

Revenue (1897) Department.

MISCELLANEOUS SERIES.

G.O., No. 3247

DATED 28th June.

[Despatch Abstract.]

*Withholding memorial from C. Bhimrao
Rao Madras under Rule III 3 of the Memorial Act.*

BACK PAPERS.

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

FURTHER PAPERS.

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

Mem for papers
12/16.
Revenue

Political (1897) Department.

CURRENT No. 4861.

Secy.

29/6

From

C. Rhima Rao.
Madras.

Order Misc. no. 3247 of 28th June 97.

Ordered that the
Memorial be withheld under
Rule XII (3) of the Memo.
rial Rules and that the
Memorialist be informed
accordingly.

No.

Dated 2nd June 1897

Received 11/6/97

Registered

Enclosures

Spare copies

25/6/97

11/6/97

SUBJECT.

To the Memorialist 25.2.7.97
Note. Please see despatch to
the Secretary of State 1058
24.2.85 flagged E and his
orders in G.O. 104366
of 20.8.85 flagged F.

Praying for the grant of
a pension

1/11
23/6.

12/10/16

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

To

THE RIGHT HONORABLE SECRETARY OF STATE FOR
INDIA.

*The Humble Petition of C. BHIMA RAO, son
of C. VENKATA RAO, and grand son of
BHIMA RAO, late Head Sheristadar of
North Arcot, now residing at Mysore, Madras.*

MOST RESPECTFULLY SHEWETH,

That the petitioner's case may very briefly be stated thus :—

That he humbly considers himself entitled to his late father's share of pension viz., 87½ rupees in consequence of a *distinct promise* on the part of the Madras Government, founded on an order of the Honorable the Court of Directors; but that this pension has been withheld from him.

2. That if therefore Petitioner succeeds in proving to Your Lordship's satisfaction that such a promise was really made, and that it holds good in the case of the Petitioner, the humble Petitioner is sure not only that Your Lordship will direct him for the favorable consideration of the Madras Government, but that, that Government will at once direct that the promise be fulfilled. The humble Petitioner therefore respectfully proceeds to afford evidence of the promise in question.

3. That the original bounty of Government was granted to Petitioner's grandfather the late Bhima Rao, Head Sheristadar of North Arcot. The essential terms of this grant are expressed in these words, viz :—

“ Under the circumstances, the Honorable the Governor in Council is pleased to resolve,* agreeably to the Board's recommendation,

* Vide letter from the Government of Madras to the Board of Revenue, dated 5th October 1827, No. 739.

that the full Shrotriem of 2,400 Star Pagodas per annum for three lives shall be granted to Bhima Rao as a proper reward, for the long, zealous and honest discharge of the arduous and responsible duties confided to him.” Here Your Lordship will be pleased to observe that the bounty of Government was distinctly promised “for three lives.” Now the humble petitioner represents third life.

4. That before this bounty of Government in the shape of a Shrotriem could be actually enjoyed by Bhima Rao (the grantee), he died. And it was resolved* to commute the Shrotriem into its equivalent as a money grant to be continued to the sons of Bhima Rao and “their heirs of the next generation.” This money grant, in accordance with the terms above quoted was given by Government to the sons of Bhima Rao, these sons forming

* Vide General Letter from the Court of Directors dated 18th May 1842, No. 12.

the *second* life of the three lives for which the grant was expressly made. The Honorable the Court of Directors expressly stated in the Despatch marginally quoted that, it was clearly their intention that the money grant should be made in the same terms as the Shrotriem.

5. That Venkata Rao was one of the sons forming the second life, and got for his share Rupees 87½. This Venkata Rao being Petitioner's adoptive father, lately deceased, Petitioner claims as the representative of the third life, to succeed to this share of the pension.

6. That it is simply because the Petitioner is the adopted and not the born son of Venkata Rao, that the pension is refused to him. The question here arises whether in the circumstances of this particular case any distinction was intended by Government at the time of the original grant and subsequently, between an adopted and a born son. If Government intended that their bounty should be inherited by only a born son, and should not be inherited by an adopted son, Petitioner could have no claim. On the other hand if Government contemplated no such distinction, but on the contrary positively contemplated the inclusion of adopted sons also in the three lives for which the bounty was expressly granted, Petitioner is obviously entitled to claim the pension of his late father. Now, the humble Petitioner respectfully contends that the latter was really the case; that is to say, that Government did contemplate the succession of an adopted son also to the grant made for three lives.

