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MADRAS RECORD OFFICE.

Government of Madras.

Indirect tension DEPARTMENT.

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20. 10.

Dated 27-9- 1881.

Not to be folded or roughly handled

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

27th September 1881, No. 2003.

Jails.

Read the following papers:—

From Lieutenant-Colonel T. E. TENNANT, Inspector-General of Jails, to the Officiating Chief Secretary to Government, dated Ootacamund, 19th July 1881, *No.* 126 [*Current No.* 2148].

I have the honor to submit, for the favorable consideration of Government, a memorial from Mr. I. Tyrrell, Keeper of the Madras Penitentiary, and lately Superintendent of the Fort Jail at Pálghat, in which, for reasons stated, Mr. Tyrrell solicits that a small break in his Civil service may be condoned and his Military service of upwards of thirteen years may be permitted to reckon towards his pension.

2. I have also the honor to forward a letter* from Mr. W. A. Symonds, Superintendent of Prisons for the Town of Madras, supporting the prayer of the memorialist. The zeal and assiduity displayed by Mr. Tyrrell during the period he was in charge of the Pálghat Jail have already been favorably noticed by Government, and I trust the case of this excellent and deserving officer may receive the favorable consideration of Government.

* No. 474, dated 14th July 1881.

G.O., No. 870, dated 4th May 1881.

ENCLOSURE No. 1.

From W. A. SYMONDS, Esq., Superintendent of Prisons for the Town of Madras, to the Inspector-General of Jails, dated 14th July 1881, No. 474.

As solicited in the accompanying letter from Mr. Isaac Tyrrell, I have the honor to request you will lay the memorial to which it gives cover before His Excellency the Governor in Council at an early date. I should further feel obliged by your kindly forwarding the present letter with the memorial.

2. The drift of the memorial is that the Government may be pleased to (1) condone a break of one month and thirteen days in Mr. Tyrrell's Civil service; and (2) that his Military service of 13 years and 218 days may be reckoned towards pension in the Civil service.

3. With reference to the break in Mr. Tyrrell's Civil service, I need not say more than that the Pension Code gives Local Governments the power to condone such small breaks, and that, in my own humble opinion, never did a public servant better deserve the comparatively slight concession here sought.

4. The concession sought in respect of Mr. Tyrrell's Military service appears, at first sight, more formidable. But the circumstances under which Mr. Tyrrell only just missed the benefit of a Military service reckoning towards pension in the Civil service are of so strikingly peculiar a character that I am induced to believe the Government will regard the case as one *sui generis*, yet not likely to create an inconvenient precedent. It may be briefly stated as follows:—In June 1860, when Military service did actually reckon towards pension in the Civil service, Mr. Tyrrell applied for his discharge from the Army, he having been promised employment in the Police as soon as he could obtain his discharge. This he did not receive till September 1860, owing to official delay in giving effect to his application, for which of course he was in no way responsible. Meanwhile, that is to say in July of the same year, it was ruled—a ruling not confirmed till the following November—that Military service should no longer reckon towards pension in the Civil service. To apply this ruling to Mr. Tyrrell's case would be to give it retrospective effect—a fact not pointed out to the Government in a previous reference upon the subject of Mr. Tyrrell's claim to count Military service towards pension.

5. To the above *resumé* of Mr. Tyrrell's case, as it is to be gathered from his memorial, I desire to respectfully add it as my conviction that, failing the success of his prayer for certain concessions in respect of pension, it would be a more appropriate close to his faithful and energetic service, were he to receive from Government some appointment equal to the one he has just vacated at Pálghat than were he to revert to the (by comparison) subordinate and poorly paid position of Keeper of Her Majesty's Penitentiary. Mr. Tyrrell is only fifty-one years of age and is still full of work, but he would not be quite an ordinary man if he could easily bring his mind to throw himself into the discharge of the duties of a lower post with the same amount of zeal as formerly. On the other hand, the present incumbent, Mr. North, is working as only a rising man can work, and in view of the various prison-system developments, some in progress and some projected, which now mark the Penitentiary, I confess I look forward to losing him with some dismay.

