

Political (1895) Department.

ORDINARY PRINTED.

G.O., No 360

Dated 5th June 1895

INDEXED.

[Despatch Abstract.]

MR. FERGUSON'S APPOINTMENT IN THE NAYAR BRIGADE

Communicating to the Resident in Travancore and Cochin letter from the Government of India stating that Mr. H. S. Ferguson who is now employed in the Nayar Brigade of the Travancore State, should be regarded as an officer in the service of that State; and cancelling G. O., dated 24th July 1885, No 494, Political, and Gazette notification of the same date No. 10.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
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Govt. of {1895} Madras
POLITICAL.

Issued

Recd.

Encl.

G.O., 5th June 1895, No. 360.

JUNE.

Lieutenant H. S. Ferguson.

Communicating to the Resident in Travancore and Cochin letter from the Government of India stating that —, who is now employed in the Nayar Brigade of the Travancore State, should be regarded as an officer in the service of that State; and cancelling G.O., dated 24th July 1885, No. 494, Political, and Gazette Notification of the same date, No. 10.

5TH JUNE 1895, No. 360, POLITICAL.

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

READ—again the following paper :—

G.O., dated 4th March 1895, Nos. 150, 151, Political.

ABSTRACT.—Directing that the peculiar circumstances of the position of Lieutenant H. S. Ferguson in the Nayar Brigade of the Travancore State be submitted for the consideration of the Government of India, the sanction of that Government being requested to the issue of orders calculated to bring about the complete transfer of that officer's services to the Travancore Government with retrospective effect.

READ—also the following paper :—

From H. DALY, Esq., Officiating Deputy Secretary to the Government of India, Foreign Department, to the Chief Secretary to the Government of Madras, dated Simla, the 13th May 1895, No. 1519 I.

I am directed to acknowledge the receipt of your letter, No. 151 (Political), of the 4th March 1895, regarding the position of Mr. H. S. Ferguson, who is now employed in the Nayar Brigade of the Travancore State.

2. Mr. Ferguson is not entitled to any furlough allowances or pension from the British Government, and it is recommended that he should be regarded as an officer in the service of the Travancore Government, who are prepared to grant him pay, leave allowances and pension as specified in the sixth paragraph of your letter under acknowledgment.

3. The Government of India have no objection to offer to these proposals and agree to the continued employment of Mr. Ferguson in the Nayar Brigade on the terms suggested. The action proposed in paragraph 9 of your letter may be taken, but the Government of India do not think it necessary to lay special stress upon the circumstances of the present arrangement.

ORDER—dated 5th June 1895, No. 360, Political.

Communicated to the Resident in Travancore and Cochin.

2. G.O., dated 24th July 1885, No. 494, Political, and Gazette Notification of the same date, No. 10, are cancelled.

3. The Resident will intimate to the Travancore Darbar the approval of His Excellency the Governor in Council to the arrangement under which Mr. Ferguson will continue in the Nayar Brigade as a purely local officer subject only to the authority of the Travancore Government and to such general political supervision as is now exercised by the Resident over the Brigade. Mr. Ferguson will, as a local officer, rank next to the British Officer Commanding the First Battalion. He will not be

eligible for the Brigade Command, nor without the express sanction of this Government can he even temporarily be put in charge. He will be permitted to continue in the Brigade until he has qualified for pension or until he attains the age of sixty years.

(True Extract.)

Chief Secretary.

To the Resident in Travancore and Cochin.
" Deputy Adjutant-General.

Ed. A. Raitt.

CURRENT No. 671

Pls. Sept.

151: A. 3. 95.

From

The Govt. of India,
Foreign Dept.

No. 1519 J.

Dated 13 }
Recd. 19 } May 1895.
Repd. 20 }

Subject.

Reporting on the position of
Mr. H. S. Ferguson who is now
employed in the Nayar
Brigade of the Travancore
State.

WITH ORDER

Send also the following paper: CURRENT No. 671

N^o 1519 I 20

From

The Deputy Secretary to the
Government of India

To

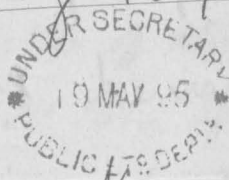
The Chief Secretary to the
Government of Fort St. George

Dated Simla the 13th May 1895.

Foreign Dept { Sir,

I am directed to acknowledge
the receipt of your letter N^o 151 (Poll) of
the 4th March 1895, regarding the
position of Mr. H. S. Ferguson who
is now employed in the Nayar
Brigade of the Travancore State.

2. Mr. Ferguson is not entitled
to any furlough allowances or
pension from the British
Government; and it is recommended
that he should be regarded as an
officer



C. No. 671

FOR ORDERS.

Officer in the Service of the Travancore Government who are prepared to grant him pay, leave allowances, and pension as specified in the 6th paragraph of your letter under acknowledgment.

3. The Government of India have no objection to offer to these proposals and agree to the continued employment of Mr. Ferguson in the Kayar Brigade on the terms suggested. The action proposed in paragraph 9 of your letter may be taken, but the Government of India do not think it necessary to lay special stress upon the circumstances of the present arrangement.

I have the honour to be
 Sir,
 your most obedt. servant
 A. Daly.

Off. Secy. Secretary to the Govt. of India.

[G.
 25.]
 L. 8-8-95.

I think we ought to take the action indicated in para 9 as the position will thereby be made thoroughly clear. India objects to our proposal to consider the case special - so that will be left out.

MS
 25/5/95

W
 24 May
 25/5

The Govt. of India apparently ^{for this Govt} considers it unnecessary to take the action indicated in para 9 of Political letter of the 4th March last No. 151. If this view is accepted by H.R. the Governor & Hon'ble Members it will, it is understood, suffice if the Current is merely communicated to the Resident and the Lt. Govt Commanding the Forces.

CS.
 21.5.95

MS
 22/5/95

Papers to be read in proceedings:—

Mr. Ferguson's Appt. in the
Nayar Brigade

FOR ORDERS.

St. L. + Curé

Again G.O., dated 4th March 1895, No. 150/1 (P)

Again G.O., dated

189 , No.

Current No. 671 (A) of 1895, dated 13th May from G. of I.

