

MEMORIAL LIST.

Public (1896) Department.

ORDINARY MS.

G.O., No. 1239

DATED 19. 11. 96

RECEIVED.

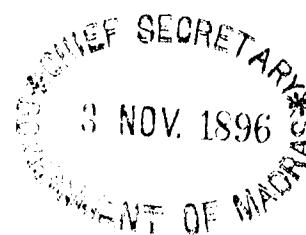
[Despatch Abstract.]

Withdrawn under Petition Rules A VII(8)
Memorial ~~from~~ to Govt of India from Mr.
J. J. Roberts, late a clerk in the Public Works
Secretariat, appealing against his dismissal
from the service for insolvency.

G.O.	No.	Department.	Date.
	R 1402	Pub	5-12-95
	1364	"	22-11-95
	679	"	10-8-95
	612	"	20-7-95
	208	"	21-3-95
	934	"	10-12-94
	616	"	13-6-92
	397	"	13-8-92
	396	"	13-6-92
	362	"	4-5-92
	216	"	31-3-92
	789	"	11-11-92

G.O.	No.	Department.	Date.

&c., &c., &c.,



MOST HUMBL Y AND RESPECTFULL Y SHEWETH :—

That it is with the deepest sorrow your humble petitioner begs leave most respectfully to approach Your Excellency with this humble petition, with the earnest hope that Your Excellency will kindly and patiently peruse it and take petitioner's *very hard and pitiful case* into Your Excellency's generous and merciful consideration, as your petitioner, his wife and *ten* children are driven to very great distress and ruin by your petitioner's removal from his post,—the latter being the greatest sufferers.

That your petitioner's case being one of those contemplated by the Government of India in their Resolution No. 1436 of 24th September 1880, your petitioner's removal having placed him and his large family in serious distress if not ruin, and as there is a reasonable prospect of a difference of opinion between the Madras and Your Excellency's Governments, not only from the circumstances set forth in his previous petition, but also from certain additional facts now brought forward, your petitioner begs that the Madras Government will do him the justice to forward this petition to Your Excellency.

That your petitioner served Government for more than seventeen years in the Office of the Chief Engineer and Secretary to Government, P. W. D., Madras, during which period his good conduct and character were unquestionable, as testified to by Colonel Pennycook, R. E., the Chief Engineer and Secretary to Government, P. W. D. in his remarks "*He bore an excellent character.*" That your Petitioner was removed from the service on ground of his having obtained the benefit of the Insolvent Act a second time, but it will be clearly seen by Your Excellency from

BACK PAPERS.

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

FURTHER PAPERS.

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

[Pub.
29
- 000-23-7-00.

Public (1896) Department.

CURRENT No. 3674

From Mr. S. J. Roberts, late
a clerk in the O. W. S.

Order No. 1239 of 19-11-96

The Memorial will

be withheld under Sect. III

No.

Rule ~~III~~ (7) Mem. Rules B.

(quote the rule in full)

from orders.

Dated

2

Received

3

11-96

Registered

5

Enclosures

2.

Spare copies.

S.D.B.
18.11.96.

A.L.H.
18/11/96

M.H.
19.11.96

The Pet.

SUBJECT.

Submitting a petition
addressed to H. E. the
Governor-General complaining
against his removal from
the Public Service.

S
Please put up copies of papers
and submit to H. E. for
put up.

G.R. for the paper A in the Encl.

the following Memorandum of the Chief Engineer himself, No. 4001-C, of 7th October 1891, how clearly and considerately Colonel Pennycuik explains the cause of Your Excellency's petitioner getting into pecuniary difficulties, as being due to his suspension for seven months during his first insolvency when he only received Rs. 15 per mensem as subsistence allowance, wherewith he had to support his large family, and strongly recommended that your petitioner (and another clerk since pensioned) should be permitted to obtain the benefit of the Insolvent Act a second time, and Colonel Pennycuik further added: "Their position is *not* considered irretrievable, and it is desirable that they *should* retain the posts they now occupy, as they are capable of doing good work if relieved from their difficulties."

Memorandum.

No. 4001-C., dated 7th October 1891.

"The statements of their debts forwarded by Messrs. and Roberts show that it is necessary to consider their cases in the light of Public Department G O., No. 184, of 3rd February 1888.

"2. Assuming that the statements submitted represent the total liabilities of these clerks, it appears that the proportion of debts to salary (*i.e.*, yearly salary) in Mr. case is approximately $1\frac{1}{2}$ to 1 and in Mr. Roberts' case 1.2 to 1, and as it will take them at least two years to clear off their debts, it is considered that their efficiency as public servants is very much impaired. Their position is not considered irretrievable, and it is desirable that they should retain the posts they now occupy, as they are capable of doing good work if relieved from their difficulties.

