon by your Memorialist alone and kept on his responsibility, a sum of Rs. 2,36,619.8.2, consisting of Rs.75,900 in Government paper and Rs.160,719.8.2 in cash.

YOUR MEMORIALIST therefore humbly prays that this his Memorial may be received, that his claims to a special compensation pension in proportion to the ordinary pension of a Judge of the High Court may be considered, and that a pension of Rs.500 a month, being one-third of the consolidated pay of his several offices, may be granted to him.

Or that, for the reasons above shown, and more especially in view of the abolition of his office (*vide* Article 468, Civil Service Regulations), and his consequent enforced and premature retirement, his case may be treated as a case of "Compulsory Premature Retirement" instead of "Superannuation," and that he may be granted a pension based on his 19 and nearly one-half years' service (*vide* Article 406, Civil Service Regulations), with a certain number of years added for age and "previous experience," as a special application to his particular case of the principle sanctioned in relation to certain public servants in Articles 441 and 708, Civil Service Regulations.

And your Lordship's humble Memorialist will ever pray, &c.

Joseph Steavenson

New University Club
St. James' Street, London. S.W.
1 June 1898.

APPENDICES.

APPENDIX A.

"High Court, Madras: October 17, 1894.

"My dear Rawlins,—Will you be so kind as to ascertain from your office and inform "me:—

"1. To what pension I am now entitled.

"2. To what pension I shall be entitled on 25 February next, when I shall have "completed seventeen years' continuous service, without a break, in my present office, "the first two years, however, acting for the then permanent incumbent.

"3. If I can now take leave on medical certificate on half pay, and, if so, for how "long, without detriment to my right to furlough; and if after such leave I *must* rejoin, "and for how long, before claiming furlough; or if furlough could run on after such "leave without my rejoining.

"4. If I can *now*, or after such leave on medical certificate, take two years', or less, "furlough.

"Thanking you in anticipation,
"I am, yours sincerely,
"sd JOSEPH STEAVENSON.

"T. W. RAWLINS, Esq., Accountant-General, Madras."

APPENDIX B.

"PENSION DEPARTMENT.

"No. $\frac{\text{I A E.}}{317}$

"Fort St. George, Accountant-General's Office, October 24, 1894.

"*From T. W. Rawlins, Esq., Accountant-General to the Government of Madras,*
"*To Joseph Steavenson, Esq., B.A., Registrar High Court (Original Side).*

"Sir.—With reference to your letter dated the 17th inst., I have the honour to "reply as follows:—

"Question 1. You are now entitled to a pension of Rs.233 $\frac{1}{3}$d a month.

"2. On the 26th February, 1895, you will be entitled to a pension of Rs.250 a "month.

"3. You will be eligible for leave on medical certificate for fifteen months on half "average salary, subject to a maximum of £150 a quarter, if paid at the Home Treasury "of the Government of India, or Rs.500 per mensem, if paid in India, and also to a "further nine months' continuance of that leave on quarter average salary, subject to "a maximum of £120 a quarter in the one case, or Rs.400 a month in the other. "There is no objection to you taking furlough after return to duty from leave on medical "certificate, but not in continuation of it.

"4. You are now eligible for furlough for one year only; furlough for two years "will be admissible after eighteen years' service.

"I have the honour to be, sir,
"Your most obedient servant,
"sd T. RAWLINS, Accountant-General.

Joseph Steavenson

APPENDIX C.

"GOVERNMENT OF MADRAS.

"JUDICIAL DEPARTMENT.

"READ—again the following papers:—

"G.O., dated	16th April,	1890, Nos.	691, 692,	Judicial.
,, ,,	11th Nov.,	,, ,,	1770, 1771,	,,
,, ,,	10th April,	1891, ,,	682,	,,
,, ,,	2nd June,	,, ,,	1044, 1045,	,,
,, ,,	26th Oct.,	,, ,,	2160,	,,
,, ,,	29th Jan.,	1892, ,,	194, 195,	,,

"READ—also the following papers:—

"Despatch from the Right Honourable Lord CROSS, Her Majesty's Secretary "of State for India, to His Excellency the Most Honourable the Governor-"General of India in Council, dated India Office, London, 2nd June, 1892, "No 23 (Judicial).

"I have considered in Council the letter of your Government, No. 9, dated "23rd March last, forwarding a representation addressed to me by the Chief Justice "and Judges of the High Court at Madras in regard to certain matters connected with "the revision of the establishment of the Court, together with a copy of the correspond-"ence which has passed between your Excellency in Council and the Madras Govern-"ment on the subject.