(A)

Current No.

of 189 , dated

from

ORDER. 5th June 1895 No 360

Communicated to the
Resident in Travancore
and Cochin

2. G.O. dated 24th July
1885 ~~His~~ No 494 Political
and Gazette Notification
of the same date, No. 10,
are cancelled.

3 The Resident will
intimate to the Travancore
Durbar the approval of
H.E. the Governor-in-Council
to the arrangement under
which Mr. Ferguson will
continue in the ^{Nayar} Brigade
as a purely local officer
subject only to the au-
thority of the Travancore
Govt. and to such gen-
eral political super-
visi

In G.O. No 360
Poll
5-6-95

supervision as is now
exercised by the Resident
over the Brigade. Mr.
Ferguson, ^{will,} as a local
officer, rank next to the
British Officer com-
manding the First
Battalion. He will
not be Eligible for
the Brigade Command,
nor without the Express
sanction of this Govt.
can he even temporarily
be put in charge. He
will be permitted to
continue in the Brigade
until he has qualified
for pension or until
he attains the age of
sixty years.

Mr. H. S. Ferguson
The position of — in the
Nayar Brigade

C.S.
P.S.

Resident in Travancore & Cochin
Dy. Adjt. Genl.

Read again the following papers:—

409

4TH MARCH 1895, Nos. 150, 151, POLITICAL.

1 abstract

GOVERNMENT OF MADRAS.

POLITICAL DEPARTMENT.

Read—again the following papers:—

G.O., dated 6th July 1872, No. 2193, Military.

ABSTRACT.—Resolving to recommend to the Government of India that the British officers employed with the Nayar Brigade, as also the Sergeant-Major of the Brigade, be specially exempted from contributing towards their "contingent" and "deferred" remuneration.

G.O., dated 3rd October 1872, No. 368, Political.

ABSTRACT.—Communicating Proceedings of Government, Military Department, intimating the decision of the Government of India that the Travancore State is not to pay any contribution towards the pension of the European officers and Sergeant-Major at present employed with the Nayar Brigade.

G.O., dated 5th February 1873, No. 55, Political.

ABSTRACT.—Communicating letter from the Government of India, stating that the Travancore State will, in future, be exempt from contribution towards the absentee and pensionary allowances of officers employed in the Nayar Brigade, and of future incumbents of the post of Darbar-Physician.

G.O., dated 24th July 1885, Mis. No. 494, Political.

ABSTRACT.—Approving the appointment of Mr. Harold S. Ferguson to command a battalion of the Nayar Brigade.

G.O., dated 22nd February 1886, Mis. No. 181, Political.

ABSTRACT.—Granting Lieutenant H. S. Ferguson furlough for one year.

G.O., dated 22nd May 1890, No. 274, Political.

ABSTRACT.—Laying down for future guidance the procedure to be followed in the selection of Military officers lent to the Travancore State for employment in that State.

G.O., dated 17th May 1894, No. 319, Political.

Read—the following papers:—

From H. B. GRIGG, Esq., M.A., C.I.E., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Permaad, 7th April 1894, Ref. on C. No. 1003.

I have the honour to forward herewith, for the favorable consideration of Government, an application for six months' furlough to Europe from Lieutenant H. S. Ferguson, Commanding the Second Battalion of the Nayar Brigade, Travancore. He being a Lieutenant on the Reserve of officers his name is not on the strength of the Madras Army, but his appointment to the Brigade having been gazetted by Government, the grant of furlough should also, it seems to me, be sanctioned by the same authority as was done in 1886—vide G.O., dated 22nd February 1886, No. 181, Political.

2. Usually when an officer on the strength of the Madras Army serving on the Brigade applies for furlough his application would go through the Adjutant-General, and if it is sanctioned arrangements would be made for another Madras officer being appointed to act for him, the leave allowance of the absent officer being borne by Government. In the present instance, however, Colonel Brereton, Commanding the Brigade, recommends that during Lieutenant Ferguson's absence on furlough Lieutenant Boome, Commanding the 1st Battalion, may be put in charge of his duties with an extra allowance of Rs. 100 per mensem, the balance, Rs. 450, of Mr. Ferguson's pay being continued to him as leave allowance, which he cannot draw from Government his name not being on the strength of the Madras Army. The Darbar sees no objection to these proposals provided that no extension of furlough or leave of any other kind will be applied for on the same terms and that the Darbar will not be called upon to pay his contingent or deferred allowances at any future time. I request therefore that the Government will be pleased to sanction the furlough applied for with effect from the 10th proximo or date of departure, to which date he has postponed availing himself of the leave, and to permit him to draw these exceptional leave allowances during such furlough.

3. I beg to add that Lieutenant Ferguson's case is a hard one since, owing to the peculiar circumstances in which he is placed, he could not draw any leave allowance from Government in 1886 when he last went on furlough and the Travancore Darbar declined to bear the same, and in these exceptional circumstances I think the Brigade may be left with one Battalion officer during the hot and rainy seasons, although in G.O., dated 15th May 1885, No. 337, Political, the Government decided that so long as the existing organization is maintained there must be an English officer in command of each battalion—an arrangement which should in my opinion be maintained as a permanence. Lieutenant Ferguson's position in the Brigade is now under correspondence and I shall in due course address the Government on the subject.

Telegram from the Chief Secretary to the Government of Madras, to the Secretary to the Government of India, Foreign Department, dated 4th May 1894.

203. Ferguson, Commanding Second Battalion, Nayar Brigade, Travancore, applies six months' furlough Europe. Darbar proposes place Lieutenant Boome, Commanding First Battalion, in charge Second Battalion also with extra allowance Rs. 100. This Government has no objection. Sanction to temporary increase Boome's pay requested under Article 807, Civil Service Regulations. Please wire reply.

Telegram from the Secretary to the Government of India, Foreign Department, Simla, to the Chief Secretary to Government, Madras, dated 12th May 1894.

776-G. Your telegram, 4th, number 203. Extra allowance Rs. 100 for Lieutenant Boome, Commanding First Battalion, Nayar Brigade, for additional charge Second Battalion, sanctioned.

Order—dated 17th May 1894, No. 319, Political.