To

HIS EXCELLENCY THE HONORABLE THE GOVERNOR AND
PRESIDENT IN COUNCIL,

Fort St George.

The Humble Petition of MR. ISAAC TYRRELL,
late Superintendent of Fort Jail, Pálghat.

HUMBLY SHOWETH,—That your petitioner enlisted in Her Majesty's 46th Regiment of Foot at Chatham, England, on the 25th of August 1846, and was transferred to Her Majesty's 65th Regiment of Foot on the 22nd November 1846, in order to join his brother Jeremiah, who was serving in that Regiment.

Papers attached to this petition for reference.

7 Testimonials of Character.
1 Copy of Discharge Certificate from the Army.
1 Extract from Journal of Superintendent of Prisons, Madras.
1 Record of Service.
1 G.O., No. 52, dated 12th May 1862, Financial Department.

That your petitioner embarked on board the Ship *Marion* at Gravesend on the 29th of August 1847, as one of a Detachment on duty over convicts transferred to the Australian Colonies, and landed at Hobart Town, Van Dieman's Land, on the 13th January 1848.

That your petitioner was transferred to Her Majesty's 96th Regiment of Foot at Hobart Town on the 14th March 1848, in order to join his brother James, who was serving in that Regiment, and landed in Calcutta on the 19th of April 1849 with the said Regiment.

That your petitioner was appointed Lance Corporal in Her Majesty's 96th Regiment at Gazipore on the 16th October 1849, and was promoted to Corporal in the same Regiment on the 14th February 1852 at Lahore, and was further promoted to Serjeant on the 16th of May 1854 at Dinapore.

That your petitioner volunteered at Chinsurah, on the 21st November 1854, to Her Majesty's 43rd Regiment for further service in India, by so doing losing Army rank in accordance with Army Regulations at that time.

That your petitioner was in November 1854 appointed Serjeant (temporary rank but carrying pay with it) by the General Officer Commanding Bengal, to do duty with Volunteers and landed at Madras, 28th December 1854, having been in command of the troops (54 in number) on the voyage from Calcutta, the officer detailed for that duty (Captain H. B. H. Rocke, Her Majesty's 96th Regiment) having been withdrawn in the Hooghly after the ship had left Calcutta.

That your petitioner was appointed Lance Corporal in Her Majesty's 43rd Foot on the 29th December 1854 at Madras; promoted to Corporal on the 15th June 1857 at Arcot; appointed Lance Serjeant on the 29th of December 1857, Camp Nundidroog; promoted to Serjeant on the 6th of June 1858, Camp Kirwee; and appointed Pay and Color Serjeant on the 21st of March 1860 at Madras.

That your petitioner having been informed that his Military service would reckon towards pension in Civil employ, applied for his discharge from Military service in the month of June 1860, and such discharge was finally completed on the 30th of September 1860, your petitioner took this step with the view of bettering his prospects, he having been promised by the Inspector-General of Police in May of that year a Police Inspector's post as soon as his discharge was sanctioned, which promise was duly fulfilled, and your petitioner left Madras on the third day after discharge from the Army for the Nellore District to which he was posted by the Inspector-General of Police.

Your petitioner is the youngest of six brothers, all of whom have served Her Majesty as soldiers. Three served at the same time in Her Majesty's 96th Regiment in Bengal 30 years ago. The eldest of the three, Jeremiah Tyrrell, went home with the 96th Regiment in 1854, and was pensioned, having completed his service. James Tyrrell, the next eldest, volunteered to Her Majesty's 32nd Regiment for further service in India, and was murdered with his wife at the Cawnpore Massacre in June 1857.

