

1. Date of receipt 1-10-14
2. Date of receipt 2-8-35
3. Initials of Receiver J

M.R.O. 1-82,400-22-11-80

MADRAS RECORD OFFICE.

Government of Madras.

Pension DEPARTMENT.

G.O. No.	392	Press Mis.
Dated	11-12-	1862

Not to be folded or roughly handled

2-8-35

J.

The Deputy Magistrate of
Maidupett.

I find Nago Narasinga
Rao, Sub Magistrate of Poluru
Division to be unequal to conduct the
duties of his Office in accordance to the Pe-
nal Code owing to decrepitude & defective
eye-sight, & have therefore called him
into the Thuzuru. I request that
you will therefore take charge of that
Division from him & passing a Receipt
to him for the same send him to Po-
dalakuru so as to be there on the
2^d January.

Nellore, - - -
24th December 1861.

Signed J. W. B. D. Kes
Magistrate.

/ True Translation.

J. W. B. D. Kes
Magistrate.

Enclosure
In a letter from the
Collector of Nellore, to
the Secy to the Board
of Rev. Narsinga, dated
14th Nov 1862, No. 216
dated 17th Nov
Transmittal of an
order of the Board dated
Decr 1861, to the Secy
Magistrate of Narsinga
Row, regarding Nago
Narsinga Row late
Sub Magistrate of Poluru.
O. H. 292.

No. 7,399.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 10th November 1862.

Read again letter from the Sub-Collector in charge of Nellore, dated 22nd August 1862, No. 216, and recorded in Board's Proceedings, 8th September 1862, No. 5,962.

Read also the following letter from the Collector of Nellore, dated 3rd October 1862, No. 247:—

1. I have the honor to acknowledge the receipt of Proceedings of the Board of Revenue dated 8th September 1862, No. 5,962, directing the immediate restoration of Nago Narsinga Row, Petitioner in No. 2,217 of 1862, to his post of Sub-Magistrate of Poluru.

2. In reporting on a Petition from the said Nago Narsinga Row, the Sub-Collector in charge in his letter, No. 216, dated 22nd August 1862, brought to the notice of the Board that, at the beginning of the current year, the Petitioner had been required by me to apply pension with reference to his advanced age, standing in the service, and the increased powers conferred on the subordinate Magistracy by the new Criminal Procedure and Indian Penal Codes; and that the Zillah Surgeon having refused to support the application with the requisite Medical Certificate, the Petitioner under these circumstances could not be brought within the scope of the Circular Order of the Board, dated 10th November 1860, No. 5,216.

3. In, however, reporting that the Petitioner had been called on by me to retire simply with reference to his advanced age, and standing in the service, and the increased powers conferred on the subordinate Magistracy by the new Criminal Procedure and Indian Penal Codes, the Sub-Collector in charge was not fully aware of the grounds on which I had acted. I had not been dissatisfied with Nago Narsinga Row's conduct as a Magisterial Officer; and when a new Code was introduced, and his work increased, matters became so unsatisfactory in his office, that it was my duty to offer him the alternative of retiring from the office voluntarily, or standing the consequences. An old man, it did not seem to me fair to deprive him of his right to pension, because unequal to the increased powers thrust upon him by the new Act. On the other hand, I could not, with due regard to the interests of those over whom he was placed, allow him to exercise those powers any longer. It was under these circumstances that he applied for pension; and, before attempting to carry out the Board's orders, I do myself the honor, therefore, to bring them to the Board's notice.

4. As regards carrying out the Board's orders, and immediately restoring Nago Narsinga Row to his previous appointment, there is another difficulty. When an Officer applies for a pension the post is considered to be permanently vacated; and it is the practice in every District, I believe, to fill up such appointments forthwith, without waiting to see whether the party applying succeeds in obtaining the requisite Medical Certificate from the Zillah Surgeon; the party, himself, is held responsible for his own acts. And, in accordance with this practice, after making search for a suitable man, I appointed to the vacant office Kollaturu Narasimhacharyulu, in employ at the Government Office on a salary of 70 Rupees per month, and who thereon gave up 5 Rupees a month to take up the post of Sub-Magistrate of Poluru, the pay of which is only 65 Rupees per month.

