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MADRAS RECORD OFFICE.

Government of Madras.

Revenue DEPARTMENT.

G.O. No.

125

Press

Mis.

Dated

12-2-18

Not to be folded or roughly handled

Pension:

PENSION DEPARTMENT.

No. 135.

FROM

THE HON. D. F. CARMICHAEL,

Secretary to the Government of Fort St. George.

TO

THE SECRETARY TO THE GOVERNMENT OF INDIA,

FINANCIAL DEPARTMENT.

SIR,

I am directed to forward, for transmission to the Secretary of State, a Memorial presented by Mr. J. Garrett, appealing against the orders of this Government declaring him not to be entitled to any retiring allowance in respect of the office of Canarese Translator.

2. Copies of the various orders alluded to by the memorialist are enclosed, and His Excellency has no recommendation to make in behalf of Mr. Garrett.

3. I am to state that in this Presidency no similar application to that of Mr. Garrett is on record, but this may be due to the fact that the post of Translator has usually been filled by a Covenanted Officer, or by a Military Officer.

I have the honor to be,

Sir,

Your most obedient servant,

FORT ST. GEORGE,
15th March 1875.

Secretary to Govt.

Read the following letter from J. GARRETT, Esq., late Canarese Translator to the Government of Madras, to the Hon. D. F. CARMICHAEL, Acting Chief Secretary to Government, Fort St. George, dated 23, Belsize Crescent, London, N.W., 4th February 1875.

I have the honor to enclose a letter addressed to the Right Honorable the Secretary of State for India on the subject of my claim to a gratuity of Rupees 2,250 on retiring from the office of Canarese Translator, and to request that you will be so good as to forward the letter to its destination.

From J. GARRETT, Esq., late Canarese Translator to the Government of Madras, to the Right Hon. the MARQUIS OF SALISBURY, Secretary of State for India, dated 23, Belsize Crescent, London, N.W., 2nd February 1875.

I have the honor to submit the following statement and appeal for favorable consideration and orders.

2. I held the office of Director of Public Instruction in Mysore for about 12 years, and during nearly 10 years of that period I was also Canarese Translator to the Government of Madras.

3. On my retirement I received a pension from the Mysore Government, and the Chief Commissioner of Mysore addressed the Government of Madras on the subject of a pension in connection with the Canarese Translatorship. To this the following reply* was sent:—"Referring to your

Officiating Secretary's letter of the 25th ultimo, No. 4534-39, inquiring whether Mr. J. Garrett, Director of Public Instruction in Mysore, who

has also held the office of Canarese Translator to the Government of Madras, is eligible for a pension or gratuity on account of his service in the latter office, I am directed to forward, for

* Public Department, No. 1224, to Chief Commissioner of Mysore, dated Fort St. George, 15th December 1873.

your information, the accompanying report of the Accountant-General, showing how Mr. Garrett's case stands in respect to the office of Canarese Translator.

"(Signed) W. HUDLESTON,
"Chief Secretary."

"No. 433.

"MEMORANDUM.

"The undersigned has the honor to report that, under Government of India Notification, dated 2nd October 1872, Mr. Garrett will be eligible to a separate gratuity, payable by the Madras Government, for his service as Government Translator. His Translatorship's pay cannot be added to that of the Directorship under the Commissioner of Mysore, his qualifying service as Translator extending at present only to a period of nine years, nine months and four days, and therefore entitling him to a gratuity of nine months' pay, or Rupees 2,250 from the Madras Government.

FORT ST. GEORGE,
3rd December 1873.

"(Signed) R. W. LODWICK,
"Accountant-General."

4. The following letter† was then addressed from the Chief Commissioner of Mysore on the subject:—"With reference to your letter, dated the 15th December 1873, No. 1294, forwarding for information copy of a Memorandum from the Accountant-General of Madras, reporting that Mr. Garrett, Director of Public Instruction in Mysore, is entitled to a gratuity of Rs. 2,250

from the Madras Government on his retiring from the post of Canarese Translator, I am directed, by the Officiating Chief Commissioner, to forward a copy of Mr. Garrett's Service Roll, and to suggest that His Excellency in Council may be moved to sanction payment of the gratuity referred to.

"(Signed) H. WELLESLEY,
"Officiating Secretary."

5. A copy of this letter was officially forwarded to me "for information," and I applied to the Government of Madras for payment of the gratuity. In answer to this the "order thereon," dated 22nd May 1874, No. 292, referred me to G.O., of 9th May 1874, No. 265, stating that "under Sections 8 and 9 of the Civil Pension Code, 2nd edition, I was not entitled to any retiring allowance in respect of the office of Canarese Translator."

6. I again urged my claim, and in reply the "order thereon*" stated "(1.) The letter referred to by Mr. Garrett did not pronounce upon that gentleman's right to a gratuity, but simply communicated to the Government of Mysore the opinion of the Accountant-General.

