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M.R.O. 1-32,400-28-11-80.

MADRAS RECORD OFFICE.

Government of Madras.

pension DEPARTMENT.

G.O. No. 826	Press Mis.
Dated 6-12-	1872

Not to be folded or roughly handled

8/17/82
720

1740
21/8/72

His Excellency the Right Honorable
the Governor in Council
Fort St George.

The humble Petition of A. Shantappa
late Sheristadar, Cepinangadi Taluk
South Canara, dated 12th August 1872.

May it please Your Lordship

With due respect and submission I solicit
Your Lordship's kind permission to submit the following lines for
the consideration of Your Lordship in Council.

I am a public Servant of 45 years standing
having been first appointed in 1827 and retired in March 1871.
I did not however retire before representing by several petitions
to the Collector that I may be allowed to do so on pension, and if
this could not be done to continue in service for some time to qualify
myself for pension. These petitions may still be extant in the
Collector's records.

Your Lordship's Government however in their
Order No 715 of 1871 directed that as there was a break in my regular
Service owing to my having accepted the appointment of Stamp
Vendor and continued in that for a period extending over more
than 5 years and so forfeited the previous service I am only entitled
to a gratuity equal to one year's pay the actual service under the
Rules being only 13 years. This gratuity I was obliged to accept
which I did in August 1871.

I now take the liberty to beseech Your Lordship
in Council to consider if I should lose the benefit of a service
extending over more than 45 years owing to the above.

mine than that of having accepted an appointment which was pressed for my acceptance by the then Collector who was disposed to confer promotion on me but had no other means to do so.

At the date on which I accepted the appointment in question I was a ~~Stamp Vendor~~ on a pay of Rs. 28 and my service had already amounted to 19 years; and if I had foreknown the consequential loss of service under Rules that were to come into existence 11 years later, I would not have accepted the post at all. On the contrary the circumstances under which I had accepted it were such as had scarcely given rise to even the remotest suspicion. The fees were being paid from the Treasury at the end of every month in the same manner as are the public salaries. The pension Rules had not been yet promulgated. Else it cannot be supposed for a moment that I would have

~~accepted an appointment which would deprive me of my service.~~ But the pension Rules (S. 11 of 1864) which came into existence 11 years after my appointment as Stamp Vendor, and under which, it seems, I am deprived of the pension to which I am legally entitled, are so far from being prejudicial to me that they are clearly and positively in my favor. Rule 11 under the head "Service towards Pension" is declared to have prospective and not retrospective effect. Vide Despatch of Secretary of State dated 11th November 1863, No. 208. The Rules in question therefore do not deprive me of the benefit of my 19 years service previous to my appointment as Stamp Vendor.

These facts combined with the circumstance that one Venkattramanayya who after long service held for some time, the appointment of Stamp Vendor and latterly that of Sheristidar has recently obtained pension equal to half his last salary will convince Your Lordships in Council of the injustice

of the order relating to me more especially when it is considered that my total service far outweighs that of the said Venkattramanayya himself.

I humbly beseech Your Lordship in Council to consider that it would be hard to refuse a man, who after 45 years long, painful and arduous service has fairly earned a title to a pension from Your Lordships' Government.

I pray Your Lordship in Council also to consider the fact of my having undergone privations and hardships, as did many other servants of the Company, while under imprisonment during the Rebellion & of my having procured the conviction and death of many a ringleader by giving evidence before the Court Martial & the Circuit Courts.

In conclusion I very respectfully pray that on a kind consideration of the foregoing circumstances Your Lordship in Council may be graciously disposed to grant to the benefit of a half pension on my refunding the gratuity I received from Government. & I shall as in duty bound ever feel grateful.

Transferred to the Secretary
to Government.
Revenue Department
to order.
Chief Clerk.
For Secretary.
Aug. 17. 1872.
J. D. P. P. P.
This is to certify that
the above is a true and
correct copy of the
original as filed in the
G. O. No 8260/72

Memorandum for orders

5th

Santappa late
Sheristadar of Upinangudi
Talug, South Canara, prays
that he may be permitted to
refund the gratuity Rs 720
sanctioned under date 19th
December 1871 and that a
pension equal to a moiety of
his salary may be granted in
lieu thereof.

The details of his
service are fully stated in the
order of Govt sanctioning the
gratuity - It will be seen
that his ^{total} service amounted to
~~4 1/2~~ ^{4 1/2} ~~7-7~~ ⁷⁻⁷ years - that the period
during which he was employed
as a Stamp Foreman (5 years
9 months & 20 days) was held to
constitute a break entailing
forfeiture

forfeiture of past service whereby
he lost 18 yrs 9 mths & 26 days and
his qualifying service was
reduced to 12 years & 4 months.

Excluding service as Stamp Jommas-
tah, but not counting it as break
the petitioner's qualifying superior
service amounts to 31 years 1 month
& 26 days which would give a title
to a retiring pension of half pay.

