M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 1295 — Press ~~Mis.~~

175-176

Dated 12 — 6 — 1862.

Not to be folded or roughly handled

No. 15. Read the following Proceedings of the Board of Revenue, dated 31st March 1862, No. 2,073 :—

Read the following Partial Report from the Acting Collector of Kurnool, dated 4th December 1861, showing the particulars of a hereditary Pension in that District.

Case number.	Taluq and Villages, and value of the entire Yoomah.	When and by whom granted, name of the original grantee, Sanads or other documents in support of the grant.	Nature of the grant, duties or service; if service, nature of the duty prescribed by the grant.	Name of the last holder, date of his decease, and the relationship in which he stood to the grantee.	Share enjoyed by the deceased, and that held by the other members.	Family left by the deceased, and name and age of the parties, their circumstances and the means of subsistence possessed by them.	Recommendation of the Collector, and the grounds on which it is made.	Recommendation of the Board of Revenue.	Decision of Government.
1	Doonala Pollem in the Markapoor Taluq. Hereditary Pension per annum, Rupees 1,937-15-4.	A Poligar Pension of Rupees 2,906-14-1 was granted by the English Government on the 21st February 1824, to Sooba Naidu, the original grantee.	Hereditary Pension granted in lieu of resumed lands and privileges.	Soobamah who died on the 17th April 1861, the widow of the original grantee.	The whole.	Sooba Naidu, aged 20 years, and his younger brother Venkatadree Naidu, aged 14 years, grandsons of the deceased by her adopted son Sashachlapaty Naidu, deceased. Their chief means of subsistence consists of pension Inam and Pottah lands.	On the decease of the original grantee in September 1828, his adopted son Seshachellapaty Naidoo, claimed the continuance of the pension to himself, but the then Collector of Cuddapah reported that Mr. Ross, his predecessor, considered the pension to Poligars to be hereditary to their lineal descendants only, and consequently recommended that only two-thirds of the original pension should be continued as maintenance to the widow Soobama. At the same time he stated that the adoption of Seshachellapaty was regular. Soobama the late holder, frequently petitioned for the pension to be transferred to their adopted son instead of being kept in her own name, but the Government, by endorsement 5th August 1851, refused to make any alteration in the terms of the grant during the life of the then holder. Soobama having now died, I recommend the continuance of the pension to Sooba Naidoo and Venkatadry Naidoo, sons of the adopted son of the original grantee. In Hindoo law, to private property, the right of an adopted son is equal to that of one born to the body, and there is no doubt of the regular adoption of the late Seshachellapaty Naidoo. The Poligar pensions of the Ceded Districts, are a money allowance granted in lieu of resumed villages, and are hereditary. Had the villages which belonged to the present claimant's ancestor not been resumed for a money allowance, they would have descended as a matter of course to the present claimants, and I beg therefore to recommend that the allowance held by the late Soobama, be continued to Sooba Naidoo and Venkatadry Naidoo, from the date of her decease.			

1. The pension* referred to in the foregoing report was originally granted under the Order of Government, dated 29th March 1815, to Soobah Naid, Poligár of Doranala in the Markapur Táluq† of the Cuddapah District, in lieu of resumed lands and privileges. The Poligár died in September 1828, leaving a widow and an adopted son who was then a minor; and as it was not authoritatively defined at the time whether a pension of this description was hereditary in its entirety to other than strictly lineal descendants, an allowance equal to two-thirds of the original amount, or Rupees 1,937-15-4 was granted to his widow Soobamah, whose death on the 17th April 1861, the Collector now reports.

* No. 20 in Mr. Ross's Register.

† NOTE.—This Táluq was transferred from Cuddapah when Kurnool was made a separate and new Collectorate in 1859, and in 1861 its original name of Dupad was changed to Markapur.

2. Mr. Minchin states that the late holder of the pension had, while Seshachellapaty, the adopted son of the original grantee, was living, repeatedly petitioned the Government to have it transferred to him; but that they declined, by Endorsement dated 5th August 1851, to alter the terms of the grant during her life-time.

3. The Board observe that the adoption of Seshachellapaty was made in accordance with Hindu Law, under the operation of which an adopted son possesses the same right of inheritance in the family of his adoptive father as that of son naturally born to him; and there can be no doubt, as Mr. Minchin remarks, that had the villages which belonged to the original grantee not been resumed by Government, they would have descended legally to the heirs of his adopted.

