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MADRAS RECORD OFFICE.

Government of Madras.

pension DEPARTMENT.

G.O. No. 44

~~Press~~
Mis.

Dated 13. 2

1866.

Not to be folded or roughly handled

26.9.35

71
FINANCIAL DEPARTMENT.

No. 524.

FROM

A. J. ARBUTHNOT, Esq.,

Chief Secretary to the Government of Fort Saint George,

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,

FINANCIAL DEPARTMENT.

SIR,

I am directed to submit, for the consideration and orders of His Excellency the Viceroy and Governor General in Council, the annexed copy of a Memorial addressed to this Government by Mr. E. Cullin, Principal Sudder Ameen of Cochin, praying that his service in the Army, in which he served for ten years previous to his appointment to an office in the Civil branch of the Public service, and also his service as Assistant to the Master Attendant in the Emigration Department, may be allowed to count for pension.

2. The circumstances of Mr. Cullin's case are briefly as follows :—He came to India as a Gunner of Artillery in June 1825, and served in the Army until May 1835, having attained the rank of Conductor. He then obtained his discharge, and was appointed 1st Uncovenanted Assistant in the Military branch of the Government Secretariat, which office he held until the 30th December 1842, when he was appointed Assistant to the Master Attendant in the Emigration Agency Department, on a salary of Rupees 350 per mensem, the amount which he had previously drawn in the Secretariat. The salary drawn by Mr. Cullin as Assistant in the Emigration Agency Department was paid from the Mauritius Emigration Fund. The appointment, however, which was offered to Mr. Cullin by the then Governor, the Marquis of Tweeddale, was notified in the official Gazette, and there was nothing in its terms which could lead him to suppose that, by accepting it, he was in any way severing himself from the service of the Madras Government. At the end of 1843, the office having been suddenly abolished under the provisions of Act XXI of 1843, Mr. Cullin was appointed to act as a Police Magistrate, which office he held from the 12th December 1843 to the 11th July 1845. On the return of the permanent incumbent, he was thrown out

of employment, and subsequently, on the recommendation of the Madras Government, who had noticed in very favorable terms the zeal and ability with which he had discharged his duties

To Government of India, 5th June 1845, No. 17.
From do. 28th " " " 436.
To do. 10th Octr. " " 42.
From do. 7th Novr. " " 791.

in the Emigration Department, he was permitted by the Government of India to draw, for the period for which he was out of employ, a monthly allowance equal to a moiety of the salary attached to his appointment as Assistant in the Emigration Department. On the 1st October 1845, Mr. Cullin was appointed to act as Secretary to the Marine Board, and on the 28th of the same month, he was appointed Principal Sudder Ameen of Cochin which office he still holds.

3. Under the special circumstances of the case, the speciality of which was admitted by the Supreme Government, in Mr. Bushby's letter of the 7th November 1845, the Governor in Council would strongly recommend that Mr. Cullin's service as Assistant in the Emigration Department, as well as his previous service in the Secretariat, should be allowed to count for pension, notwithstanding the short break which occurred consequent on the abolition of the Emigration Agency, and that he be granted the higher rate of pension allowed to Judicial Officers. At the end of the present year Mr. Cullin will have served upwards of 30 years in the Civil Department, of which period he will have held the office of Principal Sudder Ameen of Cochin for upwards of 20 years, in addition to having served as a Police Magistrate at Madras for 19 months. Mr. Cullin is a very deserving officer, and the Governor in Council trusts that the recommendation now

made may receive the favorable consideration of the Supreme Government. As Mr. Cullin desires to retire in the course of a few months, I am to request that early orders may be passed on this letter.

FORT SAINT GEORGE,
10th November 1865.

I have the honor to be,
Sir,
Your most obedient Servant,

Chief Secretary.

From Mr. E. CULLIN, Principal Sudder Ameen and Joint Magistrate of Cochin, to the Chief Secretary to Government, Fort Saint George; dated Madras, 25th May 1865.

I enclose a Memorial to the address of the Governor in Council, and shall be much obliged if you will have the goodness to submit it to His Excellency in Council, for favorable consideration.

TO HIS EXCELLENCY THE GOVERNOR IN COUNCIL

of Fort Saint George.