Lieutenant Ferguson will be granted six months' leave to Europe.

2. The arrangements proposed in paragraph 2 of the Resident's letter are approved.

3. The following telegram will be despatched to Resident, Kóttayam:—

"231. Ferguson's leave sanctioned and arrangements proposed paragraph 2, your 1003, April 7th, approved."

(True Extract.)

(Signed)

J. F. PRICE,
Chief Secretary.

To the Resident in Travancore and Cochin.

„ Military Department.

„ Accountant-General.

Gazette.

G.O., dated 25th July 1894, No. 517, Political.

Read—the following letter from H. B. GRIGG, Esq., M.A., C.I.E., Resident in Travancore and Cochin, to the Chief Secretary to Government, dated Permaad, 13th May 1894, Ref. on C. No. 1003:—

In continuation of my letter, dated 7th April 1894, Ref. on C. No. 1003, I have the honour to address the Government regarding Lieutenant Ferguson's position in the Nayar Brigade.

2. Lieutenant Ferguson was, as the Government are aware, appointed (*Fort St. George Gazette*, 7th August 1885) direct to the Brigade by Mr. Grant Duff's Government, and joined the Brigade on 11th

* Proceedings of Government, No. 494, dated 24th July 1885. Refer also Resident's demi-official letters, dated July 28th and 29th of 1885.

August 1885.* He had retired some years previously from the Royal Artillery but had joined the Home Army Reserve in November 1880. He had served the

Travancore Sirkar as guardian to the three younger Princes from June 1880. His agreement had been for five years. The terms of his agreement were Rs. 300 (with allowances) for 2½ years with an increase to Rs. 400 after that period. He was to receive a bonus of Rs. 2,000 if his services were not required after five years. Mr. Ferguson held the appointment of guardian four days after appointment to the Brigade. He was refused his bonus, but when he went on furlough in 1886 it was paid with an additional Rs. 1,000, which was supposed to make the total amount equivalent to half-pay. His service is regarded as temporary and as not counting for pension in that he received a bonus. He had under existing orders, limiting the Brigade and Battalion Commands to officers in the British Service, qualified for the appointment by having his name restored to the Army List in the capacity of a Lieutenant in the Reserve.

Under the rules he is not entitled to draw any allowance, during leave, from the Indian or Home Government. Nor can he qualify for a pension from either Government so long as he continues an officer in the Brigade. His official status seems to me to correspond with that of an officer in the old Invalid list and consequently he is out of employment so far as the British Government is concerned.

3. Nor can he as matters stand, except as a matter of grace on the part of the Travancore Sirkar, with the approval of the British Government, draw any leave allowance, excepting privilege leave allowances and "the half staff allowance" from the Sirkar treasury. His right to draw the latter even is doubtful as will appear from the order quoted below—should that right ever be questioned by the Darbar—as he is not a Captain.

4. From the earliest days of the Brigade the Travancore Sirkar appears not to have been required to pay or contribute towards the pensions of British officers employed by it; nor towards their furlough allowance, except the "half staff allowance" already referred to. The system of paying contributions on account of pension on behalf of officers whose services are lent to Foreign bodies was only introduced in 1872. The Sirkar was then called upon to report whether it was prepared to pay contributions on behalf of British officers serving in Travancore. Their reply was as follows:—"The Military officers and Darbar Physician (who also belongs to the British Army) get neither pension nor absentee allowance from His Highness' Government excepting what is called "the half staff allowance" which is paid to the officers of the Brigade when they are on furlough, and which in the case of the Commandant is Rs. 179-8-9 and of the Captains Rs. 62-5-10. These officers are employed in Travancore for short periods, generally for five years; when on promotion or otherwise they rejoin the British service. Their services are thus made available to this Government, I believe, for political reasons. His Highness' Government, therefore, hopes that as such they will be considered as embraced in the exception contemplated in paragraph 3 of the proceedings under acknowledgment and that the arrangement hitherto in force for many years will be continued."

The Government in their order * thereon said: "The Right Honorable the Governor in Council, having carefully considered the subject, is of opinion that there are special reasons why the Indian

* 6th July 1872, No. 2193, Military.

Government should bear the 'contingent' and 'deferred' remuneration of the officers of the Brigade. The Brigade is composed of artillery and infantry and numbers about 1,500 men. It is therefore advisable for political reasons that the command of so considerable a body of troops should be held by British officers and the Right Honorable the Governor in Council observes that it would be contrary to the usage of the British service that so important a command as that under notice should be held by an officer under the rank of a Field officer, or the command of battalions by officers under the rank of Captain. It is moreover desirable, as a compliment to a faithful ally, that officers of suitable rank should be selected by the Indian Government for the command of His Highness the Maharajah's troops. The duties appertaining to the command may not be of a very arduous nature, but the officers should be men of character, reliability and experience and worthily represent the Government and service to which they substantively belong."

These orders were apparently confirmed by the Government of India.

5. It seems quite clear that under this order the Indian Government distinctly undertook to pay the leave and pension charges of effective British officers employed in the Brigade presuming that the "contingent" and "deferred" allowances referred to indicate those charges. Consequently, the claims of a British officer employed in the Brigade to such allowances must depend upon his claims to such allowances in the service to which he belongs. Officers serving in the reserve of the British Army are, I believe, not entitled to such allowances; consequently, Lieutenant Ferguson, unless his case is specially provided for by a new rule, is not, and cannot become, entitled to such allowances so long as he remains in the Nayar Brigade as an officer of the British service. The Darbar recognising the difficulties of Lieutenant Ferguson's position on the occasion of his former leave assisted him in the way already noticed and have, as already stated in my letter, agreed to pay his furlough allowances for the leave applied for now, and dealt with in that letter, but they have connected with this proposed concession a condition that such extraordinary allowance shall on no future occasion be given so long as he remains in the British service. The reasons for this are stated in paragraph 6 of the Diwan's letter of the 24th March 1894 enclosed.

