Number of pages 52
Repaired on 14-8-36

M.R.O. 1—82 400—22-11-30

12-8

MADRAS RECORD OFFICE.

Government of Madras.

Pension DEPARTMENT.

G.O. No. 813 Press / Mis.

Dated 2 12 1872.

Not to be folded or roughly handled

Memo: No 82 of 3rd October 1872

The Dy. Under Sec to Govt is directed to return the papers relating to the case of Norschick late Carpenter Mistry in the Govt Workshop Dowlaishwaram which accompanied the Actg Dy Sec [illegible] report of the 24th Sept. No 376 and to ~~point out~~ that the ~~information~~ report does not convey a reply to the ~~[illegible] 25th July 72~~ particular question referred to under date 25th July /72 namely whether the whole of Mr Norschick's [illegible] of his service (i.e. only [illegible]) in the Govt Workshop is admitted as qualifying for pension under G.O. 6th April 72 No 186 Pension Deptmt [illegible] any objections of a [illegible] nature

Audit DEPARTMENT.

No. 411

Fort

Accountant

7th Octo

FROM Offg Dy THE ACCOUNTANT GENERAL, MADRAS,

TO

THE Secretary to Governm
Pension

SIR,

In returning the pap
accompanied the Official Mem
No 82 dated 3d Instant from M
Secretary Galton, I have the ho
that the rate of pension to which
will be entitled in case his serv
Government Workshop is admitt
=ing for pension under G. O. 4th A
No 186 would be Rupees 13-5-4,
pay he drew during the last f
his service.

I have the
Sir
Your Obedi

W. Dou

Offg Dy Accoun

GR

Pension 1872 DEPARTMENT;
ACCTT. GENL.'S OFFICE, MADRAS.
No. 1166.

FROM
Off
THE DEPT. ACCOUNTANT GENERAL, MADRAS.

TO The Secretary to Govt
Pension Depart.

Dated 7 October 1872.
Recd. 8th
Ansd.
No. of answer
No 411.
(Subject.)

Stating that should the service of Butchiah in the Workshop be admitted as qualifying he would be eligible for 1/3d pension —

G.O. No 813.

To
Colonel J. J. Fischer R.E
Superintending Engr 1st Dn
Dowlaiswaram

The humble petition of
Bootchiah late Carpente
Overseer in the Public Wo
Workshop Dowlaiswara

Respectfully Sheweth

With every token of respec
and humility your petitioner most respec
begs to lay the following few lines be
your honor that he had served fai
with greatest zeal and attention for
wards of 35 years both in the Revenue a
D.P.W. in which he had not only spe
a portion of his life time but also his
mental and physical powers wh
at last deprived him of eye sight
will be observed from the Worksho
service Register book (an extract
which was already forwarded wit
letter from the late Engr in char
of the Workshop) that he had se
continuously for a period of 23 y
Your petitioner is extremely sorry
his bad luck to hear the G.O.
dated 21st September 1871 remarke
that your petitioner is not ent
for any pension having received p

for 5 Years (which was for the period he
was a Subverseer in the D P W)
and in Consequence your petitioner
humbly begs to represent once more
to Government that the gratuity granted
to him was not received at his own
accord but through the willingness
of Major Stoddard the then officer
incharge, who had been pleased
to say that the Service of Sub overseers
grade might be separated from the
Shop Services and it was the gratuity
only paid for the period in question
which might be refunded
when the Services are finally
Calculated for pension as is the
Case with Several members of
the Department employed as Subovsrs:
Moreover the Madras Government
in their orders No 1498 of 11th Jany 71
& No 3089 of 5th ~~September~~ December 1871 and
the India Government in their No 1272
dated 3d November 71 E. G. embodied
in G O No 117 dated 15th January 1872 have
recently gratefully ruled that the
Services of the Workshops should
be Counted towards pension

