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MADRAS RECORD OFFICE.

Government of Madras.

Revenue
~~Finance~~ DEPARTMENT.

G.O. No. ~~550~~ 704. ~~Press~~ Mis.

13. 12. 1870

Dated ~~4—8—~~ 1869.

Not to be folded or roughly handled

Marine Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read the following ~~letter~~ papers

Marine Dep^t, Fort William, the 18^th October 1870.

From Col. W. J. Marriott, Secretary to Government Bombay, Marine Department, to the Secretary to the Government of India, Marine Depart^t (No 550 dated Bombay Castle, the 6^th August 1869):

I am directed to forward the accompanying copy of a letter from the Accountant General, N^o A 1335, dated 10^th July with enclosures, relative to a claim by Lieutenant Brocket, Acting Marine Store-Keeper, to his Indian Navy pension in addition to the half salary of his acting appointment. I am also to annex copy of a Government Resolution N^o 550 dated 6^th August, and to solicit confirmation by the Government of India of the view of the claim expressed by this Government in that resolution - pending receipt of which no action will be

be taken thereon

From W. E. Gordon Esqr for Offg. Accountant General to the Secretary to Government, Bombay Marine Department (No A 1335, dated Bombay the 10th July 1869)

I have the honor at the request of Lieutenant Crockett, Acting Marine Storekeeper, to submit copies of the accompanying correspondence for the consideration & decision of Government.

2 I have declined to pass to Lieutenant Crockett his pension in addition to his salary, according to the rules laid down in the Secretary of State's despatch No 55, dated 28th November 1862, but Lieutenant Crockett is of opinion that these orders were not intended to apply to officers in temporary employment only, and quotes resolution of Government of India No 1167, dated 29th February 1868, in support of his claim. I submit however, firstly, that there is nothing in the Secretary of State's despatch to warrant this supposition; and secondly, that the resolution that the resolution No 1167, quoted by him does not appear to apply to officers of the late Indian Navy but to Military Officers

3 My belief in the accuracy of my decision is strengthened by the Financial Resolution passed by the Government of India No 933, dated 12th February 1869, to which I beg to refer you, and therefore I have the honor to request the special orders of Government on the subject

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From Lieutenant W. L. Crockett, Indian Navy, Acting Marine Store-keeper, to the Examiner of Claims Bombay (Dated Marine Storekeepers Office, the 9th July 1869)

I have the honor to acknowledge the receipt of your letter No 1274 of 1869-7 of yesterday's date. In reply I conceive that when the Secretary of State for India in despatch No 55, para 11 dated 28th November 1862 gave the ruling you quote he intended, it should apply to officers holding substantive, not temporary employment under Government as in my case, and I am strengthened in this belief — 1st from the fact that officers of the late Indian Navy serving Government temporarily during the late Abyssinian Expedition, and otherwise drew their pensions in conjunction with their pay; and 2ndly that the financial despatch I have already quoted, viz, No 1167, Government of India, Financial Department dated Fort William, 29th February 1868

1868, has reference to the cases of pensioners whose employment is strictly temporary and does not last for more than one year, and to which I would submit my case is analogous

In the event of you not feeling justified in admitting on the above explanation, may I request the favor of your submitting it for the consideration and decision of Government.

Abstract of pension due to Lieutenant W. I. Crockett, late Indian Navy, Acting Marine Storekeeper, for the month of June 1869, as per Government of India Resolution in the Financial Department, No. 1167 of the 29th February 1868 @ £100 per annum, at the exchange of 2s.-½d the Rupee or Rupees 81-10-0 per mensem is Rupees -- -81-10-0
Deduct Income Tax -- -- -- 0-13-0
Total Rupees eighty and thirteen annas 80-13-0

(Errors excepted)

Bombay
The 7th July 1869 } (Signed) W. I. Crockett. Lieut late Indian Navy

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This is to certify that Lieutenant Crockett, Marine Storekeeper, for whom I am officiating, was granted in Government General Order No. 12 of the 12th May 1869, Marine Department, twelve months' Leave

leave on medical certificate

(Signed) W. I. Crockett. Lieut late Indian Navy Acting Marine Store-keeper

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Pay alle to Narrayen Bapooje.

