

1930

Henzys

No. 16234

SUBJECT

C0533/401

Seventer de Souza

Petition re Pension

Previous

800/28224/1921

Subsequent

1.

Hector de Souza. 28th. May 1930.

Trs a petition with copies of correspondence relating to his pension -

I suppose that before considering this we must have the Gov's views.

? ack. & say that it is being referred to the Gov. for his views on receipt of which a further reply will be sent to him.

I send the orig. to Gov. (for return) with a copy of the reply, & asking for views.

I wd. however like to give him some lead in favour of acceding to the petition: we appear to have the full converse & all the necessary facts. Clearly W de Souza has no legal case for an increase in his pension: all he was entitled to under the new circular was the maximum of his new scale

X See in addition to the converse enclosed in the petition 56876/20 a 22824/21 below, which show that as a result of the 5/33 information W de Souza's pension was by 1925 reduced from £1221/6s to £1190/70hs.

? Pro (520 lbs) & a non-pensionable allowance of the difference between that & 534 lbs. - 14 lbs. - 4

as a result of 9/10
Dec. 9 31.11.1930
on 56876720

is on the basis that his pension
has been computed & it is clearly
correct.

Mr de S. argues however
that, had he not been
invalided, he wd. certainly
have been recommended for
promotion to Grade 2 &
that this promotion wd
have taken effect from before
the date on which he actually
retired.

Mr de S. practically
admits that he has no legal
case (see last note last one)
& submits a request for "an
exemption ^{into} from the rule" - i.e.
basically a compassionate
grant. This was turned
down ~~on the ground~~ on the ground
that the Superannuation
Regulations do not permit of
any variation.

(The House like
to add to Mr. G. that he
will no doubt ~~also~~ consider
the possibility of an ~~in special~~
grant of whether retrospective
or not.

E. Easton
15.7.30

The weak point in
his case is of
course that he
died so long
a day before
starting the case.

It is true that the de S. pension
was overcalculated in the first
instance & then reduced - but he was
not required to pay the excess ~~calculated~~
~~however~~ he makes no claim on that
score.

His actual claims seem to be
quite inadmissible & I cannot see
any ground for giving a lead to the
Govt in favour of special treatment.

It might strike me
that the Govt sees no ground
in principle to award be satisfied in
concern the Govt to rescind the
decision already taken - unless,
as a matter of procedure - it is
held that the Pension should be
sent to the Govt to report &
be dealt so with.

X

S. W. Allen
18.7.30

It appears that he has no case.
We cannot take into account the
entirely hypothetical question of
promotion.

J. P. Jones
19.7.30

p. 80

as a matter of form,
the shd go through the
local Govt. even though
there is no doubt as
to the reply wh. will
be returned.

I don't think that I am
hard-hearted in these
personal cases, but I must
say that I agree with
the last two minutes
rather than with the first!

Send the petition & encl.
in orig. to Gov. Menzies
for report - ask that
they be returned with Govt
reply - & inform
Ms. de Souza as abv.

ALP

19.7.30

alone

DELETED UNDER STATUTE

To De Souza - 1 ans^d - 26/7/30

No: Case 594 - (1/1st mailing & copy No 2) - bono - 80 JUL 1930

STATUTE

(Pension)

Finds reasons on the petition - unable to recommend it for approval.

Mr. De Souza, who was at the time a Senior ~~Second-Grade~~ Clerk and well reported on, was retired on medical grounds on the 10th August 1920.

On the 13th August 1920 a circular was issued revising the conditions of service, salaries, etc. of non-European officers. This was to take retrospective effect from the 1st April 1920, and Mr. De Souza's pension has been computed in accordance with this circular.

The circular ~~also~~ made provision for an increase in the number of first-grade clerks from 25 to 42, and recommendations with regard to promotion to fill these vacancies were sought in a circular issued a few days later. The promotions ~~recommen-~~^{work}ded with effect from the 1st April 1920. Mr. De Souza's contention is that had he not ~~at~~ the 10th August been retired on medical grounds he would a few days later have been recommended for promotion with retrospective effect from the 1st April 1920, and that, had he been promoted with effect from the 1st April his pension on retirement on the 10th August would have been larger, (he works the difference out at Shs. 16/- 48 a month; $\frac{1}{2}$ from the figures given in para. 10 of the despatch the actual difference would appear to be about Shs. 10/-).