Your petitioner begs to mention that *at the time he applied for his discharge in June* 1860, *Military service reckoned towards pension in the Civil service, and while his discharge was pending Government ruled in their Order, dated 6th July* 1860, *No.* 2445, *Military Department, that such service should no longer reckon towards pension*, and this ruling was confirmed by the Right Honorable the Secretary of State for India in his Financial Despatch, dated 8th November 1860, or after your petitioner had received his discharge from the Army. *Your petitioner was not aware of this order till long afterwards and was doing duty at Nellore as a Police Inspector under the impression that his Military service would count for pension.*

Your petitioner, on learning that he had forfeited his Military service, begged of the Superintendent of Police to bring his case to the notice of the Inspector-General of Police with a view to its being forwarded to Government for consideration. G.O., No. 352, dated 12th May 1862, is, your petitioner believes, the order passed by the Government on the letter from the Inspector-General of Police. Your petitioner's case was not brought forward as a special one; but a recommendation was made for all Police Officers who had previous Military service to be allowed to reckon it towards pension. Government declined to sanction this as the subject had already been disposed of. Had your petitioner's case been represented specially, as was that of Mr. Mills referred to in the above despatch, the favor prayed for would in all probability have been conceded. Your petitioner thought of petitioning the Government at the time, and would have done so had not Mr. J. W. B. Dykes, the Collector of the District, and Captain Gordon, the District Superintendent of Police, advised your petitioner not to take any steps then, remarking that the Government would, after a number of years of good service, take your petitioner's Military service into consideration in the event of pension being applied for, and your petitioner was advised in a similar manner in 1874 by the Head of the Jail Department on returning a petition that had been sent to him for consideration.

Your petitioner applied for his discharge in June 1860, while serving in Her Majesty's 43rd Foot at Madras as Color Serjeant. According to the rules of the Regiment the application was kept one month in the Orderly Room, after which your petitioner was sent for and asked if he wished to withdraw the application, to which question he replied in the negative. Even after this some time elapsed before the discharge papers were duly forwarded through the proper channel, viz., the Adjutant-General's Office of this Presidency, to the Commander-in-Chief of India, whose sanction at that time was necessary for the discharge of a soldier in one of Her Majesty's Regiments, and it was not till the 27th of August 1860 that the discharge was formally sanctioned in Order "No. 1245-20, Adjutant-General's Office, Head-quarters, Calcutta, 27th of August 1860." Even after this your petitioner was not finally discharged till the 30th September 1860, as the order had to be sent through the Adjutant-General's Office of this Presidency, and then forwarded to the Regiment, after which a Committee had to sit to verify his service, &c.

Your petitioner would beg to mention that, from the 25th of August 1846 to present date (excepting the break in his service of one month and thirteen days hereafter referred to), nearly thirty-five years, his service has been continuous, he never having availed himself of furlough in the Army, and having had but two months' privilege leave during his service of over twenty years in Civil employ.

Your petitioner served in the campaign in Central India in 1858 and 1859; was present at the surrender of Kirwee, 7th June 1858; action of Doolypore, 26th March 1859; action of Puraha, 14th April 1859; Goopelpoora, 23rd of November 1859; and has a medal for service in Central India. Was promoted at Kirwee by Lieutenant-Colonel J. M. Primrose over a senior Lance Serjeant (J. Cooper, the late Quarter Master of the Regiment).

Major E. Booth, Her Majesty's 43rd Regiment (afterwards killed in action in New Zealand), while Commanding at Banda during the Mutiny, appointed your petitioner to act as Serjeant-Major at that place, although at the time your petitioner was the junior Serjeant in the three Detachments of Corps serving there. Your petitioner was also appointed Pay and Color Serjeant at Madras in March 1860 over three Serjeants who had acted as Pay Serjeants for a considerable time previously. The fact of your petitioner having risen to the rank of Serjeant in one Regiment, and afterwards to the rank of Color Serjeant in another Regiment, speaks to his character for conduct and efficiency while in the Army.