In paragraph 8, however, of that letter the Diwan states that he considers that some definite arrangement should be come to in regard to Lieutenant Ferguson, and in this view I entirely agree. He considers that if he is to be treated as a British officer the British Government should agree to pay his "contingent" and "deferred" allowances. He also indicates how his Government is prepared to treat him if he resigns all connection with the British service at Home and in India and becomes purely a local officer of the Brigade under the articles of war and standing orders and is subject to His Highness' Government exclusively. Now it seems to me very undesirable and out of harmony with the position of the officers of the Brigade as laid down in the order of Government just quoted, that such an officer should be compelled to look to the Sirkar for leave allowances as a matter of favour. Moreover, whether the grant of this allowance now proposed is approved or not by the Government of India, there can be no doubt that an officer situated as Lieutenant Ferguson is, with no prospects of leave allowances on future occasions from the British Government, can hardly be expected not to live in the hope that the view taken of his case may change and that ultimately he may be permitted to receive leave allowances from the Sirkar conditionally or unconditionally. This remark would also apply to the grant of a pension by the Sirkar ultimately, if that question were now raised and unfavorably viewed by the Government.

6. Taking all the circumstances of the case into consideration, I have come to the conclusion that it is not consistent with the public interests that Lieutenant Ferguson's anomalous position should continue, but that he should be secured leave and pension privileges either from the British Government or from the Travancore Sirkar.

7. The course which seems to me to be most consistent with the preceding relations of the State to the British Government in regard to the Brigade is that the special sanction of the Secretary of State should be obtained for granting to him leave allowances and pension privileges on the scale fixed for Civil officers of the Provincial service, as Lieutenant Ferguson is employed in a political rather than in a military capacity, and must be regarded as an invalided or pensioned officer re-employed with the permission of Government under the Civil Service Code in a Native State. But if such a suggestion is inadmissible, then I think the following solutions of the difficulty may be considered:—

(a) That the Sirkar should be advised to grant him leave allowances and pension under the rules applicable to Provincial Civil servants, his status as a British officer appointed by the Madras Government remaining unchanged.

(b) That, as a special case and under special conditions, he be transferred to the Travancore service for continued employment in the Brigade.

8. It is true that the Order of Government of the 6th July 1872 might be held to apply only to officers of the Indian Army lent to the Sirkar and not to officers of other portions of the British Army; and there can be little doubt that when the Madras Government passed this order they had only the case of Indian officers in their mind, as the Battalion Commanders of the Brigade had hitherto been invariably filled, after the change in the system of appointment hereafter referred to, by officers of the Indian Army. But the Madras Government having as a matter of fact treated Lieutenant Ferguson as their own officer by appointing him, he might perhaps be considered as in their service and lent to the State. If this view be held, then the Sirkar might be advised to deal specially with the case. I do not, however, advise the adoption, after the lapse of so long a period of time, of such a course of action. I think it very probable that had the Darbar, when Mr. Ferguson was selected, been invited to grant such a concession, they would have agreed because they would have had to provide for him in consideration of his work as guardian to the Princes, and might have facilitated his appointment had the difficulty been represented to them. But the appointment having been made without ascertaining their views, they have always shown themselves very sensitive

* Refer paragraph 6 of Diwan's letter, dated in regard to it, * and would, I think, now 24th March 1894, above quoted. strongly oppose any movement in this direction so long as Mr. Ferguson continues to be regarded as an officer of the British Army appointed solely by the Madras Government.

9. (b) To enable the Government to consider the second solution indicated, I must recount briefly the history of the Brigade Command. When recommending in 1817 the constitution of the remnants of the old Nayar Army of Travancore as a Brigade under the command of a European officer, Colonel Munro advised that the command should be given to Captain Macleod, of the 9th Regiment, M.N.I., who was at that time in command of Her Highness the Rani's escort of cavalry consisting of fifty troopers. He recommended that the Commandant should either be appointed by the Madras Government or that his services should be placed at the disposal of the Resident for employment in the Brigade. Since Colonel Ketchen's time the latter course has been invariably followed in regard to the officers of the Brigade. No order can be traced on this recommendation, but in the following year the Brigade was constituted as a single regiment of two battalions. Major Macleod held the command until 1819, when he was succeeded by Captain Gray, of the 30th Regiment. He continued in command until 1829, when he was succeeded by Major Farquarson, of His Majesty's Royal Regiment. All the subsequent Commanders were British officers and seem to have belonged to the Madras Army, and were directly appointed by the Madras Government. Prior to the appointment of Colonel Ketchen in 1879 no Commandant had rank above that of a Major whilst there had been Captains. Under sanction, however, conveyed in Chief Secretary's Political letter of the 24th May 1836, No. 164, Commanding officers were given the local rank of Major and Wing officers that of Captain. As regards the Battalion officers the information is not so precise, but there appear to have been three (*vide* General Cullen's letter to the Chief Secretary,

No. 19, dated 12th April 1842) for a good many years and of these certainly two were local officers and in the Maharaja's service* and not in the British. They appear however, to have been recommended by the Resident (paragraph 2, No. 18, of 12th

* *Vide* Resident's letter to the Chief Secretary No. 35, dated 13th May 1836, also No. 9, dated 21st January 1840.

March 1838) for appointment to the Madras Government. Their position in relation to the Commandant and the Resident was no doubt also the same as that of other officers of the Brigade. General Fraser writes:—"It has been customary, I believe, for the Resident in Travancore to recommend the officers selected for this service, and this was at all events done without any exception on the first establishment of the Brigade by Colonel Munro." In the order on this letter the Madras Government distinctly asserted its right to select officers for the Brigade. The order runs: "Deeming it important that the selection of officers for employment in Native States should continue as at present with the Government, His Lordship proposes at an early date to place the services of an officer at the disposal of the Travancore Government

† Extract from Minutes of Consultation, No. 215, dated 7th June 1838.

with a view to his being employed with the Nayar Brigade."† Thus it seems clear that, notwithstanding probably occasional irregularities, the practice was for the Madras Government to appoint to the Battalion as well as to the Brigade Commands but, I think without doubt, until the order of 1872 (quoted in *extenso* above), it was not necessary that the officers in charge of the Battalion should be in the British service. Three officers—Lieutenants Nixon, Sheridan and Daly—appointed to the Brigade probably by Colonel Munro in 1819 were local officers. Also a Lieutenant Haig who entered the Brigade in 1831. Lieutenant Nixon was in the Brigade until 1834, but was never promoted to a captaincy. The other three officers were, which apparently implies that they commanded a battalion. Captain Sheridan was in the Brigade until his death in 1837, Captain Daly was pensioned in 1860 and Captain Haig died in 1862. All these vacancies were filled by British officers, so that the present system came fully into force in the last year named.