7. That in proof of this last position, Petitioner humbly and most respectfully begs considerate attention to the following lots of evidence, viz:—

(a). The actual, expressed terms of the original grant in 1827 by Government.

(b). The reiteration, or interpretation of those terms by the Honorable the Court of Directors in 1842.

(c). The recognition by Government itself of an adopted son in this very family.

(d). The recognition by Government of the Petitioner himself as entitled to inherit his father's share of pension, though Petitioner is an adopted son.

(e). The view taken by the Collector in favor of Petitioner's claim under the terms of the grant, a view concurred in by the Board.

8. That the Petitioner begs permission to explain each of the heads of evidence, viz:—

(a). Petitioner begs attention to the terms of the original grant quoted in para. 3 of this Memorial. It will be observed that Government granted the bounty in 1827 expressly "for three lives." These terms do not imply the exclusion of adopted sons. "Three lives," the humble Petitioner respectfully contends means, "Three generations" as will be corroborated by what the Court of Directors said subsequently with reference to this particular case, and by what Government themselves have distinctly laid down in general, as the principle which held in such cases at the period during which the original grant

† Vide Clause 2, para. 3, E. M. C., 18th September 1851, No. 939, quoted in the Board's Standing Order, No. 160.

was made, that principle being "that when a Shrotriem or a similar grant may be conferred under Sunnud for a certain number of lives, or on the

Grantee and his *legal heirs* that party is to be recognized as the successor who may possess the character of the legal heirs of the deceased incumbent whether by birth or adoption." †

(b) In the general letter from the Honorable the Court of the Directors, No. 12, dated 18th May 1842, the Honorable Directors said, "We therefore cancel those orders and direct that our original instructions of the 14th October No. 7 of 1835 be acted on, and that the sons of Bhima Rao be informed that their pensions will be continued to their heirs of the next generation," which clearly *include*, and cannot *exclude* adopted sons, for, such sons are "heirs of the next generation."

(c). That adopted sons were meant to be included in "three lives" and also in "the heirs of the next generation," is further most strongly proved by the indisputable fact that the adopted son of one of the sons of Bhima Rao, situated † G. O., dated 27th June 1859, No. 218 just in the very position of the Petitioner, has been recognized † by the

Madras Government as entitled to succeed to the pension. Srinivasa Rao one of the sons of Bhima Rao, adopted one Sooba Rao, and still this Sooba Rao is actually, drawing his father's share of pension. Petitioner entreats Your Lordship to consider how while an adopted son has been recognized by Government in one branch of the same family, Petitioner who is just another adopted son in another branch of the same family could be refused to be similarly recognized.

(d). Petitioner's adoptive father, took care to solicit the Collector's formal registration [of Petitioner's adoption, and the solicitation was made *expressly in view to Petitioner's succession to the pension*. The registration was made by the Collector of Madura under the sanction of the Board of Revenue—vide correspondence † marginally quoted. It will be observed from this brief correspondence that

† (1). From the Collector of Madura to the Board of Revenue, dated 17th November 1848, No. 135.

(2) Proceedings of the Board of Revenue, dated 30th November 1848, Revenue Department.

(3) From the Collector of Madura to the Board of Revenue, dated 4th January 1849, No. 2.

(4) Proceedings of the Board of Revenue, dated 18th January 1849, Revenue Department.

Petitioner's late father requested the

Collector to register Petitioner's adoption expressly in view to Petitioner's succeeding to the pension, that the Collector stated this to the Board, that the Board fully satisfied themselves of it and said, "under the explanation now furnished, the Board of Revenue authorize the registration of Bhima Rao, (Petitioner) as adopted son of Venkata Rao, provided the Collector sees no reason to question the fact of such adoption having been duly and legally performed."

(e). When the Collector of Madura (in his letter dated 23rd March 1871, No. 88, embodied in the Board's Proceedings, dated 21st April 1871,

No. 1662, recommended to the Board that a part of Petitioner's father's share of pension should be granted to Petitioner's adoptive mother, that officer said that the part which may be granted to the Petitioner's adoptive mother "should revert to the adopted son (Petitioner), in case the latter outlive the former." This reversion thus explicitly recommended by the Collector shows the Collector's recognition of Petitioner's claim to his father's share of pension. It was concurred in by the Board also—(vide Proceedings last quoted.)