While serving in the Police your petitioner on several occasions had commendatory remarks made in his diaries, relative to the satisfactory manner in which he performed his duties, and Captain Balmer, the then Superintendent of the Nellore District, thanked your petitioner in one of the diaries for the good service he had done during a serious outbreak of cholera in the Náyudupet and Venkatagiri Taluks, your petitioner being at the time the Inspector of the former Taluk and the Supervising Inspector of the latter. Your petitioner would also beg to mention that, in addition to the above, Captain Balmer remarked in a letter, dated Nellore, 13th September 1866, as follows:—"I am sorry you are going, but I shall be glad if you better yourself, and I shall aways be glad to do anything in my power for you."

Your petitioner begs to forward certified copies of his service in Civil emply, also copies of characters from Lieutenant-Colonel W. S. Drever, Lieutenant-Colonel G. B. Bowen, Major A. Balmer, and Captains W. H. Hallett, A. J. F. Gordon, H. B. H. Rocke, and T. Hawkes. Your petitioner also begs to mention that he was never punished or reprimanded in any way during his twenty years' service in Civil employ, and his character for efficiency in the Jail Department is clearly set forth, not only in the enclosed testimonials, but also in an Extract (copy forwarded) from the Journal of the Superintendent of Prisons for the Town of Madras, dated 4th December 1877, wherein it is stated that your petitioner should be the first selected for promotion, if the recommendation of the late Jail Conference regarding the selecting of Superintendents for Superior District Jails be carried out. Your petitioner would also mention that Colonel T. E. Tennant, the present Head of the Jail Department, wrote from Camp Varanasse, Ganjam District, on the 4th December 1869, that your petitioner's appointment as Keeper of Her Majesty's Penitentiary was a benefit to the State.

Your petitioner was appointed Superintendent, Fort Jail, Pálghat, in G.O., No. 173, dated 29th January 1879, the appointment being strongly supported by an Honorable Member of your present Council, who had heard of your petitioner's long and faithful service to the State. Your petitioner would further mention that the present Head of the Jail Department, in his letter to Government, No. 82, dated 17th April 1879,* recommending that the Jail be made a permament one, wrote most favorably of your petitioner.

* G.O., 25th April 1879, No. 933.

Further your petitioner would draw attention to G.O., No. 870, dated 4th May 1881, in which the Government of Madras were pleased to express their approval of the zeal and assiduity displayed by your petitioner during the time he held the appointment of Superintendent of the Pálghat Jail.

Your petitioner, as will be seen by the Service Statement forwarded, was in receipt of Rs. 150 per month and Rs. 15 horse allowance for upwards of three years previous to his taking up the appointment of Jailer, Central Jail, Salem, and that he was considerably a loser by the exchange, the pay of Jailer being only Rs. 100 per month, with free quarters and 10 per cent. commission on net profits to Government on Jail manufactures (about 15 rupees monthly, as little work of skilled labor was done at that time). Your petitioner was informed by the Superintendent of the Jail that the pay of the Jailer would be increased to Rs. 150 monthly, the pay at that time drawn by Jailers of other Central Jails, and this induced your petitioner to accept the post, which had been offered to him unsolicited; but as time rolled on and there appeared no likelihood of any increase to the Jailer's salary, your petitioner resigned the appointment of his own accord, well knowing that he could obtain employment in the Police at a short notice. As the Inspector-General of Police (the present Sir W. R. Robinson) and other Police Officers had a most favorable opinion of your petitioner as an effective Police Officer, and this opinion was years afterwards kept in remembrance as the Acting Inspector-General of Police, Colonel W. S. Drever, on hearing that your petitioner's pay as Keeper of Her Majesty's Penitentiary (Rs. 200 with free quarters and horse allowance) would be likely to suffer reduction, most kindly told your petitioner that if the pay of the establishment was reduced as recommended by the then Superintendent of Prisons for the Town of Madras, your petitioner should not suffer in the matter of salary as he would give your petitioner a First-class Inspector's post. The Acting Commissioner of Police also wrote as follows under date 14th July 1873:—

"MR. TYRRELL.