The Memorial of EDWARD CULLIN, Principal Sudder Ameen and Joint Magistrate of Cochin,

HUMBLY SHEWETH,

That your Memorialist having completed, within a few days, 40 years' service in India, was particularly anxious to know whether the new rules which had of late years been established would in any way affect his case. Your Memorialist accordingly addressed a letter to the Civil Pay-

To Civil Paymaster, 17th May 1865.

From Civil Paymaster, 20th May 1865.

master on the subject. Your Memorialist submits a copy of his letter to the Civil Paymaster, and of that Officer's reply.

2. Your Memorialist is very much grieved to find that the Civil Paymaster is disposed to disallow full 20 years of your Memorialist's service.

3. Under these circumstances, your Memorialist feels that his only hope for redress is in an appeal to your Excellency in Council, and, to enable your Excellency in Council to arrive at a judgment on his case, he proceeds to submit a brief sketch of his career.

Your Memorialist landed in India as a Gunner of Artillery on the 3rd of June 1825. In May 1835, being at the time a Conductor attached to the Commissariat Department, your Memorialist obtained his discharge from the Army, expressly for the purpose of taking up the appointment of 1st Uncovenanted Assistant in the Military Secretariat of the Government, which situation had been offered to him by Mr. Robert Clerk, then Military Secretary to Government. On the day on which your Memorialist left the Army he joined the Secretariat, and he served in the Secretariat until 30th December 1842, when he was appointed Deputy Emigration Agent. On the abolition of this appointment in the end of 1843*, he was immediately appointed an Acting

* 12th December 1843.

† From 1st April to 2nd June 1845, and from 11th July to 10th October 1845.

Police Magistrate, which office he held for about 18 months, when he was relieved by the permanent incumbent, and thrown out of all employment for a short season.† Your Memorialist's case was brought before the Government of India, and, by order of that Government, he eventually obtained, for the period he was out of employ, one half of the salary attached to the abolished office of Deputy Emigration Agent. The Government of India, at the same time, suggested that the first suitable appointment should be conferred upon your Memorialist. He was then appointed Acting Secretary to the Marine Board, and, after a very short time in that office, his present situation of Principal Sudder Ameen and Joint Magistrate of Cochin

was conferred upon him. Your Memorialist has held his present office for perhaps an unprecedented period, that is, approaching to 20 years. Your Memorialist has thus been, with the exception of the few months in 1845, when he was unemployed, in the service of Government from 3rd June 1825 up to the present date.

4. The Civil Paymaster, however, as will be seen from his Official Memorandum, disallows the whole of your Memorialist's Military service, extending to nearly 10 years. With reference to this, your Memorialist would remark that it had always been usual for Military men who left the Army and entered the Uncovenanted Civil Service to reckon their Military service, as qualifying for pension, and that the question is put beyond all doubt by an Order of Government in the Financial Department, dated the 12th May 1862, No. 352, which distinctly grants the privilege to all Military men who entered the Uncovenanted Civil Service prior to 1860. Your Memorialist, as already stated, entered the Uncovenanted Civil Service in 1835, or 25 years prior to the date named in the above Order; and he respectfully submits that it would be hard indeed if he were deprived of the benefit of the usage which had so long obtained, and of the Order of Government here quoted.

5. Next, as regards the period of his employment as Deputy Emigration Agent, your Memorialist understands that this period is not considered by the Civil Paymaster as reckoning for pension, on the ground that the appointment was not a Government one. Your Memorialist must here explain the circumstances connected with his acceptance of this appointment.

Your Memorialist was at the time 1st Uncovenanted Assistant in the Secretariat. Being ambitious for advancement, he had about this period applied for the office of Postmaster at Madras. He failed in getting the situation of Postmaster; the reason assigned was that his application was received too late. Soon after, without any solicitation from your Memorialist, the Private Secretary to the then Governor, by order of the Governor, offered him the appointment of Deputy Emigration Agent. The salary, Rupees 350 per mensem, was exactly the same as he then received as 1st Uncovenanted Assistant. The duties of Deputy Emigration Agent were of a novel and very irksome nature; but the situation having been offered to him by the Governor, he thought that if he did not accept it, he would give offence, and thus close the door