He explains the delay in taking up the point (his first ~~letter~~ to the Colonial Secretary is dated April 1923) by saying, (1) that he was ill, and (2) that he did not know of the existence of the circular of 13 Aug - 20.

He has admittedly no legal claim. His case rests on the hypothesis that had he not been retired

cc. he got the benefit of it - by reasonable construction being raised from No 220 p.m. to No 283.50 p.m. JMD

on medical grounds on the 10th August he would have been recommended, on the issue of the new circular, for promotion to take effect from a date some time before his retirement.

As he was in point of fact actually retired before recommendations for promotion were called for, his name was not considered. He was, however, always well reported on.

Mr. Jeffries says in his minute of 19th July ~~below~~ that it is not possible to take into account the entirely hypothetical question of his promotion, and the O.A.G. in para. 12 of his despatch says that he has examined the petition in all its aspects, but is unable to recommend ~~him for promotion.~~ it for approval.

*This can
hardly be carried
over*

In the circumstances, I inform Mr. De Souza that after careful consideration of the ^{concern} ~~questions~~ enclosed in his letter of the 28th May, and of the report received from the O.A.G. the Secretary of State [regrets that he is unable to take any action in the matter.]

*C. Eastwood
4.11.30*

Makes of LJ "see no ground which would justify him in intervening in the matter"

SM Allen

5/11/30

C. J. Jeffries 5.11.30

*as proposed - send to
D.G. for info of AF up 4
copy of the letter to De Souza
All Staff
S. J. P. Terminus 7.11.30*

*S. H. G.
11.11.30*

*W. G.
8/11/30*

LF to S.A.S.

5 Jo de Souza — 14 NOV 1930
(no grounds for intervention)

6 To Gov. Conf (2) - 4 inst. - 11/19/30
(w/copy 5)

Sup. labor
|

7 Jo de Souza — 28 March
Submits further representations re his pension.

- Jo de Souza's arguments
are very weak - but he obviously has
no case.

? says that the Govt has
already reviewed all the cases & has
written to add to No 5.

1 copy comes to Gov 4 copy
of h.c.

written

28/4/31

Cyl. Jeffries

28/4/31

ackd

30/4/31
admit

DESTROYED UNDER STATUTE

8 Jo. de Souza. (7 ans) -

9 Jo. Gov. Conf (10/7 & 8) - 11/1 -

6 MAY 1931

cut

Bella Vista, Nova-Portugal,
Moira, Bardez, Goa.
28th March 1931.

RECEIVED
27 APR 1931
COL. OFFICE

Sir,

I have the honour to acknowledge the receipt of your letter No. 16234/30 of 14th November 1930 conveying to me that the Secretary of State finds no ground to intervene. From this I understand that my case is not clear enough and I most respectfully crave your indulgence for a few seconds to consider the following points.

1. As Circular No. 48 of 1920 was sanctioned by the Secretary of State I humbly presume that the Departmental Secretary could throw some light on it.

2. As the words "Temporary Non-Pensionable Allowance" are introduced in the Circular it will easily be admitted that there is some difference between "Non-Pensionable Allowance" and "Temporary Non-Pensionable Allowance".

3. On the absorption of War Bonus into salary, the whole amount together with increments was squeezed through the New Scale of salaries of the above Circular and the residue was labelled "Temporary Non-Pensionable Allowance", e.g. if the whole sum aggregated to Sh. 534 and the new scale was Sh. 510 then the remainder Sh. 24 was called "Temp N.P.A." It will be noted that this Sh. 24 was a part of the original salary, and deducted from it.

4. The primary object of this "Temp N.P.A." was to make a saving on future increments, and the officials in service were to draw this Allowance regularly until the subsequent increments absorbed it when "Temp N.P.A." would by itself have vanished i.e. an official drawing "Temp N.P.A." of Sh. 24, on receipt of increment of Sh. 30, had to forgo the "Temp N.P.A." in future—it practically ceased so to say.

5. There is no official in Konya drawing this Allowance now. It completely ceased after a couple of years.

The Under Secretary of State,
Colonial Office
London S.W.1.