10. Now the question is, whether the difficulty regarding Lieutenant Ferguson's furlough allowances and pension can be got over by permitting him, as a special case with or without resigning his position in the British Army, to become *de facto* a servant of the Travancore Sirkar but selected for employment in the Brigade by the Madras Government, instead of a British officer out of employ but placed at the disposal of the Resident for such employment under Travancore Government, which, as the Government are aware, is the present system of making these appointments.

Now, when Lieutenant Ferguson was selected for the Brigade he was not only in the British reserve but also in the Travancore service. As he accepted a bonus for that service that service may probably be regarded as temporary, but had he not done

† The fact that the bonus was not paid to him until he was about to go on furlough a year after his appointment, and then only as a way of getting over the difficulty about his leave allowances, goes to show that the Darbar had not determined the position when he was appointed to the Brigade.

so I see no reason why he should not have been regarded as still in that service ‡, for his status *quâ* the British Government has not, it seems to me, been really changed by his appointment to the Brigade, if that appointment is, as it ought according to present practice, regarded as being made by the Maharaja, Lieutenant Ferguson's services being merely placed

at the disposal of the Resident for that purpose. In fact, whether the Madras Government appoint direct or on the present system, the appointment can only, strictly speaking, be regarded as an appointment by the Travancore Darbar, because the Brigade is not a British Government corps but a Native Government corps conducted in accordance with the articles of war and standing orders sanctioned by the Travancore Government. The British officers serving in the Brigade are, I take it, officers of the Native State lent to it, and their position is unquestionably that of officers on foreign service. Lieutenant Ferguson is clearly not in any British service in India. His appointment to the Brigade does not introduce him to any such service. *Quâ* the

British Indian Government, he is still an unemployed officer, it seems to me, and as an *employed* officer he is really the servant of the Travancore Government under special obligations incident to his selection by the Madras Government for the command in the Brigade.

11. I would observe that the Madras Government when passing G.O., dated 24th July 1885, seem to have taken this view of the case, for they simply *approved* of his appointment to the command of a battalion and it was not until Mr. Hannington pressed for his appointment by the Government that he was gazetted by the Madras Government to the Brigade. In fact, as Mr. Ferguson was not under the orders of the Madras Government at the date of his selection, but under the Military authorities at Home, I presume, with reference to his status as a member of the Army Reserve, I doubt, unless the permission of the authorities was previously obtained, whether the Madras Government, with reference to the fact that G.O., dated 6th July 1872, No. 2193, had been approved by the Government of India, had power to appoint him to the Brigade or even to approve his employment in the Brigade without reference to the Government of India and to the Military authorities of the Reserve in England.

12. Taking, however, all the circumstances of the case into consideration and the willingness of the Darbar to grant Mr. Ferguson a suitable salary and "contingent" and "deferred" allowances, I would venture to make the following suggestions for the settlement of Mr. Ferguson's position in a way which, I think, should be satisfactory to all parties concerned:—

(1) That the Gazette notification appointing him to the Brigade be cancelled, and that in its place, after obtaining the approval of the Government of India and the Home Military authorities, an order be passed permitting him to take service under Travancore in the Brigade, his status being held to be that of a retired military officer taking service, with the permission of his Government, in a Native State.

(2) That the Darbar be invited to gazette him to the Brigade with retrospective effect from the date of his joining the Brigade on appointment by the Madras Government in 1885. Should the Government, however, think it undesirable to rescind past orders in so formal a manner, I think His Highness' Government would consent to regard Lieutenant Ferguson's service from date of appointment to Brigade as local Travancore service qualifying for the furlough and deferred allowances if the British Government consented to this arrangement.

(3) That on Mr. Ferguson's ceasing to be on the Reserve on attaining fifty years of age in or about 1900, no objection be taken to his continuing in the Brigade until he has qualified for pension or until the age of sixty years.

(4) That Mr. Ferguson as a local officer take rank after the British officer Commanding the First Battalion, and that he be held ineligible for the Brigade Command, and that he be not permitted to be in charge even temporarily without the express sanction of the Government of Madras.

(5) That this arrangement be regarded as wholly exceptional and that it shall in no case whatever form a precedent, the battalions being invariably in future commanded by officers of the Indian Army selected by the Madras Government, and placed at the disposal of the Resident for employment by the Darbar in the Brigade.

Should this arrangement be carried out, I have little doubt that the Darbar would allow Mr. Ferguson's service as guardian to count for pension.

13. The Darbar in the letter forwarded have stipulated for Mr. Ferguson's retirement from the Reserve as a condition precedent; but I do not see the force of their objection to his continuance in the Reserve, if he be regarded as a retired British officer employed by the permission of the British Government. This objection has the less force as he was already in the Reserve when previously in their service as guardian. As regards the stipulation that, subject to the provisions of the Travancore articles of war and the standing orders, he should be exclusively under the orders of His Highness' Government, I take it that such an arrangement is unobjectionable so long as it is qualified by the condition that his position is subject to the political

control or supervision now exercised by the Resident over the Brigade; I do not anticipate, if this be the clear understanding, any difficulty arising from his position as a local officer.

Were it not that the Proceedings of the Madras Government appear to have had the approval by the Government of India I see no reason why the former Government should not allow a special deviation from their own order of 1838 regarding the employment of local officers in the Brigade without reference to that Government if the employment of Lieutenant Ferguson as an officer of the Home Reserve in Travancore is approved by the authority to which he is subject as such.

ENCLOSURE.

From the Diwan of Travancore, to the British Resident of Travancore, dated Trivandrum, 24th March 1894, No. 1229—M.496.

I have the honour to acknowledge your Reference on C. No. 677 of 1894, dated the 7th instant and to return its original enclosures.

2. Lieutenant Ferguson having been appointed to the Nayar Brigade by the Madras Government and drawing pay from Travancore, the furlough applied for has, in accordance with usage, to be sanctioned both by His Excellency the Right Honorable the Governor in Council and His Highness the Maharaja.