(Signed) W. I. Crockett. Lieut late Indian Navy Acting Marine Store-keeper

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The undersigned has the honor to inform Lieutenant Crockett that his pension is not payable after the 13th June, as he took charge of the office of the Marine Storekeeper in the morning of the 14th of the same month. It is therefore requested that an amended abstract may be prepared for the payment of his pension from the 1st to the 13th June both days inclusive

The 7th July 1869 (Signed) T. J. Oliphant Offg Examiner of Claims

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The undersigned presents compliments and begs to be informed of the ground on which his claim has been refused in view to submitting an appeal to Government in the matter

The 7th July 1869 Signed W. I. Crockett Lieut Acting Marine Store-keeper

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From T. J. Oliphant, Esq., Officiating Examiner

Examiner of Claims, to Lieutenant W. L. Crockett, Indian Navy, Acting Marine Storekeeper, Bombay, — No 1274 A, dated Bombay the 8th July 1869

In reply to your memo, I have the honor to inform you that in para 11 of the Despatch of Her Majesty's Secretary of State for India No 55 dated 28th November 1862 it was ruled that "whenever an officer of the Indian Navy in receipt of pension granted to him upon the abolition of that service, is appointed to any office in India or under the Secretary of State for India in Council at Home it should be upon the condition that if the emoluments of the appointment exceed the amount of his pension by one-fourth, he shall not receive any portion of his pension while he is so employed."

The emoluments of your appointment exceed the amount of your pension by one-fourth, and therefore I am unable to pass your pension, while you are employed under Government in your present appointment.

Marine Department — Bombay Castle
No 550 — 6th August 1869

Letter from the Accountant General, No 1335 dated 10th July 1869

Submits for consideration and decision, copy of correspondence between the Audit Department and Lieutenant Crockett, Acting Marine Store-keeper, relative to his claim for Indian Navy pension in addition to the salary of his present appointment. States that under the Government of India's Resolution No 953 dated 12th February, Lieutenant Crockett's claim is inadmissible. States that the Government of India Resolution quoted by Lieutenant Crockett in support of his claim is applicable to Military Officers only.

Resolution.— There is nothing in the Secretary of State's despatch No 55 of 28th November 1862, to support Lieutenant Crockett's supposition that the instructions in para 11 thereof, do not apply to acting appointments. On this point His Excellency in Council concurs with the Accountant General.

His Excellency in Council does not concur with the Accountant General, in considering that the resolution by the Government of India in the Financial Department

Department, No 1167 of 25th February 1868, applies only to Military Officers. The resolution expresses no such restriction & only speaks generally of 'Pensioners'. But that resolution only authorizes the local Government 'at its discretion to make exceptions in the cases of pensioners whose employment is strictly temporary and does not last for more than a year, to the general rule under which salary and pension cannot be drawn together by the same person'— His Excellency in Council does not think that an acting appointment to a permanent office, such as of the Dockyard Storekeeper, is of the temporary character contemplated by the above quoted resolution; and would not therefore make any discretionary exception in Lieutenant Brockett's favor under that authority.

3 For full disposal of this question, it remains to notice the despatch from the Secretary of State, No 290 of 9th July 1868, to the Government of India, modifying the general rule to the following extent:—

'When an officer has retired on a pension obtained not on medical certificate, but after a prescribed period of service, is subsequently employed in any public capacity, he shall be permitted to draw the pension in addition to the salary of the office to which he may be appointed" (see resolution by the Government of India of 6th August 1868)

4 The officers of the Indian Navy pensioned on the abolition of that service, all received special pensions, which they cannot claim (under the rule above quoted) to retain if re-employed, because they were not pensions obtained after a prescribed period of service. But many of the officers so pensioned, had at the time of being pensioned, acquired a right to a smaller pension by fulfilment of a prescribed period of service; & His Excellency in Council thinks that so much of their pensions as they had so earned at the time of retirement on the special pension, they may equitably claim to receive in addition to the salary of the office to which they are appointed, in the spirit of the above quoted order

5 This view of the case will be reported to the Government of India.

India for confirmation; and until it be so confirmed, no action should be taken on it.