"2. In considering this correspondence it is necessary to bear in mind the peculiar "position in which, under the Letters Patent, the High Court stands in relation to the "Government with reference to the appointment and salaries of its ministerial officers. "By section 8 of the Letters Patent of 1866, the appointment of all the ministerial "officers of the Court is vested in the Chief Justice, subject to confirmation or disallow-"ance by the Governor in Council; and the salaries received are to be such as the Chief "Justice shall fix and as the Governor in Council, subject to the control of the Govern-"ment of India, shall approve of. Thus, while the initiative lies with the Chief Justice, "his proposals require the approval of the Government, and, in regard to the creation of "new offices, the Government cannot act independently of the Chief Justice.

"3. The sanction to which you refer in the second paragraph of your letter under "reply was given by me on the assumption that all necessary details had been arranged "between the Chief Justice and the Government of Madras; and I did not anticipate "the question which has subsequently arisen respecting the retirement of Mr. Steaven-"son and Mr. Kernan.

"4. As regards the office of Clerk of the Crown, it appears that Sir Arthur Collins "still declines to assent to its being abolished. And Mr. Kernan having been (prior to "Sir Arthur Collins becoming Chief Justice) appointed unconditionally in 1885, I agree "with you in thinking that the suggestion made in paragraph 10 of the letter of the "High Court of the 14th of November last must be accepted, and that the question of "the abolition of the office should remain in abeyance until Mr. Kernan vacates it.

"5. A similar course ought, as it seems to me, to be adopted with reference to the "post of Registrar on the Original Side. It is true that the Chief Justice has given his "general assent to the abolition of that office; but the abolition is intimately connected "with and dependent on certain other arrangements, some of which at any rate require "the assent of the Chief Justice. And since it now appears that as to those consequent "arrangements Sir Arthur Collins and the Governor in Council are not yet in accord, it "is better that the whole scheme should remain in abeyance for the present, and be "reconsidered as soon as a vacancy occurs. This will necessarily involve the postpone-"ment of the proposed increase of the salary of the Registrar on the Appellate Side.

"6. Care must, of course, be taken that any appointment made hereafter, either "to the office of Registrar on the Original Side or to that of Clerk of the Crown, is made "subject to the condition of the office, and the duties and salary attached to it, being "at any time altered or abolished.

"7. With regard to the proposed addition to the salary of Mr. Walter Morgan, the "Deputy Registrar on the Appellate Side, I am not prepared to differ from your Excel-"lency in Council and the Government of Madras in the decision that it ought not to be "made at present. It is, however, to be regretted that the proposals made on this point "in the Court's letter to the Government of Madras, No. 3030, dated 12th of December, "1889, were left unnoticed in the reply of that Government.

Joseph Stevenson

"8. I observe, in conclusion, that the Governor of Madras in Council, in his "General Order, No. 1770, dated the 11th of November last, seems to place too wide an "interpretation on the Secretary of State's despatch, No. 19, dated 31st of July, 1863. "That despatch, when read in connection with the particular subject with which it "dealt, conveys no more than (what is also evident on the face of section 8 of the "Letters Patent) that the Chief Justice is bound to assign to the several officers of the "High Court such salaries, and such only, as are approved by the Governor in Council. "It does not touch the principal point raised by this correspondence, namely, whether "the Government can alter, of its own authority, salaries or establishments that have once "been permanently sanctioned. The initiatory duty of submitting proposals regarding "the appointment of ministerial officers of the Court undoubtedly rests with the Chief "Justice; nevertheless, since the changes now under discussion were, in the first instance, "substantially supported by the High Court, and as there is little doubt that their intro-"duction will be to the public advantage, I regret that they should have to be post-"poned by reason of the difficulty connected with the position of the present incumbents "of the two offices of Registrar (O.S.) and Clerk of the Crown."

"No. 896.

"Copy forwarded to the Government of Madras, Judicial Department, for informa-"tion, with reference to the correspondence ending with the letter from that Govern-"ment, No. 195, dated the 29th January, 1892.

"(By Order.)

"(Signed) P. G. MELITUS,

"*Offg. Dy. Secy. to the Govt. of India.*

"HOME DEPT. (JUDICIAL), Simla, *the 4th July*, 1892.

"ORDER—dated 1st August, 1892, No. 1389, Judicial.