SIR,

Some time ago you stated to me that you wished to rejoin the Police; if this is still your wish, will you call at my office at 11 A.M. to-morrow.

Yours faithfully,
(Signed) A. BALMER.

Had your petitioner known at the time that even a day's break in his service would cause all his previous service to be lost to him (a break of a year's service was allowed prior to 8th June 1863 to officers in superior service, and a like break up to 1st September 1871 to officers in inferior service) he would have applied for leave and obtained permission to join his new appointment on transfer from his old one, thus continuing his service.

About a month after resigning the Jailer's post at Salem, your petitioner met the Inspector-General of Jails in Madras, and was kindly told by him that if your petitioner desired to re-enter the Jail Department again vacancies would shortly occur in the Central Jails of Trichinopoly and Cannanore; that such appointments were made by Superintendents of Jails subject to the confirmation of the Inspector-General of Jails; and that if your petitioner obtained any such appointment he would gladly confirm him in the same, which he did when your petitioner was appointed Keeper of Her Majesty's Penitentiary in 1869.

Your petitioner would beg to draw your attention to G.O., 4th of May 1865, No. 161, and G.O. of the 15th July 1872, No. 550, Pension Department, in which the strict observance of the order relative to breaks in Civil service was relaxed.

Your petitioner's object in presenting this petition is to represent the peculiar circumstances of his case in the loss of several years' service which he unintentionally and unwittingly incurred by the break alluded to above, and your petitioner begs, in consideration of his long and faithful service, that the break in his Civil service from 23rd December 1868 to 4th February 1869 may be condoned, and your petitioner further begs that he be also allowed his Military service of 13 years and 218 days, as shown in the accompanying copy of his discharge certificate, in reckoning for pension in the Civil service, inasmuch as not only was his application to leave the Army made prior to the Order of Government, No. 2445, dated 6th July 1860, Military Department, but there was delay in giving effect to the application for which your petitioner was not in the least responsible.

Your petitioner trusts that his case may receive favorable consideration, and, as in duty bound, he will ever pray.

(Signed) I. TYRRELL,
Late Superintendent, Fort Jail, Pálghat.

No. 1325.

Transferred to the Accountant-General for *early* remarks. It will be stated to what pension Mr. Tyrrell is entitled, supposing the break in his Civil service condoned.

(By Order.)

(Signed) G. S. FORBES,
Acting Assistant Secretary.

OOTACAMUND,
3rd August 1881.

From H. F. CLOGSTOUN, Esq., Officiating Accountant-General, to the Chief Secretary to Government, dated Fort St. George, 24th August 1881, *No. J.A.E.*-252 [*Current No.* 2545].

With reference to your endorsement, No. 1325, dated the 3rd August 1881, forwarding, for remarks, a letter from the Inspector-General of Jails, recommending that the break in the continuity of Mr. Tyrrell's services in the Civil Department may be condoned and that his service in the Military Department may be permitted to reckon towards pension in the Civil Department, I have the honor to state that, having entered the Public Service in the Civil Department, originally on the 3rd October 1860, Mr. Tyrrell's qualifying superior service, if the interruption in his service from 23rd December 1868 to 4th February 1869, is condoned by Government under Section 98 (*a*) of the Civil Pension Code, will amount to more than 20 years, entitling him upon the production of a medical certificate to a pension not exceeding Rs. 66-10-8 per mensem, equal to one-third of his average emoluments under Section 109 (*b*) of the Code. Although Mr. Tyrrell was in receipt of a salary of Rs. 350 a-month as Superintendent of the Fort Jail at Pálghat, the additional deputation allowance of 150 rupees a-month cannot be taken into account in calculating his average emoluments, as the appointment was only a temporary one, as observed by Government in paragraph 1 of their Order, No. 870, dated the 4th May 1881, Judicial (*vide* Rule 1, Section 123, of the Code).