4. The Board therefore concur in the Collector's recommendation, and resolve accordingly to request that authority be granted for the continuance of the pensionary allowance held by the widow of the Poligár of Doranala, to Sooba Naidoo and Vencatadry Naidoo, the sons of the adopted son of the original grantee, to take effect from the date of her decease.

5. Ordered accordingly, that the following Endorsement be passed on Petitions Nos. 731 and 772 of 1862.

"The Petitioner is informed that the subject of his Petition has been laid before Govern-
"ment, whose orders thereon will be duly communicated to him through the Collector."

(A true Copy and Extract.)

(Signed) R. A. DALYELL, *Sub-Secretary.*

No. 176. ORDER THEREON, 12th June 1862, No. 1,295.

1. In 1824, a pension of Rupees 2,906-15-1 was granted to one Sooba Naid in lieu of his Polliem then resumed.

2. Sooba Naid died in 1828, leaving a widow Soobama, and an adopted son Seshachellapaty.

3. The Government granted two-thirds of the pension to the widow, whose death is reported in the foregoing Proceedings of the Board of Revenue.

4. The Board recommend that the pension be continued to the sons of Seshachellapaty, who also is now dead.

5. The Board state that "as it was not authoritatively defined at the time" (when Suba Naid died, viz., 1828) "whether a pension of this description was hereditary in its entirety to other "than strictly lineal descendants," two-thirds of the pension were granted to the widow for maintenance.

6. This however is scarcely a correct version of the case.

7. In 1830, the question whether the Poligar Pensions of the Ceded Districts were hereditary or not came under the consideration of Government. The Board of Revenue were requested to ascertain the practice which had been followed in those Districts during the administration of Sir Thomas Munro; and they reported that no distinct pledge had ever been

Proceedings of the Madras Government, Revenue Department,
12th June 1862.

given that such pensions were hereditary, but that it was evidently "the intention of Govern-
"ment that these pensions should be hereditary, during good behaviour, to lineal descendants."

The Government did not express any opinion on the subject, but sanctioned* the continuance of certain pensions to the heirs of their former recipients; and among the rest gave Soobama, as stated above in paragraph 3, two-thirds of her husband's pension: taking no notice of her adopted son, the validity of whose adoption was reported by the Collector. This shows clearly that the Government concurred in the opinion that the pensions in question were hereditary to lineal descendants, as in fact had been recorded in the Register prepared of them by Mr. Ross, the Collector of Cuddapah in 1814.

* Letter to Board of Revenue, 14th May 1830, No. 459.

8. Further in 1851† this Government continued a pension of a similar nature in the District of Guntoor to the son of an adopted son; whereupon the Supreme Government directed‡ that "it be held as a general rule that pensions granted "hereditarily shall cease when the hereditary line fails, and shall not pass to the adopted "children of any family."

† Government Order, 13th February 1851, No. 151.

‡ Government Order, 24th June 1851, No. 612.

9. Under these circumstances, the Government cannot accede to the Board's recommendation for continuing the pension in question to the sons of Seshachellapaty.

(Signed) J. D. SIM,
Secretary to Government.

Rev Dept.

Memo

1 In 1824 a pension of Rupees 2906-15-1 was granted to one Sooba paid pn lieu of his pen- sion then reserved -

2 Sooba paid died in 1828 leaving a Widow Soobanna and an adopted son Sashachellapaty -

3 The Government granted 2/3 of the pen- sion to the Widow, who death is now reported

4 The Board recommend that the pension be continued to the sons of Sashac- -chellapaty who also is now dead -

The

It appears to me that strict justice would demand that the Pensions should be hereditary, & the same extent that the Land, for the Revenue granted then Pension were an equivalent, was hereditary -

I cannot see can be shown that the Govt paid a higher price than the Revenue was worth at the period that the Pension was granted ought to attend - but it does not appear in the Papers, and I think that the adopted pandu- should forfeit all the right to the Pension that he would have done to the Land

W

If the Govt of India has decided the case there is another question

W

5 The Board state that "as it was not authoritatively defined at the time [Coote Naid died in 1828] whether a pension of this kind was hereditary in its entirety to other than strictly lineal descendants" 2/3 of the pension was granted to the widow for maintenance