The question of the
eligibility or otherwise of service as
Stamp Vendor has on several
occasions come before Court and
has been variously decided. ^{Before} ~~before~~
noticing the ^{precedents} ~~proceedings~~ I noticed,
however it must be remarked -
that the Collector in submitting
the application for retiring allow-
ance recommended the grant of
a pension of one third of ^{the} ~~his~~ petitioner's
average salary in consideration

of

^{in view of the} 1st
of his long service - so that a
smaller concession than that now
asked for was deliberately rejected
and from the concluding para
of the order in his case it would
appear that his lengthened service
alone saved him from loss of
a portion of the gratuity to
which he was entitled. He is
described as quarrelsome and not
of good character though no
more specific charge was brought
against him. Another point
which must be noticed is the
allusion in the petition to the case
of one Venkathramanayam late
Sheristadar of Udipi talug, South
Canara, which the ^{petitioner} adduces as
similar to his own. The
petitioner is mistaken in supposing
that the grant in the latter case
is a recent one - the order on Venkath

ramanayam's

Venkatramanayya's case bears date
18th June 1866 No. 232, 4 years
prior to petitioner's retirement and
was adduced by the collector in
support of his recommendation on
petitioner's behalf. The precedent
was followed.

From this fact it
is clear that the Court ^{had} at the time
no intention of showing exceptional
consideration to the petitioner.

The precedent will
now be taken in order.

The 1st case is —
Venkatramanayya's, C. O. 18th June
1866 No. 232. His service was
continuous for nearly 40 years
and of this about a year and
eight months was passed in the post
of Stamp Jomastah. The order
states that this period under
a strict interpretation of the
Rules forms a break which
nullifies

9th
nullifies his previous services and
reduces his claim to one for gratuity.
On the representation of this Court
a pension of half pay was granted
by the Court of India.

The first order in
petitioner's case No. 195, 23rd May
1866 comes next — the wording is
as follows —

Employment under such
conditions "^{being} ~~in~~ the post of Stamp
Vendor) "does not qualify for pension
and therefore, the period so
passed forms a break in the
petitioner's previous service which
invalidates his claim to pension".
Next comes an order of 27th July
1868 No. 232 on an application
for gratuity for service amounting
to 11 years of which all but 1 year
10 months was passed in the post
of Stamp Vendor. The service
was

was declared ineligible.

The question was however most fully discussed in the case of Romm Rurup whose total service was 38 years 6 months 18 days, of which 4 years 18 days was in the post of Stamp Foreman and under the strict rules entailed forfeiture of more than 18 years of service a pension of half pay was granted and the grant confirmed by the Supreme Court.

~~Section~~ Para 4 of the order in question indicates a change of opinion on the general question of ^{the} eligibility of service in the capacity of Stamp Vendor. The grant is not made as in Venkateswara's case solely on the ground of the peculiar hardship of the particular case, on the contrary it

11/4/44
it is implied that the principles on which such service had up to that time been rejected was unsound. From the remarks in the original draft of the order it would appear that the decision was based on a supposition that the establishment might be regarded as permanent because the remuneration was fixed and did not fluctuate with the amount of the sales. A reference is also made to a case disposed of in L. O. 9th July 1869 No. 208 in which service on the Bangalore Police Establishment paid from the Abkari Revenue was allowed to reckon.

An examination of the case referred to however shows that the analogy is not complete. The establishment adverted to was a fixed one sanctioned by the Mysore Court, was permanent and was paid from the Abkari collections.

collections apparently on the ground
of convenience because both the
Police Establishment and the
Abkarris were under the control
of the Commensariat officers.

Moreover before sub-
mitting Kinnu Kump's case
for sanction the Govt appear to
have modified their views in
regard to the eligibility of service
as Stamp Vendor; for in the letter
to the Supreme Govt it is distinctly
stated that a reference to the
records shewed that the Establishment
was not permanent and that
servants of that class, were
understood to be ineligible to
pension.

A few days after
this reference ~~was~~ made on behalf
of Kinnu Kump the Govt for
the second time rejected petitioner's
Service of a similar nature. In
regard to Rulings of the ^{Supreme} ~~Govt~~
Govt.

13th
Govt on the subject the only order
on record ~~is~~ ^{expressly} affirming
that Stamp Vendors are not
entitled to pension is that quoted
at page 77 of the Unwarranted
Servants' Vade Mecum - viz 26th
June 1862 No. 4381 Financials
but the Pension Rules of 1863
distinctly assert that the whole
of the service in virtue of which
pension is claimed must have
been passed on a permanent
Establishment. The petitioner
quotes Rule 14 and a Despatch
from the Secretary of State, which
however, are not in point. Under
the present Code such service
is of course inadmissible vide
Section 32(a)

To Sum up, it appears
that Service as Stamp Vendor
has never been considered eligible
under

under the Rules and that such service has as a rule been disallowed but that in two instances exceptions have been made in consideration of long that in ^{petro} case the service and approved service was twice deliberately rejected, on the second occasion in the face of a recommendation from the Collector on his behalf.

Omitting service in the capacity of Stamp Vendor however, ^{the} petitioner has sufficient service at his credit to warrant the grant of a pension, provided the break is not held to entail forfeiture of previous service. Under the present Rules a break of the nature in question would undoubtedly have that effect but whether such was understood to be the case at the

I think he ought to be allowed to make it.