"Communicated to the Honorable the Judges of the High Court.

"2. The reference in paragraph 8 of the Secretary of State's despatch should "apparently be to G. O., dated 10th April, 1891, No. 682, Judicial, and not to G. O., "dated 11th November last (an error for November 1890), No. 1770, Judicial. The "statement made in paragraph 7 to the effect that the proposals in regard to Mr. Morgan's "salary were left unnoticed in this Government's reply to the letter from the Registrar "of the High Court, dated 12th December, 1889, No. 3030, is also incorrect; the subject "was referred to in G. O., dated 8th February, 1890, No. 203, Judicial.

"(True Extract.)

"J. F. PRICE,

"*Chief Secretary.*

"To the Honorable the Chief Justice, with C.L."

APPENDIX D.

"*Extract from High Court Letter to Madras Government, No.* 2115, *dated* 3 *September*, 1890.

"41. The last point to which I am to allude with reference to the effect the "proposed measure will have with regard to the individual officers of the Court estab-"lishment is the position of the present incumbent of the office of Registrar, Original "Side, and the provision which it is proposed to make for him should the enactment of "the present measure result in the abolition of his office. When the subject was dis-"cussed in 1885 it was assumed that the appropriate course would be to appoint this "officer to the fourth judgeship of the Small Cause Court, which it is part of the plan "to create, and to grant him a personal allowance sufficient to raise his emoluments to "the level of his present pay of Rs.1500. But the fact was overlooked that under the "Act regulating the Small Cause Court it is imperative, owing to the present composi-"tion of the Court, that the fourth seat should be filled by an Advocate of one of the "High Courts of Calcutta, Madras, or Bombay, and as Mr. Steavenson does not possess "such qualification, he is not eligible for the appointment. The High Court would be "glad to be informed what other provision it is proposed now to make for Mr. Steavenson, "for it is clear that, without adequate provision being made, his services ought not to be "dispensed with."

Joseph Stevenson

APPENDIX E.

"*Extract from Proceedings of the Madras Government, No.* 1770, *Judicial, dated* 11 *November*, 1890.

"3. The Government agree with the High Court in regarding Mr. Steavenson's "claims as entitled to consideration, and will be prepared to recommend to the Secretary "of State the grant of a personal allowance of Rs.500 per mensem should Mr. "Steavenson be willing to accept the post of Deputy Registrar on the Original Side in the "new scheme. In this way *Mr. Steavenson will suffer no pecuniary loss* by the change, "and the High Court is requested to call on that gentleman to report at once whether "he is willing to accept those terms, and *to point out to him that the only alternative is a* "PROPORTIONATE PENSION."

APPENDIX F.

"*Extract from High Court Letter to Madras Government, No.* 2762, *dated* 14 *November*, 1891.

"11. With reference to paragraph 3 of the Government of India's letter, the High "Court is unable to accept the view of the Government of India that paragraph 2 of the "Madras G. O., 11th November, 1890, No. 1770, signified no intention to encroach on "the rights and powers of the Chief Justice. The Government of Madras stated that "it would be prepared to recommend the grant of a personal allowance to Mr. Steaven- "son should he be willing to accept the post of Deputy Registrar, Original Side, and "requested the High Court to call upon him at once to report whether he was willing "to accept those terms. The existence and legal powers of the Chief Justice were "altogether ignored. The Chief Justice had not at any time given any ground for "supposing that he was likely to nominate Mr. Steavenson for the office. Moreover "when his Lordship in his letter of 23rd January, 1891, No. 220, remonstrated with the "Government for offering the post of Deputy Registrar to Mr. Steavenson as an "encroachment upon his rights and powers, the Government did not disclaim an inten- "tion to make such an offer, but in the order of 10th April, 1891, No. 682 (replying to this "letter) took no notice of the remonstrance except to assert an 'incontestable right' to "regulate the strength of the ministerial establishment of the High Court.

"12. It was not until six weeks after this Court had felt it necessary to address "the Secretary of State on the subject that the Local Government (G.O., 2nd June, 1891, "No. 1044) disclaimed any intention of offering the post to Mr. Steavenson, and even "in that letter the Government did not disclaim the power to appoint.

13. The Chief Justice has throughout understood that it was the intention of "Government to provide for Mr. Steavenson elsewhere, and having regard to his age and "length of service, it does not appear to the Chief Justice that it would be a desirable "arrangement or fair to Mr. Steavenson himself to relegate him to a subordinate "position in the High Court. The decision, therefore, whether Mr. Steavenson should "be appointed to another office or be compelled to retire rests entirely with the Local "Government, and not with the Chief Justice or with Mr. Steavenson himself."