3. So far as this Government is concerned, His Highness has no objection to sanction the furlough and the arrangement proposed by Colonel Brereton as a special case in the present instance, provided that no extension of furlough or of any other kind of leave will be applied for on the terms on which the present application is conceded, and that so long as Lieutenant Ferguson retains his present status, His Highness' Government will not be called upon in future to pay his contingent or deferred allowances.

4. But the question of his status has to be considered and definitely decided both in the interests of this State and his own.

5. You are aware that for the last forty years a British officer from the Indian Army has been sent to command a battalion of the Nayar Brigade whenever a vacancy occurred. His pay and house-rent are disbursed by the Travancore State so long as he serves in that force, while the British Government pays his furlough and sick leave allowances and his pension, all except what is called the half staff allowance which is borne by His Highness' Government during furlough and which in the case of a Battalion officer amounted to Rs. 62-5-10 a month (*vide* Diwan's letter to Resident, No. 1606—R. 466, dated 20th April 1872).

6. Lieutenant Ferguson was one of the officers so appointed direct by the Madras Government by notification in the *Fort St. George Gazette* without any application for his services from Travancore and without any intimation that he was appointed on terms different from the other officers sent to serve in the Nayar Brigade.

7. When, however, Lieutenant Ferguson applied for furlough in 1886, it transpired that, not being an officer of the Indian Army, he could get no leave allowance from the Madras Government nor any from this State, and he had to take the leave without any allowance whatever.

8. It seems to me that some definite understanding should be come to regarding the position held by this officer. If he is to be treated as a British officer, as his appointment implied, the Madras Government should, as in the case of other officers, pay his leave allowances and pension. Or he must resign all connection with the British service, whether in India or England, and be treated as a purely local military officer of the Brigade subject only to the Travancore articles of war and standing orders and to the authority of His Highness' Government exclusively. In this case his increase of pay with progressive service, furlough and sick leave allowances and pension will be granted by the Government under their rules.

I am commanded by His Highness the Maharaja to lay this matter before you and to seek the favor of your advice.

No. 1109.

Referred to the Military Department for favour of remarks on the Resident's proposals.

OOTACAMUND,
4th June 1894.

(Signed) J. F. PRICE,
Chief Secretary.

No. 3471.

Referred for any remarks His Excellency the Commander-in-Chief may desire to offer.

(By order.)

(Signed) D. J. S. McLEOD, Colonel,
Offg. Secretary to Government.

OOTACAMUND,
6th June 1894.

To the Adjutant-General.

No. 1108-O.

MEMORANDUM.

The Commander-in-Chief suggests that Political Department Notification, No. 10, dated 24th July 1885, be cancelled, as Mr. Ferguson is purely a local officer in the service of the Travancore Government and therefore as such is not entitled to furlough pay or any pension under Indian Military rules.

2. The most equitable course appears to be to adopt the procedure indicated in second part of paragraph 8 of the Diwan's letter.

3. At the same time it seems only right and just to Mr. Ferguson that the leave allowances and pension to be granted by the Darbar should be as advantageous as those which he no doubt expected would be secured to him by the Madras Government when they gazetted him to his present appointment.

(By order.)

(Signed) ELPHINSTONE BEGBIE, Colonel,
Offg. Adjutant-General.

OOTACAMUND,
12th June 1894.

To the Secretary to Government, Military Department.

No. 3686.

Transferred to the Political Department, with an expression of concurrence in the views expressed by His Excellency the Commander-in-Chief.

2. It is observed that Lieutenant Ferguson is shown in the War Office Official Army List, dated April 1894, as still belonging to the "Reserve of Officers."

3. The referred papers are herewith returned.

(By order.)

(Signed) D. J. S. McLEOD, Colonel,
Offg. Secretary to Government.

OOTACAMUND,
15th June 1894.

To the Political Department.

Order—dated 25th July 1894, No. 517, Political.

In his letter read above the Resident in Travancore deals with Lieutenant Ferguson's position in the Nayar Brigade. It has been the practice for the Madras Government to select officers for commands in the Brigade and to place their services at the disposal of the Resident, the Darbar making the appointment. In the case of Lieutenant Ferguson this procedure was not followed. He was posted to the Brigade direct by this Government and his appointment was notified in the *Fort St. George Gazette* of the 7th August 1885. He was then, and is still, in the Reserve of officers and as such he is not entitled to any leave allowances or pension under Military rules nor can he, as at present situated, look to the Travancore Darbar for any pension. These points were overlooked when he was appointed to the Brigade.

2. The Travancore Darbar desires that some definite understanding should be come to regarding Lieutenant Ferguson's position, and in paragraph 8 of his letter, which forms an enclosure to the Resident's communication, the Diwan has suggested two

courses. The second of these, which is favoured by the Military Department, is that Lieutenant Ferguson should resign all connection with the British service and be treated as a purely local officer of the Brigade subject only to the authority of the Travancore Government, to which he would look for furlough and leave allowances and pension.

3. The Resident has raised the point whether, in view of the observations in G.O., dated 6th July 1872, No. 2193, Military, where it was laid down that officers in the various commands of the Brigade should be British officers, this Government can permit Lieutenant Ferguson to continue in the Brigade after severing his connection with the British Army. Mr. Grigg is under the impression that the Government of India confirmed the above view as to the officering of the Brigade, but a reference to

No. 368, dated 3rd October 1872, Political. the marginally-noted proceedings shows that the Foreign Department was silent
 „ 55 „ 5th February 1873 „ on this particular subject and only addressed itself to the financial points

raised by this Government. His Excellency the Governor in Council is moreover of opinion that under the peculiar circumstances of Lieutenant Ferguson's case, the spirit of the order of 1872 would be maintained if the course suggested by the Diwan were adopted, and he is prepared to sanction it as a special case.

4. Before taking further action in the matter, it is necessary that the Darbar should state what leave allowances and pension Lieutenant Ferguson would be granted under the above arrangement, and that Lieutenant Ferguson's views on the proposal, and his willingness to sever his connection with the British service, should be ascertained. The Resident will make the necessary inquiries and report the result.