Your petitioner further begs to
represent that your honor Can pitifully
Consider

Consider that while the Several members
in the Several departments who had
Commonly turned out their ages and
had little Capable for seeking their livelihood
by some other means are receiving pension, one,
as your petitioner, who had lost his eye sight
and was very badly turned out of age which disables
him to seek livelihood by any other means,
and he who had Completed a long period of service
to Government, to suffer the loss of pension
is a greatest misfortune & therefore your
petitioner earnestly beseeches your honor
will be pleased to submit this petition to
Government with your favorable recommendation
for merciful reconsideration of
letter
Matter and to have your petitioner who is
entirely relying on the public as a pauper
by allowing him pension refunding the gratuity
that he has already received to Government
and maintain the remainder of his life
For which act of benevolence your
petitioner shall as in duty bound ever pray

Dowlaisweram
26th February 72 } W F [illegible]

P.W. 3067/72.

Enclosure in a letter No. 998 dated 12th June/72 from the Supdg Engineer 1st Dn ~~to the Secretary to Govt. D.P.W. Madras~~

Major J. Fr. Stricker RE
Superintending Engineer
1st Division
Dowlaishwaram

No 128

Government Workshop Office
Dowlaiswaram
23d August 1872

From
The Executive Engineer
Incharge Government Workshops
Dowlaiswaram

To
The Controller of
Public Works Accounts
Madras

Sir

In reply to 1st para of your Memorandum No 354 dated 13th Instant I have the honor to inform you that the Services of W. Bootchidt late Maistry and Overseer in this Factory for the period referred to therein were Continuous From 1847 to 1858 he was a Maistry paid from the Shop and in the latter year 1858 was made Subovereer in which Appointment he Continued upto 1863, after the abolition of Subovereer's grade he was appointed as Carpenters Overseer vide G. O No 1106 dated 18th April 1864, although the name of the Appointments differed he performed the same duties that is Maistry ~~Maistry~~ of Carpenters from the date of his first Appointment in Shop upto time of his Retirement

For the whole period of his Service from 1847 he was therefore on the Workshop permanent Establishment and is therefore under G.O No 186 dated 4th April /72 Entitled to pension

In reply to 2d para I beg to inform you that the Amount of leaves granted to Bootchayah during the above periods was 7 Months and 7 days as already entered in the Register of Application for his pension as follows, Viz

From 14th January 69 to 12th March 2 Months on Half pay
From 25th October 1869 to 31st March 70 5 - Do & 7 days without pay
7 Months 7 do

I have the honor to be
Sir
Your most obedient Servant
W R Rind Captain R.E.
Executive Engr Incl Govt Workshops

From The Officer in ch. Govt. Workshop Dowlaishwaram

To The Controller of P. W. A.

Dated 23 } August /72
Rd }

No. 128

Enclosures none

Informs that the services of W. Butchiah Carpenter's overseer were continuous & permanent.

Transferred

ACCTS. CONTR. & AUDITOR OF P.W. AU 30

034

91

Transferred to the Accountant General, Madras, with reference to para 1 of the Memo: from this Office No. 353, dated 13th August 1872.

Office of the Controller of Public Works Accounts
Fort St. George 30th August 1872. } J. B. Trail Captn. R.E.
Offg. Controller of P.W. Accounts.

To, The Accountant General,
Madras.

Accountant General's Office
Recd 2
Ansd 9 18 2

8285

13

77

Office of the Controller of
Public Works Accounts,
Fort St. George, 13th August 1872.

No. 353

Memo:

In reply to the Memo: from the Accountant General, Madras, dated 2nd August 1872, the undersigned has the honor to report, that as the services of W. Bootchia can be verified from the Audit Registers of this Office only from July 1868, owing to the Pay abstracts of the Establishment attached to the Dowlaishweram Factory not having previously been submitted to the Controller for Audit, he is unable to say whether the entire period of Bootchia's employment in the workshop was of the character necessary to entitle him under G. O. No. 186 dated 4th April 1872 to count service towards pension. A reference however, has been made to the Superintendent of the workshop on the subject and if any further

Vide G. O. in the Public Works Depart. No. 2241 dated 14th July 1868.