Ans. - 6 MAY 1931
Clerk - Gen Secy. - 6 MAY 1931

6. Subsequent Circulars to No. 48 of 1920 do not make any mention of "Temp N.P.A.", as it was by then extinct.

7. If this "Temp N.P.A." was a ban on pensions it would have been called "Non Pensionable Allowance" and not "Temporary" and would still have continued distinct and separate. The very facts that it was utilized for increments, and does not now exist in the Colony clearly indicate that it was a temporary measure, and hence could not affect permanent pensions in any way. For want of a name to have called this deduction of the salary "Temp N.P.A." was a mistake, as it is a complete misnomer, being neither an allowance nor "non-pensionable" anything. If it were really "non-pensionable" then it could not have been used for, or added to "pensionable increments". Hence it was considered fully pensionable though called to a confusing label.

8. From the above it is obvious that the so-called "Temp N.P.A." was not at all meant to affect permanent pensions, and as the Circular was issued 3 days after I was medically boarded, there is absolutely no doubt that my claim is right, but should there still exist any doubt in the mind of the Secretary of State, I humbly pray that the benefit of the doubt be given to me, viz. that either my pension should be computed on Sh. 534, the actual amount drawn for several years, or that the misused "Temp N.P.A." of Sh. 24, which is a part of my salary, should be paid to me, for which favor I will be grateful.

I have the honour to be

Sir

Your most obedient, humble servant,

Hector de Souza

Mr. *Estmond* 17/10/30

Mr. *Estmond*

Mr.

Mr. Bottomley.

Sir E. Harding.

Sir J. Shuckburgh

Sir G. Grindle.

Sir C. Davis.

Sir S. Wilson.

Mr. Ormsby-Gore.

Lord Loyal.

Mr. Amery.

X16234130k 58

O. D. 14 NOV 30.
R 12 NOV
D 14 "

Handwritten signature

Sir.

I am etc. to refer to the letter from
Lewis Dept. of the 26th July & to inf.
you that he has ~~now~~ need from the
OAS of Kenya a report on the
course enclosed in your letter of
the 28th May on the subject of
your pension.

I am now to inf you
that after careful attention of that
course & of the report on it
from the OAS, the SPS ~~is~~
finds no ground which ~~is~~

Copy OAS - Conf (2) Af. 19/11/30.

DRAFT.

Mr Hector de Souza.

*Copy to OAS. L2
for reference*

~~_____~~
justify him in intervening
the matter



W. W. WILKINSON



KENYA.

No. 139

~~CONFIDENTIAL~~

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

30^H September, 1930.

My Lord,

(2) 3)
With reference to Your Lordship's despatch No.594 of the 30th of July, forwarding a petition in original from Mr. Hector de Souza at one time Second Grade Clerk in the Provincial Administration at Eldoret, I have the honour to report thereon as follows:-

1. Mr. de Souza proceeded on 5 months and 66 days' leave on the 12th October, 1919, which expired on the 16th May, 1920; this leave was extended on half pay till the 9th August, 1920, on the recommendation of the Government Medical Adviser in Bombay; he was found unsuitable for further service in this Colony by a Medical Board held on him in Bombay on the 10th August, 1920, as from which date inclusive he retired on pension.

2. Mr. de Souza at the time of his retirement was a Second Grade Clerk on a scale of Rs.160/- by Rs.10/- to Rs.220/- per mensem and his actual emoluments were:-

Salary (pensionable)	Rs.220.
War Bonus (non-pensionable)	" 47.
House Allowance (- do -)	" 45.
Total	<u>Rs.312/-per mensem.</u>

3. On the 13th August, 1920, Secretariat Circular No.48 (a copy of which is enclosed) was issued embodying the revised conditions of service approved in the late Viscount Milner's Confidential despatch of the 17th June, 1920, and which were brought into effect retrospectively

Circular.

THE RIGHT HONOURABLE
LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON S.W.

from

l.w.d. (eng)(2) A.P. 14/1/30

from the 1st April, 1920.

4. The immediate effect of this Circular on Mr. de Souza was:-

- (a) The scale of the 2nd Grade was raised to Fls.190/- by Fls.15/- to Fls.255/- per mensem.
- (b) War Bonus was added to the pensionable salary up to the maximum of the new scale; the balance being treated as non-pensionable (salary) allowance.
- (c) House allowance to the extent of 15 per cent of the initial salary of the new grade was made pensionable, the balance being treated as a non-pensionable (house) allowance.