"3. The undersigned would invite attention to the fact that if these clerks are suspended and placed on subsistence allowance for six or seven months, the working of the office would be greatly impeded and the clerks must lose all the advantages of the Act for the relief of Insolvent debtors, as they cannot live on their subsistence allowance and will certainly incur fresh debts.

"4. If these clerks cannot be allowed to seek relief in the Insolvent Court without being placed under suspension, it would be better to remove them altogether from the Government service, but the undersigned would strongly recommend that they may be allowed to seek relief in the Insolvent Court without being suspended.

"The service of the men are as follows:—

* * * * *

"MR. ROBERTS:

"Actual service from the 1st May 1875,

"Pensionable service from the 1st May 1875.

"(Signed) JOHN PENNYCUICK, Colonel, R.E.,

"Chief Engineer, P. W. Department,

"Madras."

That with the permission of Colonel Pennycuik, R. E., the Chief Engineer and Secretary to Government, P.W.D., to continue in his post, a privilege allowed only to deserving officials, and left to the discretion of Heads of Departments by order of Your Excellency's Government, Your Excellency's petitioner applied for

and obtained the benefit of the Act, a second time, having become involved in difficulties owing to his suspension for seven months on the former occasion, and to his having a family of ten children to provide for; but on Colonel Pennycuik, R. E., submitting his papers for the orders of Government, that officer wrote that he could not recommend Your petitioner's re-instatement. And your Petitioner was accordingly removed from the service *without any inquiry having been made as to the circumstances of his case*, or any regard being paid to the fact that his second insolvency was the direct result of his suspension for 7 months, during which time it was impossible for him with a family of 12 souls to provide for, to avoid contracting fresh debts.—No reason whatever was assigned by Government for his removal which was directed in an order of two lines vide G. O. No. 302 dated 4th May 1892, copy attached.

It is now more than 4 years since your humble Petitioner has been removed from the service, and although he has appealed to the Madras Government and to his officer Colonel Pennycuik R. E., the late Chief Engineer and Secretary to Government P. W. D., he has not been fortunate in obtaining a favorable reconsideration of his case, and now makes this final appeal to your Excellency in Council as the highest tribunal he can appeal to for redress and reconsideration of his case, he humbly prays that his case may not be prejudiced by the period which has lapsed since his removal, as he has never ceased during this time to prosecute appeals to the local Government, and has only this year been furnished with copies of all papers connected with his case.

Your Petitioner was promoted in the P. W., Secretariat from Rs 80 to Rs 100 in May 1889 by Colonel. R. R. E. Drake-Brockman R. E., who was then in charge of the P. W. Secretariat, and your Petitioner was drawing his annual increments regularly for approved service up to his removal.

Your humble Petitioner and his large family being in a most miserable state, he earnestly craves your Excellency will kindly consider if his removal was justified by his second Insolvency, which was applied for by the encouragement given by Colonel Pennycuik to clear himself from his embarrassed circumstances.

I. That several Government servants who have obtained the benefit of the insolvent Act for the 2nd, 3rd and 4th time also have been reinstated—the following are some of them.

Messrs. Burghona and Jones of the General Post Office, Madras.	
Ramakrishna Mudaliar	Clerk Presidency Port Office.
Srinivasa Mudaliar	Clerk " " "
Cundasawmy Pillay	Cashier Sanitary Commissioner's Office.
Arumooogam Mudaliar	Clerk Military Secretariat.
Mr. Paul	Clerk " "
Mr. Stubbs	Clerk " "
Cunnoo Pillay	Clerk Revenue Secretariat.
Thamotheram Pillay	" " "

Whereas your Excellency's Petitioner only obtained the benefit of the act for the *second time only*, which was due to his suspension for 7 months when he applied under the act the first time, and your Excellency's Government finding that owing to suspension during the application for Insolvency the applicants lose the benefit of the Insolvent act, have very considerably left such suspension to the discretion of the Heads of Departments, and my case is an instance of such loss due to my suspension for 7 months.

II. That he was not holding charge of any money to disentitle him to hold the post he was occupying.

III. That he was not guilty of any criminal action —or found incompetent to be removed from the service.

IV. That his indebtedness was due to unforeseen causes over which he had no control, which prompted Colonel Pennycook R. E. to *strongly recommend* your Petitioner to Government in his Memorandum printed above to obtain the benefit of the Insolvent Act without being suspended.

V. That no one could say that your Petitioner ever lived beyond his means, or was of an extravagant or dissipated habits.