APPENDIX G.

"JUDICIAL DEPARTMENT.

"PROCEEDINGS OF THE MADRAS GOVERNMENT.

"READ the following paper :—

"From the Government of India, Home Department (Judicial), No. 1395, dated "2nd November, 1896.

* * * * * * * * * * *

"Order :—No. 1793A, dated 12th November, 1896.

* * * * * * * * * * *

"Mr. Steavenson will be informed that the Right Honourable the Secretary of "State for India has been pleased to direct that he (Mr. Steavenson) should be "considered as being on furlough from the 11th May, 1896, to the date (20th July, 1897)

Joseph Steavenson

"when he attains the age of 55 years, and that he should retire from the 21st July, 1897, "his leave allowances and pension being regulated accordingly.

"(True Extract.)
"(Sd.) W. FRANCIS,
"For Chief Secretary.

"To J. STEAVENSON, ESQ., The Pension Department.
"Honourable the Chief Justice of the High Court (with C. L.)."

APPENDIX H.

"CHIEF SECRETARIAT—MADRAS. JUDICIAL DEPARTMENT.

"PROCEEDINGS OF THE MADRAS GOVERNMENT.

"READ the following paper :—

"From Mr. J. Steavenson, late Registrar of the High Court (Original Side), dated "18th November, 1896.

"Order No. 2017: Dated 21st December, 1896.

"Mr. Steavenson has probably by this time received a copy of G.O. No. 1793 A, "Judicial, dated 12th November, 1896, from which he will see that the Secretary of State "has been pleased to direct that he should be considered as being on furlough from the "11th May, 1896, to the 20th July, 1897. The question of the minimum three months' "notice required by Article 478 of the Civil Service Regulations does not therefore now "arise, and Mr. Steavenson should apply to the India Office regarding his leave "allowances.

"1. As regards his pension, Mr. Steavenson will be requested to submit before the "21st July, 1897, to the High Court a formal application in accordance with the pro- "visions of Article 993 of the Civil Service Regulations.

"2. Mr. Steavenson will also be furnished with a copy of paragraphs 1, 2 and 3 of "the Government of India's despatch to the Secretary of State No. 278, dated 2nd "October, 1895, of the Secretary of State's despatch in reply, No. 48, Judicial, dated 21st "November, 1895, and of the Order of this Government thereon, No. 164, Judicial, dated "27th January, 1896, as he has not apparently received the copies of these papers which "the Honourable the Judges of the High Court were requested to be good enough to "send him.

"993 (a) A gazetted officer should submit his application through his official "superiors and the Audit Officer (see Article 994) to the Local "Government.

"(b) The application of a gazetted officer of the classes mentioned in Articles "330 (c) 724 and 748, whether appointed by the Secretary of State or not, "should be prepared in Form 15 A. In the case of other gazetted "officers the application should be prepared in Form (15) prescribed in "Article 990, either by the officer himself or by the head of the Depart- "ment in which he is serving, and the rules under that Article apply, "save that it is not necessary, if all the service has been gazetted, to "have the service formally verified before forwarding the application.

"(True Extract.)
"(Sd.) W. FRANCIS,
"For Chief Secretary.

"To J. STEAVENSON, ESQ.
"C/o Messrs. Henry S. King & Co.
"45 Pall Mall, London. (With papers.)"

APPENDIX J.

"CASE; AND OPINION OF MR. EVANS.

"In the month of February, 1878, Mr. Joseph Steavenson, B.A., one of the solicitors "of the High Court of Judicature at Madras, was appointed by the then Chief Justice of "the Court to officiate as Registrar of the High Court on the Original Side during the "absence of Mr. John Shaw on leave or until further orders.

Joseph Steavenson

"The following extract from the Fort Saint George Gazette of the 26th February,
"1878, Part I. page 120, is the notification by Government.

"'His Grace the Governor-in-Council is pleased to approve and confirm the
"'appointment made by the Honorable the Chief Justice of the High Court of
"'Judicature of Mr. Joseph Steavenson, B.A., to officiate as Registrar of the
"'High Court on the Original Side during the absence of Mr. John Shaw on
"'leave or until further orders.'