5. The Board will therefore see that I can only restore Nago Narsinga Row by removing Kollaturu Narasimhacharyulu from the post which he took up in the belief that he was taking up a permanent vacancy; a belief the general practice of the Presidency, I believe, fully justified his entertaining.

6. It would be possible to carry out the Board's orders in respect to Nago Narsinga Row, should the Board decide that the dismissal of the late Kanigiri Tahsildar by the Acting Sub-Collector* was correct, for Kollaturu Narasimhacharyulu is now Acting for a Sub-Magistrate of a higher grade with reference to the changes consequent on the dismissal of the Kanigiri Tahsildar. The Kanigiri Tahsildar

* At present pending before the Board.

5

finally dismissed, Kollaturu Narasimhacharyulu could be confirmed in the post in which he is at present acting; and in this manner Nago Narsinga Row could be restored to his former post of Sub-Magistrate of Poluru.

7. With reference, however, to the grounds on which Nago Narsinga Row resigned his post, as detailed in paragraph 3, I would strongly deprecate his being vested with Magisterial powers under the Procedure Code. He has proved himself to be unfit for such an appointment; and with the Board's permission I would endeavor to provide for him in some other and more suitable way.

1. In passing their former order in this case, the Board could not of course anticipate the explanation now furnished by the Collector. The Sub-Collector in charge had stated certain facts and the Board dealt with the case accordingly. If there were other reasons which influenced the Head of the District in calling upon Narasinga Rau to retire, they should at least have been put on record at the time.

2. Under the circumstances now brought to notice the Board will not insist upon the Petitioner being re-appointed Sub-Magistrate of Poluru, but they request Mr. Dykes to provide for him in a suitable way at an early date.

3. The Board entirely dissents from the opinion expressed in paragraph 4. The practice described is not, they believe, as general as the Collector imagines, but however this may be, it is vicious in principle, and unjust.

4. It is also opposed to the orders of Government. Prior to 1855 the appointment of Superannuation Pensioners were not to be "permanently filled up, until it shall have been certified that there is no hope of their being ever able to resume their duties". Subsequently it was ruled that in certain cases pensions were to be granted unconditionally, "and authority given for filling up the vacated appointment" at once.

Board's Circular Order, 31st May 1838,
Volume 1, Page 255.

Civil Auditor's Manual, Chapter III, Paragraph 154.

5. The Board find from correspondence which has taken place between the Governments of India and Bombay with reference to a ruling of the former, ordering the immediate discharge of Officers who had, on application for pension, been declared by the Medical authorities to be unfit for further service, that heads of Departments in the Bombay Presidency considered themselves precluded from making arrangements for filling up a contemplated vacancy, till it was known whether the applicant for pension had been declared by the Medical Officer fit or unfit for further active service. This course the Board consider to be the only reasonable one under such circumstances.

6. The Board are not aware whether the ruling given in the Civil Auditor's Manual (vide paragraph 4 above), to the effect that an appointment is not to be considered absolutely vacated until the pension has been actually granted, has been superseded in this Presidency by the order of the Government of India directing the immediate discharge of Officers declared unfit for further service. They resolve, therefore, before issuing Circular Orders on the question which Mr. Dykes has raised, to obtain the instructions of Government on this point.

(A true Copy and Extract.)

A. Arbuthnot

Secretary.

To J. W. B. Dykes, Esq., Collector of Nellore.

Copy to A. J. Arbuthnot, Esq., Chief Secretary to Government.

Exd. J. Wright.

*These Proceedings have been
sent to Govt by mistake I think
a separate letter on the
same subject has been
been received by the Board
Eggs*

No. 7,738.