2. With regard to Mr. Tyrrell's earlier service of 13 years in the Army, as it was pensionable under Military rules it does not count for pension under Civil rules (*vide* Section 53, Civil Pension Code). The Controller of Military Accounts, to whom these papers were sent with a view to ascertaining whether there were any precedents allowing such service to be combined with service in the Civil Department, remarks that the question appears to be one which should be decided by Government in the Military Department.

3. With reference to paragraph 4 of Mr. Symonds' letter, I would invite the attention of Government to Section 2 of the Civil Pension Code, which declares that an officer's claim to pension is governed by the rules in force at the time of retirement, and would point out that, as the rules stand at present, Mr. Tyrrell's position

would not be in any way improved had he retired in June 1860, instead of in November 1860. In neither case would his previous Military service count for Civil pension.

4. The enclosures to your endorsement under reply are herewith returned.

No. 1472.

The Accountant-General's letter will be referred to the Military Department for orders on paragraph 2.

OOTACAMUND,
29*th August* 1881.

(Signed) G. S. FORBES,
Actg. Under Secy. to Govt.

No. 4698.

Referred to the Controller of Military Accounts.

OOTACAMUND,
31*st August* 1881.

(Signed) E. L. HANKIN, Colonel,
Actg. Secy. to Govt., Mily. Dept.

From Lieutenant-Colonel M. C. PERREAU, Officiating Controller of Military Accounts, to the Acting Secretary to Government, Military Department, dated Fort St. George, 12*th September* 1881, *C* [*Current No.* 2767].

Requesting that the service of Mr. Tyrrell in the Army may be allowed to count towards pension in the Civil Department.

In returning the accompanying documents received with your reference, No. 4698, dated 31st August 1881, I have the honor to observe that Mr. Tyrrell's service in the Military Department does not count towards pension in the Civil Department, such being expressly barred by the ruling of the Government of India, recorded in Proceedings of Government in the Financial Department, No. 53, dated 31st January 1866, communicated under Military Department, No. 470, dated 5th February 1866.

No. 4996.

Transferred to the Judicial Department and the referred papers returned with the remark that Mr. Tyrrell's Military services cannot, under Regulation, be allowed to reckon towards Civil pension,

17*th September* 1881,

(Signed) E. L. HANKIN, Colonel,
Actg. Secy. to Govt., Mily. Dept.

ORDER THEREON, 27th September 1881, No. 2003.

Communicated to the Inspector-General of Jails.

2. There will be no difficulty regarding the proposal to condone the trifling interruption of service mentioned; but, as regards counting Military service towards Civil pension, the Governor in Council observes that the inadmissibility of doing so was strongly laid down in a letter from the Government of India, Financial Department, of 19th January 1866, No. 215, directing the cancellation of an Order of the Madras Government, No. 352, dated 12th May 1862, wherein the Government in Council decided, on a reference from the Inspector-General of Police, that the Rule disallowing the previous practice of reckoning Military service in the computation for pension from the Civil Department should be applied with effect only from the 1st July 1860.

3. The Government do not understand that Mr. Tyrrell is incapacitated from further work, and trust he may long continue to do good service.

(True Extract.)

J. Davies
for Chief Secretary.

To the Inspector-General of Jails.
" Accountant-General.
" Pension Department.

Exd. J. Wright.

Pension 1881 Deptt

Govt. of {1881} Madras.

JUDICIAL.

No. 1577

To

THE INSPECTOR-GENERAL OF JAILS,
&c., &c., &c.

Dated September, 27th.

Issued

Recd. 12 Octr 1881 Encl.

G.O., 27th September 1881, No. 2003.

SEPTEMBER.

Jails.—Stating that there will be no difficulty regarding the proposal to condone the break in the service of Mr. I. Tyrrell, Keeper of Her Majesty's Penitentiary, but that his request that his Military service may be permitted to count towards Civil pension is inadmissible under the orders of the Government of India.

Order thereon 20th Octr/81 No. 1076

Recorded

Jer 15/10/81