30th December 1842.

to further preferment. He accordingly accepted the office, and the appointment was announced in the *Fort Saint George Gazette*, like

all other appointments by Government. He can faithfully state that neither when he accepted the situation, nor while discharging the duties of Deputy Emigration Agent, did he for a moment suppose that he was serving any other than his own, the Madras, Government. It was the first emigration from Madras, and the position of the servants appointed by Government to supervise the system was not at the time known probably to any one, and certainly not known to your Memorialist. He certainly never would have accepted an office which gave him no increase of pay, and involved very hard work (continually crossing the surf to inspect ships), had he had the most remote idea that the acceptance of the office would have separated him from his own Government, and involved to him the loss of previous meritorious service. Two gentlemen, now in Madras, who know all the circumstances, would, he believes, be willing to verify, if necessary, on oath, the truth of this statement in every particular.

6. The Civil Paymaster further states that, under the rules, his office cannot do otherwise than view the period between the date on which your Memorialist "gave over charge of his office in the Secretariat and that on which he assumed charge of the office of Principal Sudder Ameen, Cochin, as a break, which will prevent him from reckoning as service for pension the period spent in the Secretariat."

7. The view taken by the Civil Paymaster, as expressed in the last preceding paragraph is based upon rules which do not allow time served in acting appointments to count for pension, and which require service to be continuous to count for pension; but your Memorialist submits that these are comparatively new rules, and that they were not in existence either when your Memorialist entered the Uncovenanted Service, or when he held the acting appointments above-mentioned,—nay, not until long after he had entered on his work as Principal Sudder Ameen; and it has been frequently decided by the highest authority that rules such as those referred to are not to have retrospective effect.

8. Your Memorialist, therefore, hopes that he may be allowed to reckon as service for pension—(1st), his Military service under the Financial Order of Government, dated 12th May 1862, No. 352; (2nd), the period of his employment as Deputy Emigration Agent, as the appointment was made by Government, and there was nothing whatever to show that it was in any respect other than a Government appointment, qualifying, like other Government appointments, for pension; (3rd), the periods during which he acted as Police Magistrate and as Secretary to the Marine Board, as the rule excluding service in acting appointments was not in existence when your Memorialist officiated in those appointments; and that for the same reason, the Rule requiring service to be continuous to count for pension may not be applied to his case.

9. Your Memorialist trust that the nature of the duties discharged by him for a lengthened period, and the manner in which he has in every situation held by him served the Government will induce your Excellency in Council to accord a favorable consideration to his case. The gentlemen under whom he served in the Secretariat are no longer here to bear testimony in his favor; but your Memorialist is certain that any inquiry which it may be deemed necessary to make will satisfy Government that he has always worked zealously, faithfully,

A Testimonial from W. Robinson, Esq., Inspector General of Police, dated 20th May 1865, is hereto appended.

are known to your Excellency in Council to be both onerous and responsible. Under the Act quoted in the margin, your Memorialist

Act VII of 1843, Section 47.
And it is hereby enacted that whenever the Governor in Council of Fort Saint George shall establish a Court under a European Principal Sudder Ameen at Cochin, such Principal Sudder Ameen shall exercise, within the jurisdiction assigned to him, all the powers of a Criminal Court according to Regulation II of 1827, and also all the powers of a Joint Magistrate.

and efficiently. The duties of his present office, Principal Sudder Ameen of Cochin, which he has held for nearly 20 years, has had to discharge also, for the long period just mentioned, the duties of Joint Magistrate and Justice of the Peace at an important Sea Port, as Cochin certainly is, and he may add that he has been constantly at his post, having

had only three months' privilege leave during the entire period. Other Principal Sudder Ameens have been free during the vacations of their Courts, while in his case, having Magisterial duties to discharge, he was never, until the present occasion, absent from his station, except during the three months' privilege leave already mentioned. Your Memorialist is now at Madras, which he has not visited since 1845, under an arrangement kindly sanctioned by Government last year, specially to meet his case. During the 40 years he has served the Government, he has only twice had leave of absence—once for three weeks while in the Army, and once for three months while in the Uncovenanted Service.