"On the 2nd March, 1880, Mr. Joseph Steavenson was appointed by the then Chief
"Justice Registrar of the High Court on the Original Side in the place of Mr. John
"Shaw resigned.

"The following extract from the Fort Saint George Gazette of the 2nd March,
"1880, Part I. page 98, is the notification by Government.

"'His Grace the Governor-in-Council is pleased to approve and confirm the appoint-
"'ment made by the Honorable the Chief Justice of the High Court of
"'Judicature, Madras, of Mr. Joseph Steavenson, B.A., to be Registrar of the
"'High Court on the Original Side, vice Mr. John Shaw resigned.'

"On the 15th October, 1889, a Despatch of this date, No. 324, was sent from the
"Government of India, Department of Finance and Commerce, Salaries and Establish-
"ments, to the Secretary of State for India (copy herewith left), proposing a scheme
"for the enlargement of the Jurisdiction of the Presidency Small Cause Court at
"Madras, and also, *inter alia*, the abolition of Registrar on the Original Side of the
"Court.

"This Despatch was replied to by the Secretary of State on the 9th January, 1890,
"No. 4, Judicial (copy herewith left), and the proposed alteration in certain offices was
"sanctioned.

"A bill was drafted for enlarging the jurisdiction of the Presidency Small Cause
"Court in accordance with the suggestions contained in the Despatch above referred to
"of the 15th October, 1889, No. 324, and sent to the Judges of the High Court with a
"request that they would favour the Government with their opinion on the provisions
"of the bill. This they did in a letter written by the officiating Registrar of the High
"Court Appellate Side to the Chief Secretary to Government, dated 3rd September,
"1890, No. 2115 (copy herewith left). Upon this letter the Madras Government pass
"an order dated 11th November, 1890, No. 1770, Judicial (a copy of which is herewith
"left), and announce (*inter alia*) the abolition, from the 1st April, 1891, of the office of
"Registrar of the High Court on the Original Side, and the substitution in place of such
"office of an office of Deputy Registrar.

"The state of the Establishment at the time of passing this order and its existing
"state is as follows: 1. Registrar and a Deputy Registrar on the Appellate Side of the
"High Court and one Registrar and two Assistant Registrars on the Original Side of
"the Court, all which offices having been duly constituted by the then Chief Justice
"with the approval of the Government under the Letters Patent.

"The present Chief Justice of Madras has not given his consent to the abolition of
"the office of the Registrar of the High Court on the Original Side and is strongly
"opposed to it.

"The Letters Patent establishing a Supreme Court of Judicature at Fort Saint
"George, dated the 26th December, 1800, vests the appointment of Clerks, Registrars,
"and other Ministerial Officers in the Supreme Court alone, as appears from the follow-
"ing section.

"'And we do further authorise and empower the said Supreme Court of Judicature
"'at Madras from time to time, as occasion shall require, to appoint so many
"'and such clerks, registers, proctors, and other Ministerial Officers as shall
"'be found necessary for the administration of justice and the due execution
"'of all the powers and authorities which are and shall be granted and com-
"'mitted to the said Court by these our Letters Patent.'

"We cannot find that any provision is made in these Letters Patent for the re-
"moval of the officers so to be appointed by the Supreme Court, though with regard to
"the Accountant General of the Supreme Court, who was appointed by the Court of
"Directors, express power is reserved to the Directors to appoint and at their pleasure
"to remove and another to appoint.

"By the Letters Patent constituting the High Court of Judicature for the Presi-
"dency of Madras, dated 26th June, 1862, the power of appointing so many and such
"clerks and other Ministerial Officers as should be found necessary for the administra-
"tion of justice and the due execution of all the powers and authorities granted and
"committed to the said High Court by the said Letters Patent, is by Section 6 vested
"in the Chief Justice of the High Court, subject to any rules and restrictions which may

Joseph Steavenson

"be prescribed by the Governor-in-Council and subject also to the approval of the
"Governor-in-Council.

"So far as we are able to ascertain no rules or restrictions as contemplated by the
"said section have ever been prescribed by Government.

"We cannot find in these Letters Patent any provision for the removal of the
"officers so appointed.