(True Extract.)

(Signed) J. F. PRICE,
Chief Secretary.

To the Resident in Travancore.
 „ Military Department.

READ—also the following paper:—

From H. B. GRIGG Esq., M.A., C.I.E., Resident in Travancore and Cochin, to the Acting Chief Secretary to Government, dated Kallar, 7th January 1895, Ref. on C. No. 5089.

In reply to G.O., dated 25th July 1894, No. 517, Political, I have the honour to submit herewith the terms offered by the Travancore Sirkar in case Lieutenant Ferguson severs his connection with the British Army and becomes a local officer of the Brigade, and copy of that officer's letter to the Diwan accepting the same. The terms offered have my support and I beg to request that steps may now be taken with a view to Mr. Ferguson being permitted to resign the service of the British Government and to his services being formally transferred to the Sirkar on the conditions stated in my letter recorded with the Government Order above quoted.

2. I beg to add that there was some delay in replying to the above Government Order owing to Lieutenant Ferguson's absence on furlough at the time of its receipt. He returned from leave and resumed charge of his appointment about the close of November.

ENCLOSURES.

Terms offered by the Travancore Sirkar.

Pay.—Lieutenant Ferguson's maximum pay will be Rs. 640 per mensem. He will draw Rs. 600 per mensem as soon as his connection with the British service ceases, the additional Rs. 40 being granted after three years from that date.

2. He will besides continue to draw the usual house-rent of Rs. 50 per mensem.

3. His service of five years as guardian to the Princes prior to joining the Brigade and his service since entering that force will all be counted as service under this Government.

Leave.—Having already had eighteen months' furlough he will, during the remaining period of his service, be entitled to furlough or sick leave or both together for a further period of eighteen months, of which he might avail himself of furlough for six months after two years from date of return to duty and for the remaining twelve months after a further service of four years from the expiry of the above leave. Sick leave on proper medical certificate will be granted irrespective of the furlough he is entitled to, provided that leave of every kind taken during the remaining period of his service shall not exceed eighteen months.

Leave Allowances.—For furlough—One-half the average of the substantive pay during the preceding three years.

For sick leave on medical certificate—One-half the substantive pay at the time of taking the sick leave, provided that the sick leave does not extend over a period of one year. If it does, the allowances for the remaining period shall be one-fourth the substantive pay.

Pension.—The period of service entitling Lieutenant Ferguson to pension shall reckon from 1st July 1880—the date on which he entered on his duties as guardian to the Princes.

Rates of Pension.—Above 15 years and below 20 years on production of medical certificate of incapacity—Rs. 225 per mensem.

Above 20 years and below 25 years also on production of medical certificate of incapacity—Rs. 300 per mensem.

Above 25 years without a medical certificate—Rs. 320 per mensem.

In each of the cases mentioned above the pension will be paid at the rate of one shilling and four pence per rupee if he resides in Europe.

From Lieutenant H. S. FERGUSON, Acting Commandant, Nayar Brigade, to the Diwan of Travancore, dated Trivandrum, 13th December 1894, No. 310.

I have the honour to acknowledge receipt of your letter, No. 6234—2731-M., dated the 12th instant, and to express my thanks to His Highness the Maharaja's Government for the modifications made in the terms offered me to enter the local service. I am prepared to accept the terms as modified and shall write by the next mail resigning my commission in the Reserve of officers at home.

ORDER—dated 4th March 1895, No. 150, Political.
 The Government of India will be addressed.

(True Extract.)

J. F. PRICE,
Chief Secretary.

To the Resident in Travancore and Cochin.
 „ Military Department.

LETTER—to the Secretary to the Government of India, Foreign Department, dated Fort St. George, 4th March 1895, No. 151, Political.

I am directed to address you with reference to the position of Lieutenant Ferguson in the Nayar Brigade of the Travancore State.

2. This officer was in July 1880 employed by the Travancore Government as guardian to the three younger Princes, on an agreement under the terms of which he was entitled to receive a bonus of Rs. 2,000 if his services were not required after five years. He had previously retired from the Royal Artillery, but joined the Reserve of officers in November 1880. He held the appointment of Tutor until the 11th August 1885 when he was appointed by this Government to the command of a battalion of the Nayar Brigade. He had under existing orders, limiting the Brigade and Battalion Commands to officers in British Service, qualified for the appointment by having his name restored to the Army List in the capacity of a Lieutenant in the Reserve.

3. It has been the practice for this Government to select officers for commands in the Brigade and to place their services at the disposal of the Resident, His Highness the Maharajah making the appointment. In the case of Lieutenant Ferguson this procedure was not followed. He was posted to the Brigade direct by this Government and his appointment was notified in the *Fort St. George Gazette*. The Military authorities regard him as a purely local officer in the service of the Travancore State and, as such, not entitled to furlough pay or any pension under Indian Military Rules. Nor can he, as matters stand, except as a matter of grace on the part of the Travancore Government, with the approval of the British Government, draw from the Treasury of the State any leave allowance, excepting privilege leave allowances and "half staff allowance." His right to draw even the latter is doubtful. These points were overlooked when he was appointed to the Brigade in 1885.

4. The Travancore Government recognising the difficulties of Mr. Ferguson's position assisted him on the occasion of his former leave in 1886 by granting him the bonus of Rs. 2,000 for his services as Tutor, which had been refused when he resigned that appointment in 1885, together with an additional Rs. 1,000; it being intended to make the total amount equivalent to half-pay. It also agreed to pay his furlough allowances during the leave granted to him in May last, but connected with this latter concession a condition that such extraordinary allowance should on no future occasion be given so long as he remained in the British service.

The Government of His Highness is, moreover, of opinion that some definite arrangement should be come to in regard to Mr. Ferguson and considers that if he is to be treated as a British officer the British Government should agree to pay his "contingent" and "deferred" allowances.

5. The Resident is of opinion that it is not consistent with the public interests that Mr. Ferguson's anomalous position should continue, but that he should be secured leave and pension privileges either from the British or from the Travancore Government. In this view His Excellency the Governor in Council concurs and, after consulting the Military authorities, has come to the conclusion that Mr. Ferguson should resign all connection with the British service and be treated as a purely local officer of the Brigade, subject only to the authority of the Travancore Government, to which he would look for furlough and leave allowances and pension.