A. A.
J. S.
J. S.

Cd.

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the time the petitioner accepted the post is not so clear. The order in Venkatramanaya's case was that the break nullifies previous service, but the old pension Rules contain no provision on the subject. It is for the Court to decide whether the petitioner should be permitted to reckon his service prior to transfer to the Stamp Establishment.

Pension Department.

PROCEEDINGS of the MADRAS GOVERNMENT.

Read ^{again} the following letter Proceedings

of Government Pension Department dated 23rd May 1871
No. 195 and 19th December 1870 No. 716

Read also the following

Petition from A. Santappa, late Sheristadar of
Upinangadi Talug, South Canara District.

Order thereon 6th December 1872 No. 826.

In the petition above
recorded Santappa, late
Sheristadar of Upinangadi
Talug, South Canara, prays
that he may be permitted to
refund the gratuity, Rs. 720,
sanctioned under date
19th December 1871, and that
a pension equal to a moiety
of his salary may be
granted in lieu thereof.

2. The details of Petitioner's
Service

G. O. No. 826
6/12/72.

Circ

Service are set forth in the margin. His total service amounted to 44 yrs 7 mths 7 days ~~and that~~ ^{but} the period during which he was employed as a Stamp Goomastah (5 yrs 9 mths & 28 days) was held to constitute a break entailing forfeiture of past service, of which 18 yrs 9 mths & 26 days was passed in eligible grades, ~~whereby~~ ^{thus} his qualifying service was reduced to 12 yrs 4 mths for which a gratuity of twelve months pay was granted.

3. The Petitioner now urges that at the time he accepted the post of Stamp Vendor his qualifying service in eligible grades amounted to 19 yrs, that he would not have accepted the post

	Yrs	Mths	Days
1. In ineligible grades	7	2	13
2. In eligible grades	18	9	26
3. As Stamp Vendor and Goomastah on commission	5	9	28
4. In eligible grades	8	7	0
5. Unemployed	0	5	0
6. Acting Taluk Sheristadar	0	8	0
7. Taluk Sheristadar	3	1	0
	<u>44</u>	<u>7</u>	<u>7</u>

19th
 post had he been aware ~~at the time~~ that such acceptance entailed forfeiture of past service, that as the fees were paid from the Treasury at the close of each month in the same manner as the salaries of Government servants on the permanent Establishment there was nothing to lead him to suppose that he was not on the same footing as the latter, and that to give retrospective effect to a Rule which imposes a penalty to which he was not liable at the time is inequitable.

4. On a reconsideration of all the circumstances of petitioner's case the Government are of opinion that there is some force in his representations.

Employer

Employe in the Stamp Department, although paid from the revenue realized by stamp sales, drew a fixed salary; they were not borne on a permanently sanctioned Establishment and it was probably understood at the time that service in the Stamp Department would not qualify for pension, but the fact that petitioners and others accepted the post of Stamp Vendor after considerable periods of service on the permanent Establishment raises a presumption that they were not alive to the fact that forfeiture of past service was entailed thereby.

5. Further, it does not appear from the records that any express intimation ~~was~~ ^{was given}



21st ~~at the time~~, that the penalty in question attached to acceptance of service in the Stamp ^{was at any time given} Dept. The petitioner held the post of Stamp Vendor from the 4th August 1851 to 30th June 1869 and both the Pension Rules of 1835 and those of 1851 are silent on the point. The date on which the Rule at present ^{and contained in sec 44 of the Pension Code} in force was first promulgated cannot be ascertained.

The list of the two Resolutions ^{justified in the margin of the Dept Code as the basis of the provision of that section viz.} ^{F.D. 1469 12 March 1869 is taken favorable to the petitioner} It appears, therefore, to the Government equitable that petitioner should be permitted to reckon towards pension his qualifying service prior to the date of his transfer to the temporary Establishment in which case his total qualifying service amounts to 31 yrs, 1 month, 26 days.

The same course was followed in the only two cases of a similar nature which have

have come before Govern-
-ment, viz: that of
Venkatramanaya and that
of Kinnu Kurup. The history
of the former is set forth in
a letter to the Government
of India under date 18th June
1866 No. 232, and that of the
latter in a communication
dated 10th December 1870 No. 500.
In both cases the pensions
applied for were sanctioned.

7. The Governor in Council
accordingly resolves to sub-
mit Santappa's case for
the favorable consideration
of the Government of India,
with the view to sanction
being accorded to the grant
of a pension of Rs. 29-2,
equal to a moiety of the
average salary drawn
during the last five years
of his service on the
refund

23th M
refund of the
gratuity, Rs. 720 already
paid. LA

To the Collector of South Canara.
— " — Accountant General.
— " — A. Santappa,

16 Copies

Dec 19 1870 10:27 PM

Bot. of 1872; M. Adams.

To Pension

The Collector of
South America

Dated Dec 26 1872, No. 826.
Recd.

Nos.

Resolving to submit for
the favorable consideration
and orders of the Dept of War,
the case of Antonio late
Minister of Agriculture
along with a view to the
grant to him of a pen-
sion of \$2000 per
annum.