"In paragraph 10 of the letter of the Secretary of State to the Governor General-
"in-Council dated 14th May, 1862, explanatory of the Letters Patent of 1862, it is ex-
"pressly stated that 'The Supreme Court exercises an authority entirely independent of
"'the Government in regard to its Ministerial Officers,' and again

"'The Government however has always considered itself at liberty to receive
"'representations from any of the officers of the Sudder or Subordinate Courts
"'who felt themselves aggrieved by the orders of the Judicial Authorities, and
"'to express its opinion on the propriety or otherwise of the proceedings of
"'the Courts in such cases. It will be expedient for you to take the question
"'into your consideration, and after communication with the Court to adopt
"'some rule in regard to it, which, of course, must be uniformly applicable to
"'all the officers of the Court.'

"By the amended Letters Patent for the High Court of Judicature for the Presi-
"dency of Madras dated 28th December, 1865, Section 8, the Chief Justice has vested in
"him the same power as he had by Section 6 of the former Letters Patent, the only dif-
"ference between the two sections being that by the amended Letters Patent the salaries
"of the Ministerial Officers which are fixed by the Chief Justice are subject to the con-
"trol of the Governor General-in-Council.

"Section 4 is as follows:—

"'And we do hereby appoint and ordain that every clerk and Ministerial Officer of
"'the said High Court of Judicature at Madras, appointed by virtue of the
"'said Letters Patent of the twenty-sixth June, one thousand eight hundred
"'and sixty-two, shall continue to hold and enjoy his office and employment,
"'with the salary thereunto annexed, until he be removed from such office and
"'employment; and he shall be subject to the like power of removal, regula-
"'tions, and provisions as if he were appointed by virtue of these Letters
"'Patent.'

"We cannot however find in these Letters Patent any provision for the removal of
"the officers so appointed.

"It is believed, and Counsel may for the purposes of this case assume it to be a
"fact, that the present Chief Justice of the High Court at Madras is of opinion that a
"Registrar of the High Court on the Original Side is a Ministerial Officer necessary for
"the administration of justice and the due execution of all the powers and authorities
"committed to the High Court by the Letters Patent.

"In considering this case the attention of Counsel is particularly directed to Section
"44 of the Letters Patent of the 28th December, 1865, which is as follows:—

"'And we do further ordain and declare that all the provisions of these our Letters
"'Patent are subject to the legislative powers of the Governor General-in-
"'Council, exercised at meetings for the purpose of making laws and regula-
"'tions, and also of the Governor General in cases of emergency under the
"'provisions of an Act of the twenty-fourth and twenty-fifth years of our
"'Reign, Chapter sixty-seven, and may be in all respects amended and altered
"'thereby.'

"Counsel is requested to advise—

"1. Whether it is in the power of the Government of Fort Saint George, the
"supreme Government or the Secretary of State for India in Council, by
"departmental order or otherwise, to direct the abolition of any Ministerial
"Office of the High Court with or without the consent of the Chief Justice,
"and generally to advise the Registrar of the High Court on his position.

"2. In the event of Counsel being of opinion that the abolition of the office of
"Registrar on the Original Side is illegal, can the Registrar successfully
"maintain an action for salary falling due after he has been illegally re-
"moved, and against whom?"

Joseph Steavenson

1995

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OPINION.

"Under clause 8 of the Letters Patent of 1865 the power of the Chief Justice to "appoint Ministerial Officers is subject to any 'rules and restrictions which may be "prescribed by the Governor in Council.' But the executive order in question, though "it might amount to a rule or restriction as to future appointments, cannot as a rule or "restriction under the clause invalidate or injuriously affect an appointment properly "made under the power given. The right of the officer is to 'have and receive the "'reasonable salary, appointed by the Chief Justice and approved by the Governor in "'Council' until he is lawfully removed.

"The Governor in Council has power to prescribe leave rules, and it may be assumed "that there is vested either in the Court or in the Governor in Council some power of "removal and of making regulations and provisions as regards the officers. See "clause 4.

"But as no regulations or provisions seem to have been made, and as it is not "suggested that any special cause exists which would justify the removal of the "Registrar apart from the economic reasons for the abolition of the office, and as no "order for his removal other than the order abolishing the office has been made, "nothing seems to turn upon this.

"The Chief Justice has not in any way sanctioned this proceeding or the creation "of the new office of Deputy Registrar or the salary attached to it, but appears to have "opposed it, and the Government of Madras has refused to discuss the matter.

"On the best consideration I can give the matter the order appears to have been issued "under a misconception and to be 'ultra vires' and in excess of any executive power "vested in the Secretary of State, the Governor General in Council or the Governor of "Madras in Council. Apparently on the existing authorities it might be accomplished by "legislation. But there appears to have been no legislative enactment passed which "touches the matter.