10. Your Memorialist has spent his best years in the service of Government, and he only asks that, in his old age, he may be allowed what the old rules and practice of the Service have fully led him to expect, and that he may not, at the close of his career, be brought under the operation of new rules so utterly subversive of his claims.

11. Your Memorialist can very ill afford to bear the loss which an unfavorable decision would entail. He is the principal Civil Officer at Cochin, and he has had a position to maintain as a Joint Magistrate among a European community. Cochin has for some years been as expensive as regards living as almost any place under this Presidency, Madras not excepted. With the utmost economy consistent with keeping up a moderately respectable position, and providing, through Insurance Societies, for his family after his death, he has only been able, after 40 years' service, to save Rupees 2000; and more than this sum will be needed to provide passage to England for himself and family, should he be permitted to return to his native land. After your Memorialist's retirement, he will have to keep up the Policies of Insurance out of whatever income may be granted to him, or lose all the money he has been paying for years to the Insurance Societies, and leave his family destitute after his death.

12. He therefore earnestly solicits that, for the reasons above urged, he may be allowed to reckon for pension every period of the service rendered by him to Government. He begs to state that he does not mean in the present Memorial to apply for pension, but simply to set at rest this question of service claimable by him for pension.

Your Memorialist, as in duty bound, will ever pray.

MADRAS, 25th May 1865.

(Signed) E. CULLIN.

From Mr. E. CULLIN, Principal Sudder Ameen and Joint Magistrate of Cochin, to the Civil Paymaster Madras; dated Madras, 17th May 1865.

As the period is approaching when I shall, probably, find it necessary to give over work, I am particularly anxious to know what service given by me to the Government will be recognized by your Department as constituting a claim to pension, and I shall esteem it a great favor if you will kindly furnish me with information on the subject.

I proceed to give you a brief statement of my service:—

I landed in Madras as a Gunner of Artillery in June 1825, and obtained my discharge from the Army in May 1835 (I was then holding the rank of Conductor), expressly for the purpose of taking up the appointment of 1st Uncovenanted Assistant in the Military branch of the Secretariat, which had been offered to me.

There may not have been any positive rule on the subject; but I well know that when I left the Army, Military service had, in many instances, been allowed to count towards pension in the Civil Department.

The same day I left the Army, I joined the Secretariat as 1st Uncovenanted Assistant, Military branch. Uncovenanted Assistants were at this time first introduced into the Secretariat. The gentlemen under whom I served in the Secretariat have long since left India, and I cannot apply to them to bear testimony in my favor, but I have the satisfaction of knowing that my services while attached to the Secretariat were appreciated by them.

I served in the Secretariat until 30th December 1842, when I was appointed Deputy Emigration Agent.

I have reason, I am grieved to say, to apprehend that my acceptance of the office of Deputy Emigration Agent may, under the new Rules, be viewed by your Department as constituting a break in my service, and involving the loss of all previous service to the Government. I can only say that if my apprehension proves to be well founded, it will indeed be a very hard case. I, therefore, deem it necessary to explain the circumstances under which I accepted the office of Deputy Emigration Agent.

I was at the time, as already stated, 1st Uncovenanted Assistant in the Secretariat. Being ambitious for advancement, I had about this period applied for the office of Postmaster at Madras. I failed in getting the situation of Postmaster; the reason assigned was that my application was received too late. Soon after, without any solicitation from me, the Private Secretariat to the then Governor, by order of the Governor, offered me the appointment of Deputy Emigration Agent. I hesitated. The salary, Rupees 350 per mensem, was exactly the same as I then received as 1st Uncovenanted Assistant. The duties of Deputy Emigration Agent were of a novel and very irksome nature; but the situation having been offered to me by the Governor, I felt myself bound to accept it. I thought that if I did not do so, I would give offence, and thus close the door to further preferment. I can faithfully state that I was wholly ignorant that such an office was about to be formed when it was offered to me by the Governor's Private Secretary.

I accepted the office, and the appointment was announced in the *Fort Saint George Gazette*, 30th December 1842.

While discharging the duties of Deputy Emigration Agent, I never for a moment supposed that I was serving any other than my own, the Madras, Government.

It was the first Emigration from Madras, and the position of the Emigration servants was not then known.