9. Thus then the terms of the original grant by Government "for three lives" did not exclude adopted sons; the terms reiterated in different words by the Court of Directors did not exclude such sons; the Government has actually accepted an adopted son as entitled, in another branch of the very same family in regard to the very same pension; and petitioner's adoption was registered by the Collector under sanction of the Board expressly in view to secure Petitioner's succession to his father's share of pension. The Collector and the Board of Revenue have expressly recognized petitioner's claim. Petitioner humbly and respectfully submits that all this is conclusive evidence of Petitioner's claim to inherit the pension of 87½ Rupees.

10. The humble Petitioner further begs the attention of Your Lordship to the circumstance that any rules excluding the claims of adopted sons enacted by Government *subsequently* to the grant of pension to Petitioner's grand-father, cannot justly take a *retrospective* effect, and disturb the terms of a grant made *before* their enactment comes into force; such rules were laid down in 1851.* Whereas the original grant of the bounty of Government to Petitioner's grand-father was made in 1827. And Petitioner's adoption took place in 1835 long *before* 1851. Moreover the rules did not in the opinion of Government bar the continuance of the self-same pension to another adopted son in the self-same family, whose adoptive father Sreenavassa Rao died in 1859, and whose case was exactly like Petitioner's own, as already explained under the head of (c) in para. 8 of this Memorial.

11. The refusal of Government to grant Petitioner's father's share of pension is based on the result of a reference † made by the Madras Government to the Government of India. Your Lordship will find that though the reference was made in Petitioner's case, it bore on a sort of *general* question, and the reply of the Government of India only stated a *general* principle. But this principle, Petitioner respectfully submits, cannot subvert or vary the *express* conditions of a previous grant. If the grant in the Petitioner's case was made *continuable* for three lives including adopted sons and has been recognized as such and acted upon too, the continuity of such a grant cannot justly be interrupted by giving a retrospective effect to the general principle laid down by the Government of India. Petitioner would further respectfully draw the attention of Your Lordship to the fact that the general principle stated by the Government of India in reply to the reference from the Madras Government, is based upon and is merely a reiteration of that laid down in the Extract of Minutes of Consultation quoted in Board's Standing Order, No. 160; and this most plainly relates to "pensions granted hereditarily" without limitation to life, and not to Shrotriems or similar grants conferred for a certain number of lives. Had the Government of India been made acquainted with

all the particular circumstances of the Petitioner's case, that Government would not have arrested the fulfilment of a distinct promise that was made, and the distinct hope held out to continue the pension to the third life, that is to the Petitioner.

12. The humble Petitioner begs respectfully to represent that it was entirely in reference to that promise and hope, that Petitioner was given in adoption to his late father and Government Pensioner, Venkata Rao. Again, as Petitioner's father was fully led to reckon upon the continuance of the pension after himself, he did not make that provision for his wife, and (Petitioner) his son, that he would otherwise have made. Your Lordship will thus be pleased to observe that the whole plan of life of Petitioner's father was built upon the prospect of the pension being continued after him. A sudden and unexpected interruption of the pension upon his death cannot, but therefore plunge Petitioner and the whole family into deep distress, all the deeper because by no means foreseen.

13. If Your Lordship will condescend to have the whole of the papers connected with Petitioner's unfortunate case carefully examined, it will doubtless be found that Government is under a moral obligation to continue the pension, an obligation which the humble Petitioner is confident, Government will never repudiate however large the amount may be, but the amount is only 87½ Rupees, and continuable only for Petitioner's life, who is already upwards of 49 years of age.

14. It is true that the Petitioner was for certain family reasons not much in favor with his father in the latter part of his life, (but not with his adoptive mother,) and it was therefore that Petitioner's father requested the Government to divert a portion of the pension for the maintenance of his wife instead of granting the whole to Petitioner. Two cases lay before the Government, namely, either to comply with this request, or to refuse it and to continue the whole pension to Petitioner as representing the third and last life. But to the Petitioner's greatest misfortune Government have been led into a third and unexpected course, viz, a total withdrawal of the pension.

If *neither the wife nor the son* is to get it, the greatest and most unexpected hardship would be the consequence.