information is obtained it will be duly communicated.—

Subsequent to the 1st January 1859, Bootchia appears from the records of this Office to have been absent on sick leave from 14th January to 31st March 1869 and 25th October 1869 to 31st March 1870. During the first period a moiety of salary was passed to Bootchia, but for the second period, the full salary of the appointment was drawn by the person who acted for him.— On the 1st April 1870 his place in the Dowlaishweram Workshop was permanently filled up by another person.—

It may be well to add that in the Resolution of the Government of India, embodied in the Proceedings of this Government No 2400 dated 21st September 1871, it is ruled that Maistries are not entitled to pension, and that in the order of the 4th April 1872, above quoted, the class of servants on the regular permanent Establishment attached to the Dowlaishweram and Presidency Workshops, who are to be considered entitled to the benefit of the Uncovenanted Service pension, has not been defined.—

E. H. Trail Captain R.E.
Offg. Controller of P.W. Accounts.

To,
The Accountant General,
Madras.

Accountant General's Office
Recd 14 }
Ansd __ } 8.1872

2-18
5-7
7-25

A

Henry

The Offg. Controller of P.W. Accounts

To

The Accountant General, Madras.

Dated 13th Augt. 1872

Recd.

No. 353

Enclosure 1

Reporting upon the claims of Mr. Boochia for pension.

7264

Audit DEPARTMENT. ~~No.~~

Fort Saint George,
Accountant General's Office,
2nd August 1872.

FROM THE ACCOUNTANT GENERAL
TO THE GOVERNMENT OF MADRAS,

TO THE Controller of Public Works Accounts

~~SIR,~~

1 Application d/12th Aug/70
1 Petition — " 26th Feby/72
1 Letter from Supg. Engr. d/12th June/72 No. 998 with G.O. d/25th July/72
3

In enclosing the papers as per margin, the undersigned has the honor to request, the Controller will be good enough to state whether the services of the individual therein named as Maistry & Overseer in Carpenters shop at Dowlaishwaram can count towards pension under G.O. No. 186 d/4th April last, Pension deptt.

He will be good enough also to state whether the man's leave from 14th January to 12th March '69 was with or without pay.

Please return ppers with reply

Donald

Offg. Dy. Accountant General

the class of servants on the regular
permanent Establishment attached

To
The Ex: Engr in ch. Dowlaishwaram Workshop d/
13.8.72. No.

No 3839

From
The Offg Dy Acctt Genl
Madras

Dated 2
Recd 3 } August 1872

Requesting to be informed whether the services of Bootchiah late Carpenter Maistry in Dowlaishwaram Workshop can count towards pension under G.O. No 867 of 4 April last Pension Dept.

SUPERINTENDING ENGINEER'S OFFICE, 1ST DIVISION.
DOWLAISHWARUM, 12th June 1872

No. 998

From

Lieut. Col. J. F. Fischer R.E.
Acting Superintending Engineer
1st Division

To

Colonel J. W. Walker R.E.
A.S. Secretary to Government D. P. W.
MADRAS

SIR,

With reference to the Proceedings of Government in the Pension Department No 480 dated 21st Sept. 1871, I have the honor to forward for the most favorable consideration of Government, the accompanying Petition from W. Bootchiah lately a Sub Overseer i[illegible]e Department, and Carpenter Maistry in the Government Workshop, Dowlaishwarum, relative to his claims for Pension

2 In the Proceedings under reference, it is stated that the services of this man, since 31st March 1863 (up to which date for his permanent service, he had obtained gratuity) does not count for pension, or gratuity. This it is presumed is in consequence of the Establishment attached to the Workshop, to which Bootchiah belonged, not having then been

entitled to the benefits of the Uncovenanted Service Pension Rules.

3. Subsequent however to the passing of the above order, I observe from para 2 of Memo from the Government of India, embodied in G.O. No 3089 dated 7th December 1871 that, the pensionary rights of the members of the permanent Establishment employed in Government Workshops, are in no way to be effected, and consequently the services of the members of such Establishments, qualifies for pensions.