I certainly never would have accepted an office which gave me no increase of pay, and involved very hard work (continually crossing the surf to inspect ships), had I had the most remote idea that the acceptance of the office would have separated me from my own Government, and involved to me the loss of previous meritorious service. As already noticed, I felt that an offer from the Governor amounted almost to a command, and that I had really no choice but to accept the appointment. Two gentlemen now in Madras, who knew all the circumstances, would, I believe, be willing to verify, if necessary, on oath, the truth of this statement in every particular.

After one year, emigration to the Mauritius ceased by order of the Government of India, and my office, of course, was abolished.

I was immediately appointed an Acting Police Magistrate at Madras, and continued in that office for about 18 months, when I was relieved by the permanent incumbent, and, for a short season, was thrown out of all employment. My case was brought before the Government of India, and I eventually obtained, by order of that Government, half pay for the short period I was out of office, from, I think, some Mauritius Fund; and the Government of India, at the same time, suggested that the first suitable appointment should be conferred upon me. I was appointed Secretary to the Marine Board; and, after a very short time in that office, my present situation, Principal Sudder Ameen and Joint Magistrate of Cochin, was conferred upon me. I have held my present office for perhaps an unprecedented period, approaching to 20 years.

12th December 1843.

11th July 1845.

7th November 1845, in M. C.

3rd December 1845, No. 1125.

28th June 1845, in M. C.

22nd July 1845, No. 656.

10th October 1845.

28th October 1845.

I beg to observe that Officers in the Judicial Department generally enter in a lower grade, and towards the close of their service obtain the higher grade of Principal Sudder Ameen (or Native Judge), whereas my whole service of nearly 20 years in the Judicial Department has been in the highest grade of Principal Sudder Ameen. In addition to the ordinary duties of Principal Sudder Ameen, I have had, under the Act quoted in the margin, to discharge also, for the long period mentioned, the duties of Joint Magistrate and Justice of the Peace at an important Sea Port, as Cochin certainly is, and I may add that I have been constantly at my post, having had only three months' privilege leave during the entire period. Other officers in my position have been free during the vacations of their Courts, while in my case, having Magisterial duties to discharge, until the present occasion, I was never absent from my station, except during the three months' privilege leave already mentioned, which I once only obtained. I am now at Madras under an arrangement kindly sanctioned by the Madras Government last year specially to meet my case. It is the first time that I have visited the Presidency since 1845. I dwell on this point, for, although not provided for by rules, the fact may have some weight with the authorities in estimating my service.

Act VII of 1843, Section 47. "And it is hereby enacted that whenever the Governor in Council of Port Saint George shall establish a Court under a European Principal Sudder Ameen at Cochin, such Principal Sudder Ameen shall exercise, within the jurisdiction assigned to him, all the powers of a Criminal Court, according to Regulation II of 1827, and also all the powers of a Joint Magistrate."

During the 40 years I have served the Government, I had only twice leave of absence—once for three weeks while in the Army, and once for three months while in the Uncovenanted Service. Permit me to say that, when I entered the Uncovenanted Civil Service, the present rule, requiring continuous service to qualify for pension, was not, as far as I know, in existence, and I submit it would be hard, in my old age, to make it applicable to me. I do not mean this letter to be considered as an application for pension. I merely wish to see my way, and I hope that you will kindly favor me with information to enable me to do so.

(True Copy).

(Signed) E. CULLIN.

No. 32.

MEMORANDUM.

Statement Department.

With reference to Mr. E. Cullin's inquiries in his letter of the 17th instant, the undersigned has the honor to state—

Firstly.—That his service in the Military Department, which appears to have been in the Army, will not reckon for pension in the Civil Department; and,

Secondly.—That under the Rules this office cannot do otherwise than view the period between the date on which Mr. Cullin gave over charge of his office in the Secretariat, and that on which he assumed charge of the office of Principal Sudder Ameen, Cochin, as a break which will prevent him from reckoning as service for pension the period spent in the Secretariat.

FORT SAINT GEORGE,
CIVIL PAYMASTER'S OFFICE,
20th May 1865.

To E. Cullin, Esq., Principal Sudder Ameen, Cochin, Madras.