(Signed) W. F. Marriott, Colonel
Secretary to Government

To the Accountant General
To the Superintendent of Marine

Memorandum № 33

Documents received with Simla-Marine schedule № 12 of the 18th August and Military Department's docket № 289 of the 10th September 1869, are herewith returned.

2 The Bombay Government forward for confirmation their proceedings disallowing Lieutenant Brockett, Officiating Marine Store-Keeper, his Indian Navy pension in addition to the half salary of the acting appointment

3 The particulars of the case appear to be these:—

4 On the departure of Lieutenant Searle, the Marine Store-Keeper, to Europe on medical certificate for 12 months, Lieutenant Brockett was appointed to officiate in the appointment

5 He submitted a bill in due course for his Indian Navy pension in addition to the half salary of Marine Store-Keeper, but the former was disallowed by the Officiating Examiner of Claims on the ground that, as the emoluments of the office exceed the amount of pension by one-fourth, the pension is inadmissible so long as he holds the present appointment, under the decision communicated in despatch from the Secretary of State, № 55 of the 28th November 1862, and quoted in the margin for ready reference.

6 Lieutenant Brockett, however, appealed against this decision, contending that the Secretary of State's despatch above quoted is not applicable to officers in temporary employment, as per resolution of the Financial Department, № 1167 of the 29th February 1868

7 The Accountant General at Bombay in submitting Lieutenant Brockett's appeal to the Bombay Government pointed out, firstly, that there is nothing in the Secretary of State's despatch № 55 of 28th November 1862, to warrant Lieutenant Brockett's supposition; and, secondly, that the resolution referred to by that officer does not appear to apply to officers of the late

General

"Whenever an officer of the Indian Navy in receipt of pension granted to him upon the abolition of that service is appointed to any office in India or under the Secretary of State for India in Council at Home, it should be upon the condition that if the emoluments of the appointment exceed the amount of his pension by one-fourth, he shall not receive any portion of his pension while he is so employed."

late Indian Navy, but to military officers

8 In confirmation of this view Mr Gordon quoted Financial Resolution No 933 of 12th February 1869.

9 The Bombay Government upheld the Accountant General's view in regard to the erroneous impression Lieutenant Brocklett is under, but do not concur with that officer that the resolution of the Financial Department No 1167 of the 29th February 1868, applies only to military officers

10 The Bombay Government correctly state that the Resolution expresses no such restriction, but speaks generally of "pensioners," and authorises the local Governments at their discretion "to make exceptions in the cases of pen- "sioners whose employment is strictly "temporary and does not last for more "than one year, to the general rule under "which salary and pension cannot be "drawn together by the same person"

With reference to this, the Bombay Government hold the opinion that "an acting appointment to a "permanent office, such as of the "Dockyard Store-keeper is not of the "temporary character contemplated by "the resolution" and therefore consider that pension

that no discretionary exception can be made in favor of Lieutenant Brocklett under that authority

12 With regard however, to the Secretary of State's despatch No 290 of the 9th July 1868, modifying the general rule to the extent that the Bombay Officers of the Indian Navy pensioned on the abolition of that service, all received special pensions which they have no claim to retain in virtue of such concession, because the pensions granted to them were not obtained after a prescribed period of service. But as many of the officers so pensioned had, at the time of being pensioned, acquired a right to a small rate of pension, the Bombay Government think that, in the spirit of the above concession, they may equitably claim that portion in addition to the salary of any office to which they may be appointed

"When an officer has retired on a pension obtained, not on medical certificate but after a prescribed period of service, is subsequently employed in any capacity, he shall be permitted to draw the pension in addition to the salary of the office to which he may be appointed."