"I am of opinion that a suit would lie against the Secretary of State for a declara-"tion that the Registrar is entitled to perform the duties of the office and to receive the "appointed salary and for arrears of the salary when this falls due after the order "purporting to abolish the office.

"I think it would be most desirable in the first instance to draw the attention of "the Governor in Council to the invalidity of the order and to request him to stay the "operation of the order pending a reference on the point to the Government of India "and to the Secretary of State, so that the law officers of Government may be consulted. "Unless this is done there will be a grave complication, as I assume the Chief Justice "will not appoint a Deputy Registrar on Rs.1,000 as proposed by the Government, and "it does not appear that the Government have a right to create such a post or appoint "to it without legislation.

"It is most desirable that the operation of the Order of the 11th November, 1890, "No. 1770, Judicial, should be postponed until the question is cleared up and that a "matter of this kind should not come into court if it can be avoided. The order of "postponement should be made before the 1st of April.

24-3-91.

"Sd. G. H. P. EVANS."

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LONDON

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"be prescribed by the Governor-in-Council and subject also to the approval of the "Governor-in-Council.

"So far as we are able to ascertain no rules or restrictions as contemplated by the "said section have ever been prescribed by Government.

"We cannot find in these Letters Patent any provision for the removal of the "officers so appointed.

"In paragraph 10 of the letter of the Secretary of State to the Governor General-"in-Council dated 14th May, 1862, explanatory of the Letters Patent of 1862, it is ex-"pressly stated that 'The Supreme Court exercises an authority entirely independent of "'the Government in regard to its Ministerial Officers,' and again

> "'The Government however has always considered itself at liberty to receive "'representations from any of the officers of the Sudder or Subordinate Courts "'who felt themselves aggrieved by the orders of the Judicial Authorities, and "'to express its opinion on the propriety or otherwise of the proceedings of "'the Courts in such cases. It will be expedient for you to take the question "'into your consideration, and after communication with the Court to adopt "'some rule in regard to it, which, of course, must be uniformly applicable to "'all the officers of the Court.'

"By the amended Letters Patent for the High Court of Judicature for the Presi-"dency of Madras dated 28th December, 1865, Section 8, the Chief Justice has vested in "him the same power as he had by Section 6 of the former Letters Patent, the only dif-"ference between the two sections being that by the amended Letters Patent the salaries "of the Ministerial Officers which are fixed by the Chief Justice are subject to the con-"trol of the Governor General-in-Council.

"Section 4 is as follows:—

> "'And we do hereby appoint and ordain that every clerk and Ministerial Officer of "'the said High Court of Judicature at Madras, appointed by virtue of the "'said Letters Patent of the twenty-sixth June, one thousand eight hundred "'and sixty-two, shall continue to hold and enjoy his office and employment, "'with the salary thereunto annexed, until he be removed from such office and "'employment; and he shall be subject to the like power of removal, regula-"'tions, and provisions as if he were appointed by virtue of these Letters "'Patent.'

"We cannot however find in these Letters Patent any provision for the removal of "the officers so appointed.

"It is believed, and Counsel may for the purposes of this case assume it to be a "fact, that the present Chief Justice of the High Court at Madras is of opinion that a "Registrar of the High Court on the Original Side is a Ministerial Officer necessary for "the administration of justice and the due execution of all the powers and authorities "committed to the High Court by the Letters Patent.

"In considering this case the attention of Counsel is particularly directed to Section "44 of the Letters Patent of the 28th December, 1865, which is as follows:—

> "'And we do further-ordain and declare that all the provisions of these our Letters "'Patent are subject to the legislative powers of the Governor General-in-"'Council, exercised at meetings for the purpose of making laws and regula-"'tions, and also of the Governor General in cases of emergency under the "'provisions of an Act of the twenty-fourth and twenty-fifth years of our "'Reign, Chapter sixty-seven, and may be in all respects amended and altered "'thereby.'

"Counsel is requested to advise—

> "1. Whether it is in the power of the Government of Fort Saint George, the "supreme Government or the Secretary of State for India in Council, by "departmental order or otherwise, to direct the abolition of any Ministerial "Office of the High Court with or without the consent of the Chief Justice, "and generally to advise the Registrar of the High Court on his position.
>
> "2. In the event of Counsel being of opinion that the abolition of the office of "Registrar on the Original Side is illegal, can the Registrar successfully "maintain an action for salary falling due after he has been illegally re-"moved, and against whom?"