15. The Petitioner would respectfully lay before Your Lordship the circumstances, that fully relying on the promised pension for the third life to fall back upon for Petitioner and Petitioner's adoptive mother, Petitioner's father ventured into several speculations which involved great risk and were otherwise inadvisable, such speculations as laying out large funds and even contracting debts, for the conduct of Suits, for which, if successful Suitors promised to pay handsomely. These proved a failure, and Petitioner would leave Your Lordship to imagine the distress Petitioner and large family consisting of 16 souls, must be thrown into, if the promised pension is discontinued.

16. Petitioner would further respectfully add that it was because Petitioner had protested against such speculations, and because he tried his utmost to persuade his father not to remove from Petitioner at Madura to Dindigul, where he was likely to be again involved in transactions, from which Petitioner had extricated him with great difficulty, that some ill-feeling arose which resulted in the request for the partition of the pension, when subsequently Petitioner was soon restored to his father's good graces, and that father intended to withdraw the request he had preferred, he fell sick; and to the Petitioner's misfortune died in December 1871.

17. Petitioner and his old (adoptive) mother were on the best of terms and living with the Petitioner since his father's death; and she died

in 1877. In proof of the (adoptive) mother's perfect acquiescence in this, she also attached her signature to the Memorial, which was represented to the Honorable Board in October 1876.

18. As all the papers and records connected with the Petitioner's case are in the Board's Office, Petitioner addresses this humble Memorial to Your Lordship with a most respectful request that Your Lordship will be graciously pleased to take the Petitioner's case into Your Lordship's merciful consideration, and direct to the Madras Government the grants of Petitioner's humble prayer.

19. In the Year 1876 when the Petitioner presented a Memorial to the Revenue Board, Madras, the Government, without assigning any reason whatever, and while fully conscious of the fact that they had granted a pension to an adopted son as will be in the Post-Script, completely declined to reopen the case. The Governor-General in Council followed the example of the Madras Government when the Petitioner submitted a Memorial in 1879.

20. The Petitioner herein encloses two papers A and B which he most respectfully begs will be sent back to him.

21. In conclusion, Petitioner entreats that after taking into due consideration the several circumstances connected with Petitioner's case, Your Lordship will have the kindness to direct the Madras Government that the pension of his late father's share may be continued to Petitioner in pursuance of the express terms of the original grant; in pursuance of the subsequent full recognition of these terms by the Court of Directors, Government, Board of Revenue and Collector; in pursuance of the course adopted by Government in a similar case to Petitioner's in connection with the same family and the same pension; and in pursuance of the great policy of justice which is the invariable guide of the British Government, and what has given and which will preserve this great Empire.

For which act of kindness Your Lordship's Petitioner as in duty bound,

SHALL EVER PRAY.

C. Krishna Rao

2nd June 1897.

1894.

P. S. Petitioner begs to be permitted to annex a brief recapitulation of this his respectful representation. The following shows the position of the original grantee, and the Petitioner's relationship to him.

Enclosure A

(Through the Government of Madras.)
PETITION

To REVENUE DEPT

THE RIGHT HONOURABLE,
THE SECRETARY OF STATE FOR INDIA,
LONDON.



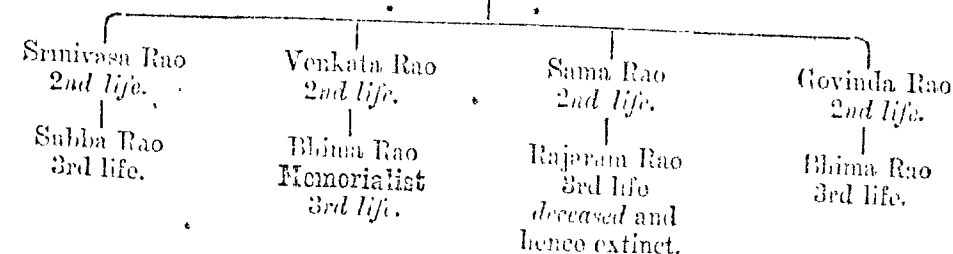
The humble memorial of C. BHIMA RAO, now
residing in No. 82, Mint Street, Black
Town, Madras.

MAY IT PLEASE YOUR LORDSHIP IN COUNCIL.