13 This reasoning may be correct in the abstract, but in the face of the special conditions prescribed (vide para 5 above) in the case of Indian Navy Officers, the undersigned would be

General

be unwilling to recommend any departure therefrom, without the previous approval of the Secretary of State for India

(signed) A. B. Johnson Lieut.-Col.
for Contr. Genl. of Mily. Expenditure

Mily. (Marine) Dept.,
Accd. Branch;
the 14th July 1870

No 3176

Government of India
Financial Department
Simla, the 7th September 1870

Read extract from the Proceedings of Government in the Marine Department No 3, dated 3rd August 1870, and enclosures regarding a claim by Lieutenant Brocket to his Indian Navy pension in addition to the half salary of his officiating appointment of Marine Storekeeper Bombay

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Resolution.— The claim of Lieutenant Brocket is inadmissible under the orders in the Marine despatch of Her Majesty's Secretary of State for India, No 55 dated 28th November 1862, paragraph 11. The orders in Secretary of State's Financial despatch No 290 of 9th July 1868, do not, the Governor General in Council pension

Council observes, in any way affect the special ruling contained in the despatch of 1862, regarding the officers of the Indian Navy pensioned on the abolition of the Navy, and they cannot therefore, be applied to the case of Lieutenant Brocket.

Order.— Ordered that the foregoing resolution be communicated to the Marine Department & the Accountant General, Bombay

Original papers returned, copies being kept

signed R. H. Hollingberry
Asst. Secy. to the Govt of India

From Captain J. R. Hoskins R. N. Acting Deputy Secretary to Government, Bombay Marine Department, to the Secretary to the Government of India, Marine Department,— (No 592, dated Bombay Castle, the 14th September 1870.)

I am directed to transmit the accompanying copy of a letter from Lieutenant W. S. Brocket, dated 17th August last soliciting re-consideration of his claim to the Indian Navy pension in addition to his half salary while acting Marine Storekeeper, and of a report by the Officiating Accountant General

General thereon

I am directed with reference to letter No 550 of 6th August 1869, and resolution of this Government transmitted therewith, to solicit the decision of the Government of India, on the interpretation therein given of Rule 8 of the Govt of India Financial Department, No 1167, dated 29th February 1868.

From Lieutenant W. T. Crockett, late Indian Navy late Acting Marine Storekeeper, to the Secretary to Government Bombay, Marine Department,—(Dated Bombay, No 1 Rampart Row, the 17th August 1870)

On the 10th August 1869, I had the honor to receive from the Superintendent of Marine, a resolution of Government at the Marine Department, dated 6th idem No 550. The resolution was passed in consequence of correspondence between myself and the Examiner of Claims, relative to my application for pension, in addition to my pay while Acting Marine Store-keeper, and my request that the matter be forwarded to Government for decision, should he disallow my claim

The resolution in its first para absolutely disallows my reading of the Secretary of State's dispatch No 65 of 28th November 1862, and it further states, that His Excellency in Council is in accord thereon with the Accountant General. With reference to para 2 I beg to quote it in extenso— "His Excellency in Council does not concur with the Accountant General in considering that the resolution by the Government of India in the Financial Department, No 1167 of 29th February 1868 — applies only to Military Officers." The resolution expresses no such restriction. It only speaks generally of pensioners. "But that resolution only authorizes the Local Government at its discretion to make exceptions in the cases of pensioners whose employment is strictly temporary, and does not last for more than a year, to the general rule under which salary and pension cannot be drawn together by the same person" — His Excellency in Council does not think that an acting appointment to a permanent office, such as of the Dockyard Storekeeper, is of the temporary character contemplated by the above quoted resolution, and would not therefore make any discretionary exception in Lieutenant Crocketts favor under that authority"

It is with reference to this 2nd para. I have

have quoted, that I again respectfully beg to draw the attention of His Excellency the Governor in Council, and I trust that a review of the circumstances I shall detail, may lead to a more favorable consideration of my case, and the granting me the boon I ask, viz; my pension in addition to the pay I drew, when acting as Marine Storekeeper