"(2.) The Government regret that Mr. Garrett should have been misled by that opinion, which was subsequently found to be erroneous, but are unable to grant him a gratuity as the rules do not admit of it."

7. In acknowledging receipt of this order I urged that my claim might be sustained on the following grounds:—

(1.) That my remuneration as Translator was in fact the pay of the appointment, as when on furlough I was allowed to draw a portion of it. Had it been a "local allowance" the whole would have been passed to my *locum tenens*.

(2.) I was appointed to the office in 1861, many years before the introduction of the coded rule excluding local allowances from pension and gratuity claims.

(3.) As there must be above twenty different Translators to Government in India, and the post is invariably held by an officer who fills another appointment, if it had been intended to exclude them from pension or gratuity, their case would have been quoted as examples under Section 8 of the Civil Pension Code.

8. In reply to this the "order thereon"† informed me that the claim was disallowed, because as Translator my whole time was not retained for the service of the Madras Government, and that by the Code a claim for gratuity is governed by the rules in force at the time of resignation.

* Proceedings of the Madras Government, 13th August 1874.

† Proceedings of Madras Government, dated 2nd November 1874, No. 648.

9. I have the honor now respectfully to lay the whole case before your Lordship, and to represent that the rule under which the decision of the Madras Government has been made did not exist when I was appointed Canarese Translator; and that by Section 66 (4) of the Civil Pension Code, 2nd edition, I am eligible for the gratuity awarded in the Memorandum of the Accountant-General quoted above. And relying on the validity of this claim, I beg to state that I paid income-tax to the British Government on my salary as Director of Public Instruction in Mysore. As a Mysore official I was exempt from the operation of the tax, but when it was represented to me by the Chief Commissioner that in order to be eligible for pension or gratuity from the Government of Madras as Canarese Translator, it was necessary that I should pay income-tax on my Mysore salary also, I at once assented and paid the tax during the whole period of its operation, with the full conviction that I was thereby qualifying myself for the pension or gratuity to which the rules entitled me when I resigned the office of Canarese Translator, my pension as Director of Public Instruction being paid exclusively from the Revenues of Mysore.

Exd. T. O'Connor.

1875.
FINANCIAL DEPARTMENT.

From
The Secretary to Government,
Fort St. George.

To
The Secretary to the Govt. of India,
Financial Department.

Dated 15th March 1875.

Recd.

No. 135.

Enclosure.

Forwarding, for transmission to the Secretary of State, a Memorial presented by Mr. J. Garrett, late Canarese Translator to Government, praying for the grant of a gratuity.

23 Belgrave Crescent London, N.W.

February 2, 1875.

From

J. Garrett Esq

late Canarese Translator to Govt. of Madras.

To

The Right Honourable the Marquis of Salisbury, &c. &c.
Secretary of State for India.

My Lord

I have the honour to submit the following
Statement and appeal for favourable consideration
and orders:-

I held the office of Director of Public
Instruction in Mysore for about 12 years; and
during nearly 10 years of that period I was also
Canarese Translator to the Government of Madras.

On my retirement I received a pension from
the Mysore Govt; and the Chief Commissioner of
Mysore addressed the Government of Madras on
the subject of a pension in connection with the Canarese
Translationships. To this the following reply was

Department No 1294.
Commissioner of Mysore.
Fort St. George, 15 Dec. 1874.

sent:- "Referring to your Oppg. Secretary's
letter of the 25th ult. No. 4834-39, in-
quiring whether Mr J. Garrett, Director
of Public Instruction in Mysore, who has also

held the office of Canarese Translator to the Govt. of Madras,
is eligible for a pension or gratuity on account of his service
in the latter office, I am directed to forward for your information
the accompanying Report of the Accountant General, showing
how Mr Garrett's case stands in respect to the office of Canarese
Translator." (signed) "W. Hindlestone, Chief Secretary."

Memorandum. "The undersigned has the honour to report
that under Government of India Notification, dated

"as Government Translator. His Translatorship pay cannot be added to that of the Directorship under the Government of Mysore, his qualifying service as Translator extending at present only to a period of nine years, nine months, and 4 days, and therefore entitling him to a gratuity of nine months pay, or Rs 2250, from the Madras Government."

Fort St George

(signed) R. W. Lodwick,

Accountant General.

8th December, 1873.

The following letter was then addressed from the Chief Commissioner of Mysore on the subject—

6123 Mysore Ch. Commissioner's Office
50 Bangalore 3rd Dec. 1874. From the Chief
Commissioner of Mysore
to the Chief Secretary to Government
Fort St George.

"With reference to your letter dated the 15 Dec. 1873, No. 1294, forwarding for information copy of a Memorandum from the Accountant General of Madras, reporting that Mr. Garrett, Director

of Pub. Instⁿ in Mysore, is entitled to a Gratuity of Rs 2250 from the Madras Govt. on his retiring from the post of Canarese Translator, I am directed by the Offg. Chief Commissioner to forward a copy of Mr. Garrett's Service Roll, and to suggest that His Excellency in Council may be moved to sanction payment of the Gratuity referred to." (signed) "H. Bellasley, Offg. Secretary."