(Signed) W. DONALD,
Chief Assistant Civil Paymaster
in Charge.

MY DEAR MR. CULLIN,

In reply to your note I can cheerfully state that since I have known you, I think since 1848 or 1849, I have always entertained the highest opinion of your character and steady business-like habits.

You were for years under our old friend Mr. Conolly, and I have frequently heard him mention you in terms of entire confidence and of praise, and you had a difficult berth of it at Cochin.

In 1856 and 1858, when I acted as Magistrate of Malabar, I had more opportunity of observing your work myself. It was done very efficiently, and with discretion, tact, and judgment. I always felt confident that your troublesome charge was in safe hands.

With best wishes,

Yours ever sincerely,

W. ROBINSON.

May 20th, 1865.

To E. Cullin, Esq.

P. S.—If I can be of use to you, you are at liberty to refer to me for testimony, which will be most favorable.

Exd. J. H. Burns.

19

*Proceedings of the Madras Government, Financial Department,
31st January 1866.*

Read the following papers:—

No. 61. From the Secretary to the Government of India, to the Secretary to the Government of Fort Saint George; dated Fort William, 19th January 1866, No. 214.

I am directed to acknowledge the receipt of your letter, No. 524, dated 10th November 1865, submitting the case of Mr. E. Cullin, Principal Sudder Ameen of Cochin, who has memorialized the Government of Madras on the subject of the removal of the defects in his title to a half-pay pension.

2. The requests contained in the Memorial are:—

1st.—That the period of service passed in the Army should be allowed to reckon towards pension under the Civil Rules; and,

2nd.—That the term of employment as Assistant to the Master Attendant, in the Emigration Agency Department, the salary of which office was paid from an Emigration Fund, should be regarded as employment under Government qualifying for pension.

3. In reply, I am directed to state that the first of these requests is totally inadmissible. It has been repeatedly ruled that service performed during the currency of a Military Contract, cannot be allowed to count towards pension from the Civil Department, and deviations from this are not to be permitted.

4. With regard to the other request, considering the circumstances attending Mr. Cullin's acceptance of office in the Emigration Agency Department, he has apparently a fair claim to retain the benefits of his previous service in the Military Secretariat, and as his subsequent loss of employment was caused by abolition of appointment, the claim is not invalidated by the break in service. It would seem, therefore, that without any reference to the second request preferred in the Memorial, Mr. Cullin has earned a title to a half-pay pension by his service of 7 years in the Military Secretariat and of 20 years in the present appointment, and this pension may accordingly be authorized at the proper time by the Madras Government.

No. 62. From the Secretary to the Government of India, to the Secretary to the Government of Fort Saint George; dated Fort William, 19th January 1866, No. 215.

In connection with the Memorial of Mr. Cullin, the Principal Sudder Ameen of Cochin, the attention of the Government of India has been drawn to an Order of the Madras Government, No. 352, dated 12th May 1862, directing that the rule disallowing Military service in the computation for pension from the Civil Department should be applied with effect only from the 1st July 1860.

2. I am instructed to state that this limitation has not been authorized by the Government of India, and is opposed to Rule as well as to the practice in other Presidencies. I am accordingly to request that, with the permission of His Excellency the Governor in Council, the mistake may be rectified, and to refer you to the observations on the subject contained in paragraph 3 of my letter, No. 214, of this day's date.

Copy to the Accountant General, Madras, for information.

No. 63.

ORDER THEREON, 31st January 1866, No. 53.

Communicated to Mr. Cullin.

2. The Governor in Council will be prepared to grant Mr. Cullin a pension equal to half his salary for the last five years, on receiving an application in the prescribed form.

(True Extract),

G. J. Cunningham
Chief Secretary.

To Mr. E. Cullin, Principal Sudder Ameen, Cochin.
To the Pension Department.

" Examiner of Claims.
" Military Department.
" Civil Judge of Calicut.

Exd. J. H. Burns.

Pensions 1866 Department

1866
1739.

Secretary of Government
Washington D.C.

1866

Dated 31st January 1866.
Dec. 2nd February

Authorizing the
grant of a half rate of
pension to Mr. G. C. C. C.
Principal Auditor of
of Cookin -

Order of the Secretary of War
March 1866

C. M.