In accordance with the ruling of the resolution of the Government of India in the Financial Department, № 1167 of the 29th February 1868, in which it is stated that the Local Government may be authorised at its discretion to make exceptions, in the cases of pensioners whose employment is strictly temporary and does not last for more than a year to the general rule under which salary and pension cannot be drawn together by the same person; there cannot be, I would respectfully submit, the least doubt, that my employment while acting for the present incumbent was for the time being strictly temporary, and moreover my tenure of office did not last for more than one year, viz, from the 12th June 1869, the date I assumed temporarily the

the charge of those duties, and to the 15th May last, being the date I made them over to Lieutenant Earle who was virtually the Marine Storekeeper. Again I would further respectfully beg to point out, that prior to my assuming the temporary appointment of Acting Marine Storekeeper, I was not employed in any service under Government, nor did I continue to do so after Lieutenant Earle returned to duty and resumed his appointment.— These are matters, I would respectfully point out, to be considered in my peculiar case, but in representing that my half pay and long service were considered to be my duties and responsibility that devolved on me (which His Excellency in Council is doubtless aware of without my entering into details), setting aside the appointment of Marine Storekeeper being one of great trust, inadequate with the position held, I feel sure that the Government will on due consideration of my case, not debar me from drawing my pension for the period I performed temporarily the duties of Acting Marine Store-keeper, viz- from the 12th June 1869 to the 15th May 1870, which outlay would have been no more, had an outsider been nominated to the acting appointment instead of

myself

myself

With reference to that part of para. 2 in which "His Excellency in Council does not think that an acting appointment to a permanent office such as the Dockyard Store-Keeper, is of the temporary character contemplated by the above quoted resolution", I would beg to point out, that during my tenure of office, it was not permanent but temporary, inasmuch as Lieutenant Searle was only confirmed from the 19th January 1870, on the 15th June 1870, a short time after his again assuming charge from me, and I would also point out that he returned within the year for which he was granted leave. I would also beg to state, that during the Abyssinian war, Mr. Purser Hewett, of the late Indian Navy, while temporarily employed through the exigencies of the public service, drew his pension in addition to the salary granted him

In conclusion, it may be asked why I have allowed so long a time to elapse without appealing. The resolution I received, in its last para.) precluded me from taking any action, until a reply was received from the Government of India, which if received, has not yet been communicated

to

me

No 2183 A

This Government has already ruled in No. 530, dated 6th August 1869, Marine Department, that an acting appointment to a permanent office, such as of the Dockyard Storekeeper, is not of the temporary character contemplated by Government of India, Financial Department No 1167, dated 29th February 1868, but as there is some doubt as to the true meaning of the resolution, the question might be referred for the decision of the Supreme Government

Marine Dept
Bombay
The 29th August 1870

(Signed) C. E. Chapman
Officiating Accountant General

Marine Department, Simla.—(Dated the 25th September 1870)

Under Financial Department Resolution No. 3175, dated 7th September 1870, intimating that the claim of Lieutenant W. L. Crockett to his Indian Navy pension, in addition to the half pay of his officiating appointment of Marine Store-Keeper, Bombay, is inadmissible.

No 41 Copy of the foregoing forwarded to the Secretary to Government, Bombay, Marine

+ Marine Department, for the information of the Right Hon'ble the Governor in Council with reference to Colonel Marriott's letter N° 550, dated 6th August 1869.

By order

(Signed) W. M. Lees, Major

Offg. Depy. Secy. to the Govt of India

N° 29

Copy of the above forwarded to the Chief Secretary to Government, Fort St George, for the information of the Right Hon'ble the Governor in Council

By order

(Signed) E. N. W. Collen Lieut. R.A

Offg. Asst Secy. to the Govt. of India

N° 30 to the Controller of Military Accounts

Order thereon 29th November 1870 N° 336.

Communicated to the Pension Department, to the Master Attendant Madras and to the Accountant General.

(True Extract)

(Signed) R. S. Ellis.

Chief Secretary

To The Pension Department

Govt. of {1870} Madras.

To Pros of Marine Govt.

The Pension Depart

No. 1309

Dated Nov. 29th
Recd. " 30th } 1870, No. 336

Nos.

Comng. Resolution of the Govt. of India intimating that the claim of Lieut. W. Crockett to his Indian Navy Pension in addition to the half pay of his Off. appointment of Marine Store Keeper, Bombay, is inadmissible. Order of 13th December 1870 No. 704.

Recorded.

R. L. Spark