Under these circumstances and as this poor blind old servant of Govern:-ment is willing to refund the gratuity,× he received for his services up to 31st March 1863, I beg as a special case, he may be allowed to do so, and that the whole period of his services, as shewn in the accompanying statement may be reckoned for pension.

× Rs: 105 Sanc=-tioned in G.O. No 155 dd 2nd April 1864 Pension Dep

I have the honor to be
Sir,
Your most obdt. servant

[illegible] Lieut. Col. R.E.
A. G. Supg. Engineer 1st Dn.

Ro 2nd April /64 No 155 Pension Dept.
" 21 Sept /71 " 480 "
" 7 Decr " 114-115 P.R.

Pension 1872. Depart

From 3/3873 No 3067
The Superintending Engineer,
First Division.

To No 955.

The Secretary to Government
Department Public Works
MADRAS

Dated 12th June 1872.
Received. 22 " " "

No. 998

Enclo. Two

Subject.

Forwards for the most favorable consideration of Government a petition from W. Boochiah lately a Suboverseer in the Department and Carpenter Maistry in the Government Workshop at Dowlaishwarum relative to his Claims for Pension.

G.O. No 813

Transferred to the Pension Department

A. Smith Captn R.E.
Offg Under Secy to Govt P.W.D.

Ootacamund
~~26 June 1872~~
1st July/72

G.O. No 813/72 Pens.

C. 22nd June 1872 No. 29.

Referred to the Accountant General for report, as to the rate of pension to which W. Bootchiah late Carpenter Maistry in the Government Workshop, Dowlaishwarum will be entitled if his service in the Government Workshop is admitted as qualifying for pension, he would appear to be eligible to a pension of One third pay.

Fort Saint George
25th July 1872

Ag: Under Secretary

Accountant General's Office
Recd 26 7 1872
Ansd

D/6

6277

27

Pension Dept.

Memorandum for Orders.

In accordance with orders on the Memorandum on Bootchiah's case the papers were referred to the Accountant General for report as to the rate of pension to which the former will be entitled if his service in the Workshop is admitted as qualifying. The report is to the effect that the petitioner is debarred from counting service previous to the 1st April 1863, owing to his failure to refund the gratuity granted for his service up to the 31st March, and is entitled therefore to a gratuity of Rs 240 only.

This is an entirely new objection not raised before. In answer to a further reference asking for a reply to the particular question referred, the Deputy Accountant General reports that in case service in the Workshop is admitted as qualifying, Mootchiah will be entitled to a pension of Rs 13-5-4. one third pay. (Net qualifying service amounting to yrs m d 21-10-5)

The Offg Controller of D. P. W. accounts, in his Memo of the 13th August No 353 to the Accountant General reporting on Mootchiah's service takes a further objection, namely, that Maistries are not entitled to pension & that the class of servants on the Establishment attached to the Workshop at Dowlaishwaram who are to be considered entitled to the benefit of the U. C. S. Pension Rules has not been defined. The × Resolution ~~G. O.~~ quoted as the authority for the objection does not appear to me to bear the interpretation put upon it by Captain Traill. It is clear that the reference related to a totally different class of Maistries viz, foremen of Gangs (probably employed on the roads), whereas Mootchiah was apparently a skilled workman.

× 9th Aug. 71. 2605. Fin.

With reference to the latter part of the objection it is quite clear from the several orders in regard to the Workshop Establishment (especially G. O. 1st June 1871 No 1489 D P W) that it was intended to extend the Concession to all members of the permanent Establishment, leaving it to be decided of course in each case whether the Service should be regarded as superior or inferior. The only point for decision, then (if the above view is correct) is, whether the objection taken on the score of failure to refund is to be waived or not; upon this decision the question whether a gratuity of 6 Month's pay Rs 240 or a pension of Rs 13-5-4 is to be granted, depends. In several recent cases the Government have