6. That Government has offered him the following terms:—

Pay.—Mr. Ferguson's maximum pay will be Rs. 640 per mensem. He will draw Rs. 600 per mensem as soon as his connection with the British service ceases, the additional Rs. 40 being granted after three years from that date.

2. He will besides continue to draw the usual house-rent of Rs. 50 per mensem.

3. His service of five years as guardian to the Princes prior to joining the Brigade and his service since entering that force will all be counted as service under the Travancore Government.

Leave.—Having already had eighteen months' furlough he will, during the remaining period of his service, be entitled to furlough or sick leave or both together for a further period of eighteen months. He will be permitted to avail himself of furlough for six months after two years from date of his last return to duty and of the remaining twelve months after a further service of four years from the expiry of the above leave. Sick leave on proper medical certificate will be granted irrespective of the furlough he is entitled to, provided that leave of every kind taken during the remaining period of his service shall not exceed eighteen months.

Leave Allowances.—For furlough—One-half the average of the substantive pay during the preceding three years.

For sick leave on medical certificate—One-half the substantive pay at the time of taking the sick leave, provided that the sick leave does not extend over a period of one year; if it does, the allowances for the remaining period to be one-fourth the substantive pay.

Pension.—The period of service entitling Mr. Ferguson to pension shall reckon from 1st July 1880—the date on which he entered on his duties as guardian to the Princes.

Rates of Pension.—Above 15 years and below 20 years, on production of medical certificate of incapacity—Rs. 225 per mensem.

Above 20 years and below 25 years, also on production of medical certificate of incapacity—Rs. 300 per mensem.

Above 25 years without a medical certificate—Rs. 320 per mensem.

In each of the cases mentioned above, the pension will be paid at the rate of one shilling and four pence per rupee if he resides in Europe.

These conditions Mr. Ferguson is willing to accept and he has written resigning his commission in the Reserve of officers in England.

7. In the Proceedings of this Government of the 6th July 1872, No. 2193, Military, copy of which was forwarded to the Government of India with Colonel Silver's letter of the same date, No. 2194, His Excellency the Governor in Council recorded his opinion that there were special reasons why the Indian Government should bear the "contingent" and "deferred" remuneration of the officers of the Brigade; that it was advisable for political reasons that the command of so considerable a body of troops should be held by British officers and that it was moreover desirable, as a compliment to a faithful ally, that officers of suitable rank should be selected by the Indian Government for the command of His Highness the Maharajah's troops. The Resident in Travancore has raised the point whether, in view of these observations, this Government can permit Mr. Ferguson to continue in the Brigade after severing his connection with the British Army. Mr. Grigg is under the impression that His Excellency the Governor-General in Council confirmed the above view as to the officering of the Brigade, but a reference to Foreign Department letters of the 14th September 1872, No. 1970-G., and 29th January 1873, No. 234-G., shows that the Government of India was silent on this particular subject and only addressed itself to the financial points raised by this Government. His Excellency the Governor in Council is, moreover, of opinion that, under the peculiar circumstances of Lieutenant Ferguson's case, the spirit of the order of 1872 would be maintained if the course suggested above were adopted.

8. This Government having as a matter of fact treated Lieutenant Ferguson as its own officer by appointing him to the Brigade, he might perhaps be considered as in its service and lent to the State, and under this view the Government of Travancore might be advised to deal specially with the case. The Resident is, however, averse to the adoption, after the lapse of so long a period, of such a course of action. He thinks it very probable that had the Government of His Highness the Maharajah, when Mr. Ferguson was selected, been invited to grant such a concession, it would have agreed because it would have had to provide for him in consideration of his work as guardian to the Princes, and it might have facilitated his appointment had the difficulty been represented to them. But the appointment having been made without ascertaining its views, the Travancore Government has always shown itself very sensitive in regard to it, and would, he considers, now strongly oppose any movement in this direction so long as Mr. Ferguson continues to be regarded as an officer of the British Army appointed solely by the Madras Government. Particular attention is invited to paragraphs 10 and 11 of Mr. Grigg's letter of the 13th May 1891 contained in the accompanying Proceedings of this Government of to-day's date, No. 150, where the peculiarities of the present position are set forth.

9. His Excellency the Governor in Council has given the subject his careful consideration and, as he is in possession of the most perfect assurance of Mr. Ferguson's character and is confident that no difficulties are likely to arise from the fact of his holding a command in the Brigade though no longer a British officer, proposes to cancel the order of 1885 and the subsequent Gazette notification approving of Mr. Ferguson's appointment to the Brigade; to intimate to the Government of Travancore, through the Resident, approval of the manner in which Mr. Ferguson is to be continued as an officer of the Brigade, viz., as a purely local officer subject only to the authority of that Government and to the general political supervision now exercised by the Resident over the Brigade; and to lay stress on the fact that the circumstances of the present case are peculiar and special and are not in any way to constitute a precedent. It is also proposed to rule that Mr. Ferguson as a local officer shall take rank after the British officer commanding the First Battalion, and that he shall be ineligible for the Brigade Command, not being permitted to be in charge even temporarily without the express sanction of this Government, and to state that no objection will be taken to his continuing in the Brigade until he has qualified for pension or until he has attained the age of sixty years.

10. As the circumstances of the case are peculiar and as the sanction of the Government of India appears to be necessary before the above proposals are given effect to, I am to submit the matter for the favourable consideration of His Excellency the Governor-General in Council and to solicit the favour of an early reply.

J. F. PRICE,
Chief Secretary.

Gobt. of {1895} Madras
POLITICAL.

Issued

Recd.

Encl.

G.O., &c., 4th March 1895,
Nos. 150, 151.

MARCH.

Abstract
Lieutenant H. S. Ferguson.

Directing that the peculiar circumstances of the position of — in the Nayar Brigade of the Travancore State be submitted for the consideration of the Government of India, the sanction of that Government being requested to the issue of orders calculated to bring about the complete transfer of that officer's services to the Travancore Government with retrospective effect.

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LETTER OF GOVERNMENT

STATEMENT WITH DITTO

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