VI. That your Petitioner humbly submits that he has submitted Petition after Petition to the Local Government regarding his case and could obtain no consideration and was refused copies of the papers until recently, hence the delay in submitting the present Petition.

VII. And lastly that your Petitioner, his wife and 10 children are under great sufferings, and the latter still more so for the future also, as their education is neglected for want of means.

Your Petitioner therefore most humbly and earnestly prays that your Excellency will under the above circumstances take his pitiful case into favourable and benign consideration, and in dealing with your Petitioner, temper justice with mercy, and as an act of grace towards your humble Petitioner's wife and children,—if not to himself, be kindly pleased to (1) Restore him to his place in the P. W. Secretariat or (2) Grant him such pension as your Excellency deems just and equitable for his *acknowledged good service for 17 years under Government*, mercifully considering that he has a large family to support and to educate and bring forward his children, and also sanction his re-employment in the Public service; as having spent so many years in such service he is unable to obtain a remunerative post elsewhere.

For which act of Mercy and Benevolence, Your Petitioner as in duty bound will ever pray.

J. P. Roberts

*Memorandum
Procurement
Madras
2nd November 1896.*

Public Department

Proceedings of the Madras Government

Read the following papers:-

*From the Public Works Department
dated 20th April 1892 No 2074 C*

Order thereon 21st May 1892 No 302

*The Government directs Mr Roberts'
removal from the Public Service.*

(True Extract)

(Signed) J. F. Price

Chief Secretary

(True copy)

J. P. Roberts

Clerk P.W. Secretariat

CHIEF SECRETARY
3. NOV. 1896
GOVERNMENT OF MADRAS

The Honorable A. J. Arundell
Acting Chief Secretary to the
Government of Madras.
Yes Yes Yes
East of Good

Honorable Sir,
They leave most respectfully and
humbly to submit the accompanying Petition addressed
to the Honorable the Viceroys and Governor General
of India applying for my reinstatement or for a
Pension in consideration of 17 years service under
Government and in doing so they tender the following
explanations, which I cannot very well include
in my Petition - as to how my schedule came to be
prepared in the manner it was done - which has led
to my removal from the Public Service

On obtaining permission to apply for the
benefit of the Insolvent Act I transferred the 30% from
Mr Mahomed Raza to Messrs. Kinnaird & Co., the
Cashier of my office - The Public Works Department
and I was to do with my late wife's brother to prepare
my schedule as he was a law year Clerk and
handed him the 30%. He used the money for
his own purpose and made himself scarce, after
a month when my wife and I went to see him
and asked him about it, on which he said that he
could not pay me the money then, but would prepare
my schedule and if I got 30% for stamps I would file
it. I explained the whole affair to Mr. Kinnaird but
the Cashier above alluded to and got and then
from him and told my brother-in-law that I was
prepared with 30% for stamps. He wanted me
to call over to the Insolvent Court at 2 O'clock the
next day - (2 O'clock being the fixing hour in the
court) - that he will have my schedule ready
sent accordingly and has just time to fix the
stamps

clamps to, and sign the schedule, and hand it to the Registrar, after taking my oath as to its truth-ness, being fully confident that it was drawn out as instructed by me.

It was only apprised of the mischief done, by improper entries in my schedule, on the first hearing of the Court, when my case was adjourned to another date, on which, being already in great distress and circumstances, and fearing that my schedule might be thrown out, I explained to Mr. Hermann Esq., the Cash Keeper, how I was deceived and begged of him to keep me until 15th more to enable me to engage a Counsel. Mr. Hermann Esq. not only sympathized with me in my misfortune but very kindly helped me with the 15th I asked him - with which I engaged Mr. Gantz, Barrister-at-Law, who appeared on my behalf and obtained my discharge in the next Court.

There are the facts of my case known to Mr. Esq. with or without 10 children to support and with a family of 17 years, and with better prospects before me in the office, I would never have borrowed under any circumstances, as represented in my schedule, and I further beg to submit, if any one, aware of the manner the schedule was prepared, sign it to their own ruin; but Honorable Sir, I am to be blamed for having placed implicit confidence (as often occurs in business matters) on one who taking advantage of the same has sought the ruin of my large family and myself.

Having since taken my oath before a Court of Justice, that my schedule contained

a correct statement of my liabilities, had I indicated, the result would be, that my schedule would have been thrown out and I would be getting into still greater difficulties.

Mr. Mahomed Raza Hussain Esq. will, I have no doubt, corroborate my statements, which are facts, and I will feel extremely thankful to you Honorable Sir, and most humbly and earnestly beg you will be so kind as to lay my Petition and this explanation before His Excellency, the Right Honorable Sir Arthur Staveley, G.C.M.G. - G.C.S.I. the Governor, for His Excellency's favorable consideration with your kind & generous support - for which Act of Benevolence myself and my large family will ever be deeply grateful and thankful to you.