distinctly

distinctly refused to make any exception to the Rule as to refunds, but the present case is somewhat different from those which have already come up for decision. The petitioner's Service was continuous from 1st October 1847 to 31st March 1870, the date of retirement. For a portion of this Service a gratuity was granted to him on his transfer from the regular Establishment of the D P W. to the Workshop and not on the occurrence of a break. It does not appear that he sought the gratuity himself. On the contrary, a reference to G. O. 10th Septr 1863 No 2607 shows that the Government directed the submission of applications for pensions & gratuities on behalf of the members of the late Lower subordinate Establishment D.P.W. of whom Bootchiah was one. These men appear to have been removed on the abolition of their appointments, but the cause of the reduction does not appear as the Chief Engineer's Circular referred to is not forthcoming. It is evident that at that time Bootchiah's previous service in the Workshop viz

from 1st October 1847 to 1st May 1857 was not considered "qualifying" service as it was excluded from the Computation and application made for gratuity for the period of service passed on the regular Establishment only. Indeed, the question of eligibility of service in the Doulaishwaram Workshop was not raised till 1867, four years after the gratuity was granted, when the point was mooted on an application from Mr. Dodwell for an authoritative decision. Mr Donald is therefore in error in stating in his report of the 24th Septr 1872

No 376 that the gratuity had only just been granted "for such Service" is in the Workshop. The original Register of Application for the gratuity in question shows that Service in the Workshop was excluded from the computation, and it may fairly be presumed that the applicant was informed at the time that Service on such an Establishment would not be allowed to reckon. It would be unjust therefore to subject the Applicant to so great a penalty as the loss of pension for accepting what was offered him under an erroneous impression as to his rights when the authorities themselves were in doubt upon the question.

Under these circumstances I submit that the refund should be permitted as a special case. If the reasons which have led the Government to grant the concession are set forth in the Order no precedent applicable to general cases will be established thereby.

Case of Bootchiah late Carpenter Maistry DPW

Memo for orders

Order accordingly

6-18-10
6-19

Pension Dept.

37

Memorandum for Orders.

Letter from the Supg. Engineer, 1st Divn. dated 12th June/72 No. 998

The Supg. Engineer forwards a petition from W. Bootchiah, late Carpenter Maistry in the Govt. Workshop, Dowlaishwaram. Petitioner was invalided on the 31st March/70 after 35 years service. The bulk of his service appears to have been passed on Temporary Establishments. On his being transferred from the permanent D. P. W. Establishment to the Workshop he received a Gratuity of Rs 105 for his services from 1st May/57 to 31st March/63 a period of 5 yrs. 11 mths and on his retiring from the public service on the 31st March /70 he was declared ineligible for any further allowance, all the rest of his service having been passed on temporary Establishments.

The Supg. Engineer now urges that Petitioner should be allowed the benefit of the Resolution of the Govt. of India declaring that members of the regular permanent Establishments attached to the Workshops at Dowlaishwaram and Madras are entitled to the benefit of the Uncovenanted Service Rules although the date of his retirement is prior to the date of the promulgation of the Resolution

The

This seems the correct view - the wording does not imply - a new boon - P.M.S

I concur J. D.S

The question therefore, is whether retrospective effect should be given to the Resolution in question. From the language of the Resolution of the Govt. of India it would appear that no new concession was being granted but that the Resolution was merely declaratory of rights which should never have been called in question. If this view is correct I would submit that Petitioner is clearly entitled to the benefit of the order although it bears a date subsequent to the date of his retirement. If the Govt. decide to give retrospective effect to the order it will be necessary to refer the claim to the Accountant General for report as to the rate of pension to which the Petitioner will be entitled if his service in the Dowlaishwaram Workshop is admitted as qualifying; it apparently amounts to 23 yrs 6 mths giving a title to 1/3 pension - Rs 13. 5. 4.

Col.

c. 18-7.

Regarding grant of a pension to W. Bootchiah, late Carpenter Maistry, Dowlaishwaram Govt. Workshop -

Memo: for Orders -

Proceedings of the Madras Government, Pension Department, 2nd December 1872.

Read again Proceedings of Government, Pension Department, dated 2nd April 1864, No. 155, and 21st September 1871, No. 480.

Read also the following papers:—

From the Superintending Engineer, 1st Division, dated 12th June 1872, No. 998.
" Officiating Accountant-General, dated 24th September 1872, No. 376.
" " " " dated 7th October 1872, No. 411.