Joseph Chamberlain

1995

OPINION.

"Under clause 8 of the Letters Patent of 1865 the power of the Chief Justice to "appoint Ministerial Officers is subject to any 'rules and restrictions which may be "prescribed by the Governor in Council.' But the executive order in question, though "it might amount to a rule or restriction as to future appointments, cannot as a rule or "restriction under the clause invalidate or injuriously affect an appointment properly "made under the power given. The right of the officer is to 'have and receive the "'reasonable salary, appointed by the Chief Justice and approved by the Governor in "'Council' until he is lawfully removed.

"The Governor in Council has power to prescribe leave rules, and it may be assumed "that there is vested either in the Court or in the Governor in Council some power of "removal and of making regulations and provisions as regards the officers. See "clause 4.

"But as no regulations or provisions seem to have been made, and as it is not "suggested that any special cause exists which would justify the removal of the "Registrar apart from the economic reasons for the abolition of the office, and as no "order for his removal other than the order abolishing the office has been made, "nothing seems to turn upon this.

"The Chief Justice has not in any way sanctioned this proceeding or the creation "of the new office of Deputy Registrar or the salary attached to it, but appears to have "opposed it, and the Government of Madras has refused to discuss the matter.

"On the best consideration I can give the matter the order appears to have been issued "under a misconception and to be 'ultra vires' and in excess of any executive power "vested in the Secretary of State, the Governor General in Council or the Governor of "Madras in Council. Apparently on the existing authorities it might be accomplished by "legislation. But there appears to have been no legislative enactment passed which "touches the matter.

"I am of opinion that a suit would lie against the Secretary of State for a declara-"tion that the Registrar is entitled to perform the duties of the office and to receive the "appointed salary and for arrears of the salary when this falls due after the order "purporting to abolish the office.

"I think it would be most desirable in the first instance to draw the attention of "the Governor in Council to the invalidity of the order and to request him to stay the "operation of the order pending a reference on the point to the Government of India "and to the Secretary of State, so that the law officers of Government may be consulted. "Unless this is done there will be a grave complication, as I assume the Chief Justice "will not appoint a Deputy Registrar on Rs.1,000 as proposed by the Government, and "it does not appear that the Government have a right to create such a post or appoint "to it without legislation.

"It is most desirable that the operation of the Order of the 11th November, 1890, "No. 1770, Judicial, should be postponed until the question is cleared up and that a "matter of this kind should not come into court if it can be avoided. The order of "postponement should be made before the 1st of April.

"Sd. G. H. P. EVANS."

24-3-91.

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Duplicate of the encl. to Jud. No. 3630

Joseph Stevenson

High Court of Judicature,
Madras, 29th August 1898.

1558

CURRENT No. 3630

From

A. L. Hannay, Esquire,
Registrar of the High Court of Judicature, Madras.

To

The Honourable Mr. G. Stokes,
Chief Secretary to the Government of Madras.

Honourable Sir,

I am directed to forward herewith two copies of a memorial to the Right Honourable the Secretary of State for India in Council from Mr. Joseph Steavenson, late Registrar of the High Court of Judicature, Original Side, Madras, praying for a special compensation pension, together with his letter dated 1st June 1898, and to state that the delay in forwarding them is due to the fact that the memorials had to be returned to Mr. Steavenson for attestation in accordance with Rule VIII of the Memorial Rules.

I have the honour to be,
Honourable Sir,
Your most obedient servant,

A. L. Hannay
Registrar. 30/8/98

Ex. P.

1574

From

Joseph Stevenson
Late Registrar of the High Court of
Judicature, Madras. (Original side)

To

The Hon: the Officiating Chief Justice
High Court of Judicature
Madras.

Hon'ble Sir,

I have the honour to submit herewith in duplicate a Memorial addressed to the Right Honourable the Secretary of State & to beg that it may be forwarded as early as possible through the proper channel.

I have the honour to be

Pleasure Dept.

CHIEF SECRETARIAT
-6 SEP. 1898
GOVERNMENT OF MADRAS

The Crescent,
RAMSEY,
ISLE OF MAN.

16 August 1898.

From
Joseph Stevenson
Late Registrar, High Court, Madras.

To
The Honourable The Chief Secretary
to the Government of Madras.

Honourable Sir,

As required by your Endorsement No 542 dated 26th July 1898 I have the honour to return my Memorial in duplicate signed on every page.

I have the honour to be
Sir
Your obedient servant
Joseph Stevenson