6 This however is scarcely a correct version of the case.

7 In 1830 the question whether the Polizeir Pensions of the Ceded Districts were hereditary or not came under the consideration of Government. The Board of Revenue were requested to ascertain the practice which had been followed in those Districts during the administration of Sir Thomas Munro and they reported that no distinct pledge had ever been given that such pensions were hereditary, but that it was evidently the "intention of Govt. that "these Pensions should "be hereditary during "good behaviour to "lineal Descendants" The Govt. did not express any opinion on the subject, but sanctioned the continuance of certain Pensions to the heirs of their former recipients and among the rest gave Loobama 2/3 of her late husbands

husbands pension.
no
taking notice of her
adopted son the
validity of whose
adoption was reported
by the Collector. This
shows clearly I think
that the Government
in the opinion
concurred that these
pensions were hereditary
ry to lineal descendants
as in fact had been re-
corded in the register
prepared of them by
Mr. Rose the Collector
of Cuddapah in 1814-
8 In 1851 this
Govt. continued a Pen-
sion of a similar nature
in the District of Gun-
toor to the son of an
adopted son, where=
upon the Supreme
Govt. directed that "it be
"held as a general rule
that

"that Pensions granted
"hereditarily shall cease
"when the hereditary
"line fails and shall
"not pass to the adopted
"children of any family
Under these
circumstances I do not
see how the Govern-
-ment can now continue
the pension to the pow
of Sashachellapatty-

I. N. S

husbands pension-
no
taking notice of her
adopted son the
validity of whose
adoption was reported
by the Collector. This
shows clearly I think
that the Government
in the opinion
concurred that these
pensions were hereditar-
-y to lineal descendants to-
as in fact had been re-
-corded in the register
prepared of them by
Mr. Ross the Collector
of Cuddapah in 1814-
8 In 1857 this
Govt. continued a Pen-
-sion of a similar nature
in the District of Gun-
-toor to the son of an
adopted son, where=
=upon the Supreme
Govt directed that "it be
"held as a general rule

that

5

"that Pensions granted
"hereditarily shall cease
"when the hereditary
"line fails and shall
"not pass to the adopted
"children of any family

Under these
circumstances I do not
see how the Govern-
-ment can now continue
the pension to the son
of Sashachellapatty-

I. N. S

(9) Memo

On an hereditary pension in Kurnool

...ture was
...ved in Council
...th Sept. when
...it resolved that
... 12 June 1862
...d not be
...r back
...62 JP.

...y request, the
...has just been
...ing from
...ully visited the
...Venkatachy
...pers now tend
...ked, and I quite
...with him in
...mendation
...B. and the
...that the order
...not dated 12
...62 - is an
...

There are valid grounds for a reconsideration of the Govt order No 1295 d/ 12 June 1862.- by which the Government declined to accede to the recommendation made by the Board of Revenue, that the pensionary allowance held by the widow of the Poligar of Doranala should be continued to Sooba Naidoo and Venkatachy Naidoo, the sons of the adopted son of the original grantee.-

The pension, as described by the Board of Revenue was originally granted under the order of Govt d/ 29th March 1815 to Sooba Naid, Poligar of Doranala in the Markapore Taluq of the Cuddapah district

in lieu of resumed land and privileges. The Poligar died in 1828. leaving a widow Soobamah (Lately deceased) and an adopted son who was then a minor.

The question as to whether the pension was hereditary in its entirety to other than strictly lineal descendants was not at that time strictly defined, but an allowance equal to two thirds of the pension was granted to the widow Soobamah.

The Board state that the adoption was perfectly regular and they agree with the Collector of Kurnool. that had the villages wh belonged to the original grantee, not been resumed by Govt they would have descended legally to the heirs of his adopted son.

one — Govt decided that the disputed right for this Govt — with reference — to the order of the Supr Govt to grant the pattah, which — proceeded upon the data to wit — that the pension was hereditary in its entirety — that that was our decision that the pension should continue

— No other decision could have been passed by this Govt while the order of the Supreme Govt dated 13 Feb 1851 continued in force — There are no special circumstances to exempt this family from that order, & the question is not whether we are to reconsider our decision but whether the Supreme Govt see fit to cancel their order.

We can ask this question in reference to Lord Canning's despatch & Sir C Wood's reply on the subject of adoptions, but it seems to me that the question must be brought forward as a general one which is illustrated by this case, but which extends far beyond it. — The pension was not granted in lieu of a private estate which Govt took possession of — had this been the case to the future of continuing the allowance to adopted sons would have been clear & undeniable — It was granted in lieu of a resumed Privilege or office, which the State, as far as I am aware, gave & could take away & to which duties & responsibilities were attached. — To continue such pensions as a matter of right when the lineal heirs have failed

was submitted to the Govt they did not express any disapproval of these opinions.

The objections raised by the Govt in their order d/12 June 1860. are on the following grounds.