I, the Memorialist, is one of the grandsons of one of the most faithful servants of Government, Bhima Rao, whose services were so well appreciated that "as a proper reward for the long, zealous and honest discharge of the arduous and responsible duties confided to him," a shrotriam was granted to him tenable for three lives.

Under G. O. No. 739, dated 5-10-27. The Pedigree is as follows :

Bhima Rao—Original Grantee.
(First life.)



For the 2nd life, the grant was divided among the four sons of the Original Grantee and in the 3rd life, one of the branches, viz., the 3rd or Sama Rao's branch became extinct by the demise of the 3rd life holder.

It would thus be expected that in the natural course of things the other three branches are still continuing to enjoy the bounty of Government conferred on them 70 (three score and ten) years ago.

2. The Memorialist's sad story.—But most unfortunately for me, the course of the 2nd branch, viz., Venkata Rao's branch was obstructed and it was prevented from running down to me in the natural course of things, while as regards the 1st and 4th branches, the grant is still being enjoyed by the 3rd life holders like my self.

3. Cause of my sad story—Why I alone should be deprived of my dues while my cousins in the 1st and 4th branches are still in enjoyment of the bounties of Government, may best be seen from Enclosure A being a printed memorial. In short the cause was that before the grant devolved on me in the natural course of succession, i.e., before the time for the commencement of the 3rd

life arrived or before the demise of the 2nd life holder, he, i.e., my father made a reference in regard to the 3rd life pension: and this premature reference resulted in my being deprived of my dues.

It is irrelevant and disgusting too, I am afraid, to enter into the details of the occasion for such premature reference.

4. **Result of the reference**—The result was that in G. O. No. 1720, dated 2-10-71, my father was informed that "his adopted son (i.e., myself) is not considered by the Supreme Government to have any claim to succeed to an interest in the pension granted to Bhima Rao and his descendants."

This order is based on the principle enunciated in the Government of India order, dated 2nd October 1871:

5. **Grounds of present prayer**—I now most respectfully pray that this order be reconsidered.

I am aware that considerable time has elapsed since this injustice was done to me. My father, i. e., the 2nd life holder died in 1871 and my last prayer was negatived in endorsement No. 4366 A of 1885 Mis.

But at the same time I have full hopes that the most just and benign British Government does not stand on technical flaws such as lapse of time and so forth, when **substantial justice has suffered**.

Issue—Now the main question for consideration is whether according to the principles of succession enunciated in the Government of India order, dated 2-10-71, my grandfather Bhima Rao's grant was one which could, in the natural course of succession, descend to an adopted son.

It will be seen that it is one such, from the fact that the grant was **one of lands**. *Vide* the G. O. No., dated 11-10-87.

It has actually been held as such in the case of the 1st branch, Subba Rao being also an adopted son like myself and he is still enjoying the pension.

6. **Adoption**—There is no question at all about the factum of adoption. It is never disputed and it has been registered. *Vide* the list of adoptions registered in pursuance to the Notification of Government of India, dated 16-3-46, published in the *Port St. George Gazette*, dated 5-6-46, page 545.

I leave it to Your Gracious Lordship to see and consider why there should be a difference between the 1st and 2nd branches of the same grant and why the 2nd branch should be governed by a principle different from that which governs the 1st branch.

7. **Misericordium**—It will thus be seen that even as a matter of right, I am entitled to the grant as 3rd life holder.

Granting for argument's sake only that I am not entitled to it as a matter of right, I pray that as a matter of grace at least the proviso that in **Special Cases** and for **Special Reasons**, adoptions may be respected as enunciated in the Government of India order quoted above, and the same be applied to my case and

the grant of my branch of the pension be sanctioned for payment, if not of arrears too, at least from the memorable auspicious day of Her Most Gracious Majesty's Diamond Jubilee in consideration of the utter poverty into which the grandson of Her Most Gracious Majesty's old faithful servants has fallen by the deprivation of his dues.

8. **Prayer**—Under these circumstances I earnestly pray that Your Lordship will be gracious enough to place this my humble memorial, before Her Most Gracious Majesty the Queen-Empress of India for one of the gifts of that auspicious day and thus do justice to one of the representatives of the most faithful servants of Government.

For this act of Justice and Grace, I shall ever pray, etc.

2nd June, 1897.

C. Bhima Rao