PROCEEDINGS OF THE BOARD OF REVENUE, dated 25th November 1862.

Read the following letter from J. W. B. DYKES, Esq., Collector of Nellore, to W. HUDLESTON, Esq., Secretary to the Board of Revenue, dated 14th November 1862, No. 285:—

1. I have the honor to acknowledge the receipt of the Board's Proceedings dated 10th instant, directing me to provide for the re-employment of Nago Narasinga Row in a suitable manner, and at an early date, and intimating that the Board have determined to obtain the instructions of Government as to the proper course to be pursued in respect to filling up appointments held by Officers, who have applied for pensions.

2. In the 5th paragraph of the Proceedings under acknowledgment, the Board approve of the views held by the Heads of Departments in Bombay, that no arrangements should be made for filling up a contemplated vacancy, "till it was known whether the applicant for pension had been declared by the Medical Officer fit or unfit for further service."

3. Instead of this course, I beg to recommend that all parties applying for pension be required to present, with their application, the necessary certificate from the Medical Officer to support that application, and be held answerable for the consequences, if they don't.

4. The object of the Bombay rule is, apparently, to prevent an old, it may be a meritorious Officer of Government from finding himself at the end of a long service suddenly deprived of his livelihood. This, I presume, is the reason likewise why the Board have signified their approval of the rule in question; and this object would be fully attained by the amendment I have proposed, without subjecting the public service to the inconveniences contemplated, it would appear, and provided for by the Supreme Government in their Order directing, with respect to Bombay, the immediate discharge of Officers, when the Medical authorities had pronounced them unfit for further service.

5. I can see no reason why the general principles that would guide a mercantile firm, or a private individual, in his relations with those whom he may employ, should not be equally applicable to the employes of Government.

6. If the agent of a firm, or of a private individual, applied for leave to retire, the head or the firm, or the master, if the applicant had done good service, and was likely to do more, would probably reason with him, and try to dissuade him from the step, especially if he thought the man was likely to be ill off in his old age. But if the man had borne a bad character from the beginning, if the work entrusted to him had been mismanaged, and the interests of the firm or the employer prejudiced by this servant, I don't think there would be any hesitation in accepting his application for permission to retire. The head of the firm, or the master, would be only too glad to get rid of him, and would not consider it necessary to look after the interests of a man, who had not looked after the interests entrusted to him; and viewed in this light, I beg to submit for the re-consideration of the Board, whether there is any thing either "vicious in principle, or unjust," in the opinion expressed in the 4th paragraph of my letter of the 3rd ultimo, viz., that it is the practice when an Officer applies for pension, to fill up the appointment, and hold the Officer who applies, responsible for his own acts. There is little fear, I believe, under the rule, of the interests of a respectable man being compromised; whilst, as regards the work to be done, the public interests are unquestionably advanced.

7. With regard to the Board's observations in the 1st paragraph of the Proceedings under acknowledgment, that I should have put on record, at the time, the grounds on which I had acted in requiring Nago Narasinga Row to retire, I beg to submit a translation of the vernacular Memorandum I addressed to the Deputy Magistrate of Nayadupett, under date the 24th December 1861, requesting him to take charge of the Sub-division of Poluru, because I had found Nago Narasinga Row, the Sub Magistrate, unequal to the duties of the office.

PROCEEDINGS OF THE BOARD OF REVENUE.

Dated 10th November 1862.

Despatched 18th —

Received 20th —

No. 7,399.

Directing him to provide for Narsinga Row, Petitioner in No. 2,217 of 1862, in a suitable manner at an early date.

Recorded with reference to

G.O. No. 370, 17th Nov 62, Revenue Dept.

WMA

Transferred to the

Department

Collected by the

25th Nov 1862

Pension Department

Proceedings of the Madras Government
Read the following

Pro: of the Board of Revenue
Pro: of D. C.