1st That in 1830. when the question was raised whether Poligar Pensions were hereditary or not, the Board reported, as regarding the practice followed in those districts during the administration of Sir T. Munro "that no distinct pledge had ever been given that such pensions were hereditary but that it was evidently the intention of the Govt that these pensions should be hereditary during good behaviour to lineal descendants"

The Board seem to have relied in enforcing this opinion chiefly, on their view of the nature of these pensions, having been taken & recorded in the Register of them prepared by Mr Ross, the collector of Cuddapah in 1814. — and because when this Register

But it can hardly be considered that because an entry in a Register of Pensions, made by Mr Cullectn, did not excite the attention a dipent Govt, that this fact shewld be held conclusive against such a claim as the present, when the rejection of ~~such~~ this a claim is not only contrary to precedent, but also when the Entry made by Mr Rop is not in accordance with the very best authority in such cases, that of Col. Munro.-

In a letter from Col. Munro, reporting the death of Varsinu Reddy Poligar of Nopum - it is clearly shewn that he considered them pensions hereditary. Col Munro says. "I shall let the mother of the Zemindar reside where she pleases out of the Zemindary, and I hope the Board will grant her, during life the full allowance formerly settled on her son, for a reduction of it would naturally excite a distrust among the Poligars that their lands or pensions would not descend to their children. In recommending the continuance of the full pension to the mother of a deceased Poligar the intention must have been to treat her as an heir in the ascending line, and to shew that these pensions reverted to all legal (not necessarily lineal heirs) whether in the descending or ascending line, or else there is no meaning in the words that any reduction of the pension (wh then would be regarded simply as a maintenance) would excite a distrust in the Poligars that their lands & pensions would not descend to their children.

is a serious matter - & resolved upon is it to have retrospective effect?

I think under all the circumstances this case should be referred to the Sup Govt. the other cases should be referred to the Board in the order of the Govt of the Presidency

Each case as they occur should be dealt with according to merits - & it is to set aside of the last decision & still in the order of Govt dated 18th July 1851

F. A.

It is also of importance to observe what are the opinions of the Board of Revenue, the Govt and the Court of directors on this question, prior to the preparation of the Resp' Register & when the resumption of Polygar estates & privileges was were more recent, and the nature of these commutation pensions well known. *

1810-/12./14

A branch of the Sooravany family formerly Zaluhdars of Nizampalam in the Carnatic collectorate claim a continuance of the pension originally granted in 1787 to William the representative of the family, in Commutation of the resumed revenues & mesnes formerly possessed by them. The Govt admitted this claim on the following ground.

"As the original grant confirmed the pension for the maintenance of the family generally in lieu of inheritance, of which the several branches had collective possession, and as in the natural course of succession these rights would have devolved to the present claimant, but for the substitution of the Equivalent granted at that time, we judged it reasonable to admit the operation of this principle in the continuance of the full amount of the pension to the descendant of the family in question."

The annex Govt proposed followed by the Govt in February 1812 was approved by the Ct of Directors. vide para 130 d/ 6th June 1814.

again in 1817 in the same family a widow and adopted son pray for the continuance of this Commutation pension.

* Note.
no mention of lineal heirs!

The Board say that "although it has been the custom of the Board to discountenance as much as possible the claims to succession to pensions by adopted children, but as in the present instance the succession to the Taloob in question would have devolved to the heirs[a] of the original pensioner, not lineal heirs had no ceremony taken place and adoption by Hindus, being both customary and lawful[x] the Board under the decision passed by Govt in 1810. and confirmed by the Honble Court of directors, recommend the continuation of the pension to the family of Venkatarama Rao. a branch of the original Sooranany family formerly Zemindars of the Nizampatam Circar

[a] They might have added obligatory;

The Govt in their order 19th June 1817 agreed to the recommendation of the Board of Revenue.- Then adoptions continued to be recognized, until in 1851 ~~overlooked~~ the Supreme Govt although not reversing the Nizampatam continuance of this pension by the Madras Govt directed that it be held as a general rule that pensions granted hereditarily, shall cease when the[x] hereditary line fails, and shall not pass to the adopted children of any family".
In para 8 of the order d/ 12 June 1862. ~~for the case~~ of the ~~adopted son~~ now under consideration, this

same Sooranany family

[x] Note
This term hereditary as applied to a Hindu family has little meaning for adoption is inherent in the fact of a Hindu family.

direction of the Supreme Govt is held as a bar to the adopted sons of the late Sorendala Polijar, on the ground that the pension granted to that family is of a similar nature to that which elicited so decided an expression of opinion from the Supreme Govt - and there can be no question that the cases are similar.