With the greatest respect.

I beg to remain

Honorable Sir,

Yours most Obedient and most humble servant.

A. P. H.

Mermaid Lane
Parslow and Son
2nd November 1896.

late Clerk P.W. Secretariat.

Memorial from Mr. Roberts to the
Government of India

PUBLIC Department

G.O. No. 3074

FOR ORDERS

This is a petition to the Govt. of India from Mr. S.T. Roberts late a clerk in the P.W. Secretariat, who was dismissed for insolvency due to reckless borrowing, he praying that he may be restored to his former appointment or granted a pension for 17 years' service. Mr. Roberts took the benefit of the Insolvent Act in 1907. In consideration of his twelve years' service, the head of his office recommended his re-employment, which was sanctioned by G.O. No. 75 Public, dated 2nd June 1908, but without arrears of pay or benefit of service or pension during the time he was under suspension, that is from 29th November 1906 to the 25th April 1907. The last item was cancelled by G.O. No. 466 Public, dated 3rd May 1908, and the period allowed to count for pension. On this occasion Mr. Roberts obtained a free discharge from debts amounting to Rs. 1517. In October 1900 Mr. Roberts' case was reported to Govt. under the provisions of G.O. No. 154 Pub., dated 3rd Feb: 1902. Mr. Roberts furnished a statement of debts amounting to Rs. 1,200. The head of his office considered that his efficiency as a public servant was very much impaired though his position was not irretrievable and it

C1.
The Hon Mr. B. S. —
who disposed of the previous
petition flag ~~IL~~ No.

HN1.
The Hon Mr. B. S. —
who disposed of the previous
petition flag ~~IL~~

The liabilities incurred from 82 to 87
amounted to Rs. 2488 of which Rs.
1369 were repaid by attachment of
Salary. (See Appendix flag A)

was desirable that he should be permitted to retain his appointment as he was capable of doing good work if relieved from his difficulties. By G.O. No. 709 Public, dated 21st November 1890, Mr. Roberts was permitted to remain in the service subject to a report on the condition of his affairs at the end of a year. This was received in April 1892, prior to which Mr. Roberts had passed through the Insolvent Court for the second time. The Secy. to Govt. in the P.W. Dept. stated that shortly after his restoration on obtaining his first discharge, Mr. Roberts commenced to borrow again and incessantly. Some of his loans were contracted in a most reckless manner. He had on several occasions signed promissory notes for ten times the amount actually received. His scheduled debts amounted to Rs. 3747-3-10. Colonel Pennycuik was unable to make any recommendation on Mr. Roberts' behalf, and, after full consideration of by Govt., he was removed from the service by G.O. No. 302 Public, dated 4th May 1892. By G.O. No. 397 Public, dated 13th June 1892, Mr. Roberts was informed that he was ineligible for re-employment in the public service, and, on appeal, he was informed by G.O. No. 616, dated 2nd Sept. 1892, that the Govt. saw no reason for modifying the orders already passed in his case. Attention is invited to the notes with G.O. No. 633 Public, dated 25th August 1893, which, while reiterating former

*This amt. was borrowed between 86 & 90.
Schedule attached to G.O. 302 of 4.5.92
(May C)*

*But this relates to
memorials addressed
to the Secy of State
and to the Govt. of India
26.4.98*

former orders against his reinstatement or the grant of a pension permitted re-employment in the military medical service in Burma. Mr. Roberts again appealed but was informed ^{by} G.O. No. 924 dated 10th December 1894, that the previous orders were final. Sanction to Mr. Roberts' re-employment was again refused by G.O. No. 613 Public, dated 20th July 1895. The Govt. has power to withhold this memorial to the Govt. of India under rule XX (3) of Memorial Rules A, because it is an appeal against an order of a Local Govt. dismissing a servant whose salary was not more than Rs. 100 a month. But the resolution printed in footnote (C) to the rules has to be considered. This resolution is ⁱⁿ G.O. No. 390 Public, dated 22nd March 1891, and the then Govt. directed that the principle of it should be adopted in future. Mr. Roberts quotes this resolution, and begs the Govt. to forward his memorial to the Govt. ^{of India} with reference to it. The Govt. of India laid down that the rule under which the memorial can be withheld should be used with caution and only after full consideration of the facts in each case, as, owing to the ~~is~~ constitution and character of the Indian subordinate service, dismissals of members of ~~the~~ ^{it} often involve serious ~~dist~~ if not actual ruin, and they should therefore be afforded every opportunity of making themselves heard. Mr. Roberts' statement that he was removed from ~~the~~ the service simply because he obtained the benefit of the Insolvent Act for a second