1/.

Order thereon, 2nd December 1872, No. 813.

With the letter above recorded, the Superintending Engineer, 1st Division, submits a petition from W. Bootchiah, late Carpenter Maistry in the Government Workshop, Dowlaishwarum, praying that he may be allowed the benefit of the Resolution of the Government of India marginally noted, declaring that members of the regular permanent establishments attached to the Workshops at Dowlaishwarum and Madras are entitled to the benefit of the Uncovenanted Service Rules.

19th October 1871, No. 4416, Financial.

	Y.	M.	D.
On Temporary Establishment.—From 1st December 1834 to 30th June 1846 … … … … …	11	7	0
Break.—Government Workshop, Dowlaishwarum, 1st October 1847 to 30th June 1857 … …	9	7	0
Permanent.—Department of Public Works Establishment, 1st May 1857 to 31st March 1863 … …	5	11	0
Government Workshop, Dowlaishwarum, 1st April 1863 to 31st March 1870… … … … …	7	0	0
Total …	34	1	0
Deduct service on temporary establishment … … … … …	11	7	0
And leave … … … … …	0	7	25
Net qualifying service … … …	21	10	5

2. The details of Bootchiah's services are shown in the margin. Deducting the first period of 11 years and 7 months passed on a temporary establishment, and leave, amounting to 7 months and 25 days, the petitioner's net qualifying service in the Department of Public Works will amount to 21 years, 10 months, and 5 days, provided he is allowed to reckon the interval passed in the Dowlaishwarum Workshop. For his service on the permanent establishment of the Department of Public Works (5 years and 11 months) the petitioner was granted a gratuity of Rupees 105, under date 2nd April 1864, which he has not refunded. On his retirement in 1870 application was made on his behalf for the grant of a pension equal to one-third of his salary, but negatived on the ground that service prior to 1st May 1857 and subsequent to 31st March 1863 was of a non-qualifying nature.

3. The petitioner now claims the benefit of the Resolution adverted to above, which bears a date subsequent to his retirement, and the first question for decision, therefore, is whether retrospective effect can be given thereto. From an examination of its terms, it is evident that the Resolution was merely declaratory of rights which should never have been called in question, and that its object was not to confer any new boon. Such being the case, the Government are decidedly of opinion that the petitioner is entitled to the benefit of the Uncovenanted Service Rules,

provided no valid objection can be taken under those rules to his counting the two periods of service passed on the Workshop Establishment.

4. The papers connected with this case having been referred for report, two objections to the grant of pension are raised by the Officiating Controller of Department of Public Works Accounts and by the Officiating Accountant-General, respecpectively. The former advances an objection based upon Financial Resolution of the Government of India, No. 2605, dated 9th August 1871, to the effect that Maistries are not entitled to pension, and, further, that the class of servants on the establishment attached to the Dowlaishwarum Workshop who are to be considered entitled to the benefit of the Uncovenanted Civil Service Pension Rules has not been defined. The Resolution, however, does not appear capable of bearing the interpretation put upon it. It refers apparently to a totally different class of Maistries, viz., foremen of gangs, whereas Bootchiah was a skilled workman on rates of pay ranging from Rupees 15 to Rupees 40, and, further, it expressly affirms the impossibility of defining by any specific rule the nature of the employment which should be regarded as qualifying for pension. The question as to whether service should be regarded as " superior " or " inferior " must, in the absence of any express rule, be determined with reference to the circumstances of each case, and, in the opinion of Government, Bootchiah's service in the Workshop comes under the former category.

5. The Officiating Accountant-General's objection is to the effect that the petitioner is debarred from counting service prior to the 1st April 1863, owing to his failure to refund the gratuity granted under date 2nd April 1864, so that even supposing he is permitted to reckon as qualifying his service in the Workshop, he is entitled to a gratuity of six months' pay only, viz., Rupees 240, and not to a pension.