But it is a matter for most serious consideration whether the opinions expressed by the Supreme Govt in 1851, on the question of adoption generally, can be considered as authoritative on such subjects in 1861. when the entire policy on

Vide para 27. of Lord Cannings letter to Sir C. Wood No 43. A d/ 30 april 1860 published 10 dec. 1860.

Para 7. of Sir C. Woods' answer d/26 July. 1860

this point has undergone a most decided change and when so much more liberal views have been authoritatively announced by the late Govr General and by the Secy of State. -

From what has been shewn above, it may be safely affirmed that the Board are quite justified in viewing these pensions as specially entitled to consideration - "on the ground that had the villages wh belonged to the original Grantee not been resumed by Govt they would have descended legally to the heirs by adoption".

The resumption was made on grounds of policy; not

as a punishment a confiscation, nor was it intended that the Polygars and Shrs should suffer in their material interests.

The Precedent is most strongly in favour of the claim preferred by the adopted sons of the Toranula Polygar - and the only sensible reason that can with any force be adduced against the claim, is the direction of the Govt of India, of 1851. regarding hereditary pensions, which direction was not made applicable to the case which elicited it, & which case is precisely similar to that of the present claimants.

Pol. Dept.

No. 1295.

Proceedings of the Madras Government
Under date the 12th June 1862.

Read the following Report
of the Board of Revenue

Submitting with
remarks a Tabular Report
from the Collector of Tinnevelly
respecting the continuance
of an hereditary pension

(Received 31st March 62
No. 2075)

In 1824, a pension of Rupees 2,916-13-1 was granted to one Sooba Naick in lieu of two polliams then resumed.

2. Sooba Naick died in 1828, leaving a Widow Soobanna, and an adopted son, Sewhakotta Naick.

3. The Government granted two-thirds of the pension to the Widow, whose death is reported

in

ue the foregoing Proceedings
of the Board of Revenue
4 The Board
recommend that the pen-
sion be continued to the
sons of Sachachellapaty
who also is now dead
5. The Board state
that "as it does not ap-
pear satisfactorily defined
at the time" (when Cooda died)
died viz 1828)" whether
a pension of this des-
cription was hereditary
or its entirety to other
than strictly lineal
descendants - "two thirds
of the pension were
granted to the widow
for maintenance -
6 This however
is scarcely a correct
version of the case -
7 In 1830, the
question

question whether the
Poligar Pensions of the
Ceded Districts were
hereditary or not came
under the consideration
of Government -
The Board of Revenue
were requested to ascer-
tain the practice which
had been followed in these
Districts during the ad-
ministration of Sir Thomas
Munro, and they reported
that no distinct pledge
had ever been given
that such pensions were
hereditary, but that -
it was evidently "the
intention of Government
"that these Pensions should
"be hereditary, during
"good behaviour, to lineal
"descendants" The Govt
did not express any
opinion

opinion on the subject but sanctioned the continuance of certain Pensions to the heirs of their former recipients, and among the rest grad Soobanna, as stated above in para 3, two-thirds of her husband's pension - stating no notice of her adopted son, the validity of whose adoption was reported by the Collector - This shows clearly that the Govt concurred in the opinion that the pensions in question were hereditary to lineal descendants, as in fact had been recorded in the Register prepared of them by Mr Rose the Collector of Tanjore in 1811.

&c

† Letter to Bd of Rev. Dy No 459.

† G O 13 Feby 51 No 151.

† G O 24 June 51 - 642.

8 Further in 1851 this Govt continued a Pension of a similar nature in the District of Guntoor to the son of an adopted son, whereupon the Supreme Govt directed that it should be "held as a general rule "that Pension granted "hereditarily shall cease "when the hereditary "line fails, and shall "not pass to the adopted "children of any family" Under these circumstances, the Govt cannot accede to the Board's recommendation for continuing the pension in question to the sons of Sreenivasa Patty -

The Chief

To The Board of Revenue Dy No 15

W. S.

Copy in Letter to England
of 27th January 1863 No 18

Requesting an Extension
of Leave in favor of Lt C

Revenue 1862 Depart.
Pro: of Govt for June.

No 1295

Pro: of the Madras Govt.
Dd 20th June 1862.

Forwarding orders on Bds
Proceedings submitting Tabular
report from the Kurnool
Collector respecting the con-
tinuance of an hereditary
pension.

No 1295 to 1296