*He last 4 years, and if so it
seems rather plain that...*

second time is not correct. It was owing
his reckless ^{borrowings} immediately
after his restoration to the service
when he obtained his first discharge.
The cases referred to in para 3 of Mr.
Roberts' memorial have not been put up
as each was no doubt considered on
its merits and not with reference to
the number of times the Insolvent had
passed through the Court. There is no
doubt that Mr. Roberts is reduced to
considerable straits owing to his loss
of Govt. employment, and would have been
entirely ruined had it not been for his
father who is a Unitarian Missionary
living in Vepery and who has sent a
letter (C.No. 3757) on his son's behalf.

Orders are requested as to the
disposal of the memorial. It is nowhere
denied that Mr. Roberts did good service
before he got into difficulties, but it is
known when these difficulties began. Even were
the Govt. disposed to restore Mr. Roberts
to its service, it is hardly probable
that the Secy. to Govt. P.W.D. would be
prepared to receive him back
in the place he formerly held. Consider-
ing the circumstances of the case, it
seems impossible to recommend that Mr.
Roberts should be granted a pension for
his 17 years' service. His father is
now 77 years of age (as he stated in a
recent letter to the Ecclesiastical
Dept. in which he asked for some grant ground
or cemetery) and apparently (from what
he said) does not expect to live much
longer. Perhaps the Govt. may be disposed
to

Why? He could seek
other employment.
H.A.

What rule. Art. 385 C.S.R.
prohibits a pension?
by absolute destitution?
lost service the only
way in wh. a man can
earn a livelihood?

Is not the C.A. is more of an
ex parte than of an official drawing
an impartial piece of a case.
Note the same form in the office
of 60.612 of 20 July 95. Day I. H.A.

At hand as in so far as it involves
himself & his large family in distress,
and to the extent that the
rules apply with special severity
to his case, apart from that
consideration.

This was undoubtedly the ground
for dismissing him, & not
merely the fact of his
second access to the act.

to recommend to the Govt. of India the
grant of a small compassionate allowance
to save Mr. Roberts from absolute desti-
tution on his father's death.

J.B.
12/11/96.

Mr. Roberts' case is a very
hard one undoubtedly. The facts are
fully gone into in P.O. 688, of
25-8-93. Public (Flag M.) Men
See the notes thereon. In that
P.O. Mr. Roberts was informed finally
that he could neither be reinstated
nor pensioned, and it is submitted
that in his present statement of
the case he has shown no grounds
for altering that decision. His
borrowing transactions between '87 and '90
were characterised by the Ch. Sup. as
reckless & unnecessary and this seems
to be supported by the fact that his
debts for that period aggregated
more than the aggregate amount
to more than he had borrowed in
the 4 previous years. A point is made
by the memorialist out of the fact
that he was suspended for seven
months for absence without leave during
his first absence to the Insolvency
act, and that it was due to
the debts contracted during that period
that he had to go to Court a
second time. According to the schedule
in the file at fly C - first
3 items - the amt. borrowed during
the years 86-87 must have been
under 200 Rs. (out of 2747 Rs. bor-
rowed between 86 & 90). It is
said that the P.T. will
differ from the view of the case
taken by this Govt. Moreover, in
all probability the memorialist has
not borrowed still more during
the last 4 years, and if so it
seems probable that

number of ^{relatives} ~~people~~ whom he says he
has to support, and that he
must now be indebted beyond redemption,
and therefore is all the more liable
for reinstatement.

The grant of a pension is based
on the provisions of Sec 385, C.S.R.

As regards para XII (8) of the
honorific codes - therefore it is
stated that the Government may
hold, unless it is thought
that as the original order was
passed by the local Govt. itself, the
Petitioner has a right to appeal
to S.I.

A.L.H.
4/11/6

There is nothing in the
petitioner's case that seems all
that would warrant a favor-
able decision by the Govt. of
India. He could not
be reemployed by Govt. and
a pension is specifically
forbidden by C.S.R. art 385.

I think therefore that the
petitioner should be withheld
under Petn Rules A. XII (8).

MA 6.11.96

I think so
BS
17/11/96

Then given for copying _____
Then copied _____
Then examined _____
Then signed _____

189

AD AGAIN G.O., No.
189

DATED

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT A A A A A A A

LETTER OF GOVERNMENT.

STATEMENT WITH DITTO.

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

N.B. -
A = Copy in full.
B = Not to be copied
P = Copy abstract only.
Q = Copy heading only