6. The Government are, however, of opinion that the circumstances of petitioner's case are such as to entitle him to the indulgence of being permitted to refund the gratuity drawn. His service was continuous from 1st October 1847 to 31st March 1870, the date of his retirement. His transfer from the regular establishment of the Department of Public Works to the Workshop in 1863 appears to have been owing to a reduction of establishment, on which occasion the Government directed the submission of applications for pensions and gratuities on behalf of those whose services were dispensed with. Bootchiah's previous service in the Workshop from 1st October 1847 to 1st May 1857 was excluded from the computation, and the gratuity calculated with reference solely to the period of service passed on the regular establishment. The question of the eligibility of service in the Workshop was not raised till 1867, more than three years after a gratuity had been granted to petitioner, and as he was not permitted to reckon it, it may fairly be presumed that he was informed at the time that service on such an establishment did not qualify. It would be unjust, therefore, to subject the petitioner to so great a penalty as the loss of pension for accepting what was offered him under an erroneous impression as to his rights for which he cannot be held responsible.

7. Under these circumstances, His Excellency the Governor in Council resolves to submit Bootchiah's case for the favourable consideration of the Government of India, with a view to the grant of a pension of Rupees 13-5-4, equal to one-third of his salary for the past five years, with effect from 1st April 1870.

(True Extract.)

Acting Under Secy. to Govt.

To the Superintending Engineer, 1st Division.
,, Collector of the Godavery District.
,, Accountant-General.

Exd. J. Wright.

Govt. of 1872 Madras.

PENSION.

To
The SUPERINTENDING ENGINEER,
1st Division,
&c., &c., &c.

Dated December, 2nd.

Recd. Encl.

G. O., 2nd December 1872, No. 813.

DECEMBER.

Resolving to submit to the favourable consideration of the Government of India the case of Bootchiah, late Carpenter Maistry in the Government Workshops, Dowlaishwarum, with a view to the grant to him of a pension of Rupees 13-5-4 per mensem.

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41 ~~53~~ 2

in the Department of Public Works will amount to 21 yrs 10 ms & 5 days, provided he is allowed to reckon the ~~service~~ interval passed in the Dowlaishvaram Workshop. For his service on the permanent Establishment of the Department Public Works (5 yrs 11 months) the petitioner was granted a gratuity of Rs 105 under date 2d April 1864, which he has not refunded. On his retirement in 1870 application was made on his behalf for the grant of a pension equal to one-third of his salary, but negatived on the ground that service prior to 1st May 1857 and subsequent to 31st March 1863 was of a non-qualifying nature.

3. The petitioner now claims the benefit of the Resolution adverted to above which bears a date subsequent to his

retirement and the first question for decision therefore is whether retrospective effect can be given thereto. From an examination of its terms, it is evident that the Resolution was ~~nearly~~ merely declaratory of rights which should never have been called in question and that its object was not to confer any new boon. Such being the case the Government are decidedly of opinion that the petitioner is entitled to the benefit of the Uncovenanted Service Rules, provided no valid objection can be taken under those Rules to his counting the 2 periods of service passed on the Workshop Establishment.

4 The papers connected with this case having been referred for report two objections to the grant of pension are raised by the Officiating Controller of Dpt. W. Accounts and by the Offg. Accountant General respectively. The former advances an objection based upon ~~bases his objection on~~ Financial Resolution of the Government of India No. 2605 dated 9th ~~May~~ August 1871 ~~stating~~ to the effect that Maistries are not entitled to pension and further that the class of servants on the Establishment attached to the Dowlaishwaram Workshop who are to be considered entitled to the benefit of the Uncovenanted Civil Service Pension Rules has not been defined. The Resolution, however, does not appear capable of bearing the interpretation put upon it. It refers apparently to a totally

different class of Mais-tries viz foremen of gangs whereas Bootchiah was a skilled workman on rates of pay ranging from Rs 15 to Rs 40 & further it expressly affirms the impossibility of defining by any specific rule the nature of the employment which should be regarded as qualifying for pension. The question as to whether service should be regarded as "superior" or "inferior" must in the absence of any express rule be determined with reference to the circumstances of each case and in the opinion of Government Bootchiah's service in the Workshop comes under the former category. The

5 The Offg Accountant General's objection is to the effect that the petitioner is debarred from counting service ~~previous~~ prior to the 1st April 1863 owing to his failure to refund the gratuity granted under date 2d April 1864, so that even supposing he is permitted to reckon as qualifying ~~his~~ his service in the Workshop he is entitled to a gratuity of 6 Months' pay only, viz. Rs 240 and not to a pension.