18th Dec 1862
25th Dec 1862

Order thereon 11th December 1862 No. 392

In these Pro: the B^d of
Rev: submit for the
consideration of Gov^t
a proposal by the Coll^r
of Nellore that no appli-
cation for a pension should
be entertained unless
accompanied by a certificate
of incapacity.
2 The proposal has arisen
out of a case in which
an old servant, after
having applied for a

I think the present rules
seem of properly worked
to be unobjectionable

AW

W

JP

ENCLOSURE No. 1.

ABSTRACT.—Translation of an Yadast, No. 18 dated 24th December 1861, to the Deputy Ma-
gistrate of Nayadupet, regarding Nago Narasinga Row, late Sub-Magistrate of Poluru.

1. Resolved that the above letter be submitted to Government in continuation of the Board's
Proceedings dated 10th November 1862, No. 7,399.
2. The Board consider that Mr. Dykes' proposal, that no application for pension be enter-
tained unless the requisite medical certificate is submitted therewith, is well worthy of adoption as
the rule.
3. There is nothing, however, in the above letter which would lead the Board to alter their
opinion, already recorded, that the system, described by Mr. Dykes to be general, under which
the appointments of old and deserving Government servants were occasionally lost to them, with-
out any pension being obtained, from the want of a medical certificate, was altogether unjust.
4. Indeed the remarks contained in paragraphs 5 and 6 of the above letter appear to the
Board to be somewhat irrelevant, for they could be but very rarely applicable to the case of a Go-
vernment servant, whose application for pension is seldom a voluntary act, but is generally sent
in, like that of Nago Narasinga Row, in compliance with the orders of his superior.

(A true Copy and Extract.)

AW

Sub-Secretary.

To J. D. Sim, Esq., Secretary to Government, R. D., with enclosure.

Copy to J. W. B. Dykes, Esq., Collector of Nellore.

Exd. J. Wright

Transferred to the
Public Department
28 November 1862

No. 7,398.

Submitting a letter from the Collector of
Nellore, regarding the subject of providing for
the re-employment of Nago Narasinga Row,
late Sub Magistrate of Poluru, with the Board's
observations on the subject.

PROCEEDINGS OF THE BOARD OF REVENUE,

No. 585

1862. Department.

Dated 25th November 1862.

Despatched. 27th Dec 1862

Received. 29th Dec 1862

pension, was refused
a medical certificate,
& found himself without
employ in consequence
of his appointment
having been immediately
filled up. The Bd of Rev.
considered it improper
to treat his post as
vacant without waiting
for him to be declared
incapable for further
service, & they therefore
directed his restoration.

This decision is in accordance
with the orders of the
Gov^t of India.

3 Under existing rules, when
a Gov^t servant wishes
to retire, his first step
is to address his immediate
superior. He is then
sent for examination
by a medical officer,

Resolution of dated 28 March 1881,
published in Fort St. George
Gazette of 30 April 1881, page 591.

whose written opinion
is transmitted to the
Head of the applicants'
office. If the applicant
is considered fit to
continue in his ^{situation} ~~appointment~~,
no further notice is
required. If unfit,
his application with
the medical certificate
& a statement is forwarded
to Gov^t thro' the Civil
Paymaster, & at the
same time it becomes
the duty of the Head of
the office to take early
steps for his discharge
& for the appointment
of his successor.

4 This system appears to
the G. in C. to be unobjectionable, & it seems
better that the medical
officer's opinion should be

Sought by the head
of the office than
by the applicant
himself. The latter
course would bring
upon the Lillab Surgeon
a number of private
applications for
Certificates with which
it is undesirable
that they should be
inconvenienced -

MM
MD/10/10
WJH

To
The Board of Revenue (Dess/12/62)

Ch. Rosen
12.10 "

21/6/22-212

21/6/56/1

16-10-395

Further ~~to the Hon. Secy to Govt.~~ ^{of 18th.} ~~of 18th.~~

Induriv

1862. Department.

No.

392

PROCEEDINGS OF GOVERNMENT.

Dated 11 December/52

(1)