A copy of this letter was officially forwarded to me "for information," and I applied to the Govt. of Madras for payment of the Gratuity. In answer to this the "order thereon" dated 22 May 1874, No. 292, referred me to G. O. of 9 May 1874, No. 265, stating that under Sections 8 and 9 of the Civil Pension Code, second edition, I was not entitled to any retiring allowance in respect of the office of Canarese Translator.

The records of the Madras Government
18 Aug. 1874

I again urged my claim, and in reply the "order thereon" stated "The letter referred to by Mr. Garrett did not pronounce upon that gentleman's right to a gratuity, but simply communicated to the Govt. of Mysore, the opinion of the Accountant General."

M. G. 2400.
1874. No 656.

"misled by that opinion, which was subsequently found to be erroneous, but are unable to grant him a Gratuity as the rules do not admit of it."

In acknowledging receipt of this order I urged that my claim might be sustained on the following grounds:—
1. That my remuneration as Translator was in fact the pay of the appointment, when on furlough I was allowed to draw a portion of it; had it been a 'local allowance' the order would have been passed to my local officers. 2. I was appointed to the office in 1861, many years before the introduction of the coded rules excluding local allowances from pension & gratuity claims. 3. As there must be above twenty different Translators to Govt. in India, and the post is invariably held by an officer who fills another appointment, if it had been intended to exclude them from pension or gratuity, their cases would have been quoted as examples under Sect. 8 of the C.P. Code.

In reply the "order thereon" informed me that the claim was disallowed because as Translator my whole time was not retained for the service of the Madras Govt. and that by the Code a claim for gratuity is governed by the rules in force at the time of resignation.

I have the honour now respectfully to lay the whole case before your Lordship, and to represent that the rule under which the decision of the Madras Govt has been made did not exist when I was appointed Canarese Translator; and that by Section 66 (4) of the C.P. Code, 2nd edition, I am eligible for the Gratuity awarded in the Memorandum of the Accountant General quoted above. And relying on the validity of this claim I beg to state that I paid Income Tax to the British Govt. on my Salary as Director

official I was exempt from the operation of the
Tax, but when it was represented to me by the Chief
Commissioner that in order to be eligible for
Pension or Gratuity from the Govt. of Madras as
Canarese Translator, it was necessary that I should
pay Income Tax on my Mysore salary also, I
at once assented, and paid the Tax during
the whole period of its operation, with the
full conviction that I was thereby qualifying
myself for the pension or gratuity to which
the Rules entitled me when I resigned the
office of Canarese Translator — my Pension
as Director of Public Instruction being paid
exclusively from the Revenues of Mysore.

I have the honour to be

My Lord

Your Lordship's most obedient humble servant

J. Garrett.

Late Canarese Translator to the Govt.
of Madras.

23 Belvoir Crescent London NW

February 4 1875

Sir

J. Garrett Esq.

Late Canarese Translator to Govt.

To

The Chief Secretary to Government

Fort St. George

Sir

I have the honour to enclose
a letter addressed to the Right Honourable
the Secretary of State for India, on
the subject of my claim to a Gratuity
of Rs 2250, on retiring from the office
of Canarese Translator, and to request
that you will be so good as forward the
letter to its destination.

I have the honour to be,

Sir,

Your most obedient servant,

J. Garrett.

Late Canarese Translator to Government.

Original of 1875
2/4/75

Pension DEPARTMENT.

No. 135.

To

The Secretary to the Government

of India,

FINANCE DEPARTMENT.

Sir,

I am directed to forward for transmission to the Secretary of State a Memorial presented by Mr J Garrett appealing against the orders of this Government declaring ^{him} not to be entitled to any retiring allowance in respect of the Office of Canarese Translator.

2. Copies of the various orders alluded to by the Memorialist are enclosed and His Excellency has no recommendation to make in behalf of Mr Garrett.

3. I am to state that

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Feb. 27. 1874. 18636

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John H. Cogswell

Ruth W. Taylor
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According to former
arrangements addressed to the
right of the noble the Duke
of Devonshire and his family
a gratuity of £1000 from
the Duke of Devonshire
and his family.

Wm. H. H. H. H.

in this Presidency no
similar application to
that of Mr. Garratt is
on record but this may
be due to the fact that
the post of Translator
has usually been filled
by a Covenanted Officer
or by a Military Officer.

Fort Saint George
15th March 1875

Recd. 1875 — DEPARTMENT.

No. *135.*

To
The Secretary to the
Government of *India*
India Department.

Dated *16th* March 1875.

The
Transcription & the
of State & the
presented by the
late
to the
grant of a