6 The Government are, however, of opinion that the circumstances of petitioner's case are such as to entitle him to the indulgence of being permitted to refund the gratuity drawn. His service was continuous from 1st October 1847 to 21st March 1870 the date of his retirement.

His transfer from the regular establishment of the DPW to the Workshop in 1863 appears to have been owing to a reduction of Establishment on which occasion the Government directed the submission of applications for pensions & gratuities on behalf of those whose services were dispensed with. Bootchiah's previous service in the Workshop from 1st October 1847 to 1st May 1857 was excluded from the computation & the gratuity calculated with reference solely to the period of service passed on the regular Establishment. The question of the eligibility of service in the Workshop was not raised till 1867 more than 3 years after a gratuity had been granted to petitioner, And as ~~it~~ he was not permitted to reckon ~~in~~ it ~~[illegible]~~, it may fairly be presumed that he was informed at the time, that service on such an Establishment did not qualify. It would be unjust, therefore, to subject the petitioner to so great a penalty as the loss of pension for accepting what was offered him under an erroneous impression as to his rights for which he cannot be held responsible.

7 Under these circumstances, His Excellency the Governor in Council resolves to submit

Wortchiah's case for the favorable consideration of the Government of India, with a view to the grant of a pension of Rs 13-5-4 equal to one third of his salary for the past 5 years with effect from 1st April 1870.

Cal.

To the Superintending Engineer 1st Division
-"- Collector of the Godavery District
-"- Accountant General

Pension Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read ~~the following letter~~ again

Proceedings of Government Pension Dept. dated 2d April 1864 No 155 & 21st Septr 71 No 480

Read also the following papers.

From the Supg Engineer 1st Division } Dated 12th June 1872 No 998
Do. Offg Accountant General } Do. 21st Septr 1872 No 376
Do. Do. Do. Do. 7th October 1872 No 411

Order thereon, 2d Decr 1872 No 813

With the letter above recorded, the Superintending Engineer 1st Division submits a petition from W. Wortchiah late Carpenter Maistry in the Government

Workshop Dowlaishwaram praying that he may be allowed the benefit of the Resolution of the Government of India marginally noted×, declaring that members of the regular permanent Establishments attached to the Workshops at Dowlaishwaram & Madras are entitled to the benefit of the Uncovenanted Service Rules.

2 The details of Bootcheah's service are shown in the margin⊗. Deducting the 1st period of 11 yrs & 7 Ms passed on a temporary Establishment and leave amounting to 7 Ms 25 days, the petitioner's net qualifying service

× 19th October 1871 No. 4416, Financia

⊗

	yrs	Ms	d
On temporary Establishment			
From 1st Decr 1834 to 30th June 1846	11	7	.
Break.			
Government Workshop Dowlaishwaram			
1st October 1847 to 30th June 1857	9	7	.
Permanent. D. P. W. Establt.			
1st May 1857 to 31st March 1863	5	11	.
Government Workshop Dowlaishwaram.			
1st April 1863 to 31st March 1870	7	.	.
Total	34	1	
Deduct service on Temporary Estt.	11	7	.
And leave	.	7	2
Net qualifying service	21	10	5

7/7/87

12/8/82

Govt. of {1872} Madras.

Pension

To

The Supg. Engineer
First Division

Dated Decr. 2d }
Recd. } 1872, No. 813.

Nos.

Resolving to submit to the favourable consideration of the Govt. of India the case of Bootchiah late Carpenter maistry in the Govt. Workshops, Dowlaishwaram with a view to the grant to him of a pension of Rupees 13-5-4 per mensem.

C: 25 Nov 3
R: 29 – –