5. Mr. de Souza's emoluments were accordingly re-adjusted as follows and he was awarded a pension based on Fls.283/50 per mensem:-

	<u>Pensionable.</u> Fls. cts.	<u>Non-pensionable.</u> Fls. cts.
Salary (after adding war bonus to the extent of Fls.35/- in order to bring the salary to the maximum of the new II Grade).	255. 00	-----
Non-pensionable (salary) allowance, i.e., the balance of the war bonus referred to in paragraph 4 (b) above.	-----	12. 00
Pensionable house allowance (i.e., 15% of the minimum salary of the new Grade).	28. 50	-----
Non-pensionable (house) allowance, i.e., balance of the house allowance referred to in paragraph 4 (c) above.	-----	16. 50
	<hr/>	<hr/>
	Total Fls. 283. 50.	Fls. 28. 50.

6. It was also announced in the Secretariat Circular referred to that "The number of posts in Grade I will be increased from 25 to 42" so that 17 promotions

were

were imminent; it was further announced that in order to make these promotions "The names of the senior clerks in Grades II.....will be submitted to the Heads of their Departments to ascertain whether they are fit for promotion to fill the new posts in the higher grades".

7. Recommendations from Heads of Departments in regard to promotions were sought in a Circular dated the 25th August, 1920, and promotions were approved with retrospective effect from the 1st April, 1920, and were communicated to Heads of Departments in a Circular dated the 10th November, 1920.

8. It is understood that Mr. de Souza was always well reported upon and that in seniority he was at the top of the 2nd Grade at the date of retirement. In making the promotions referred to in the preceding paragraph it was not possible to take Mr. de Souza's claims into account as he was no longer in the Service but actually had proceeded on pension when the question of these promotions was under consideration.

9. If Mr. de Souza was treated as being promoted with effect from the 1st April, 1920, the result would be that there would be an excess of establishment as the number of Grade I posts would be 43 instead of 42 as fixed under Secretariat Circular No.48 of 1920.

10. His pension if such a promotion were now approved would amount to Rs.1,250/32 (instead of Rs.1,190/70) a year calculated as under: -

Average yearly emoluments from the 10th April, 1917, to the 31st March, 1920: -

10th April, 1917,

10th April, 1917, to 31st March, 1920, @ Fls. 297/50 per mensem (i.e., Fls. 220/- salary, Fls. 47/- war bonus and Fls. 28/50 value of quarters).

Fls. 10,620.75.

1st April, 1920, to 9th April, 1920, @ Fls. 321/- per mensem (i.e., Fls. 282/- salary, and Fls. 39/- value of quarters).

96.30.

Fls. 10,717.05

Whereof one third

Fls. 3,572.35

21/60ths. of Fls. 3,572.35

Fls. 1,250.32 per annum.

11. Mr. de Souza's request that his pension should be based on the salary and war bonus is inadmissible as the war bonus was definitely a non-pensionable emolument.

12. I have examined Mr. de Souza's petition in all its aspects but regret that I am unable to recommend it for Your Lordship's approval.

13. As requested by Your Lordship the original petition is returned for disposal.

Petition.

I have the honour to be,
My Lord,
Your Lordship's most obedient,
humble servant,

Wm. McKinnon

ACTING GOVERNOR.

Clerks need not be engaged at the minimum salary of Grade IV if it is found impossible to secure suitable men at this figure.

3. AGE OF RETIREMENT: The ages for both compulsory and voluntary retirement will be 55 or 80 years service, whichever is earlier. This will come into force from the 1st of April, 1921. The same conditions as those laid down for European Officers apply in other respects.

4. HOUSE ALLOWANCE in lieu of quarters, where the latter are not available, will be granted at the rate of 15% of the initial salary of the grade, with a minimum of Rs. 20 p.m., from the 1st of August, 1920. For the purpose of assessing pensionable emoluments allowance at the same rate will be added to the salary, with a minimum of Rs. 240 in each case. This will apply to all pensions granted in respect of service any part of which is subsequent to the 31st of March, 1920.

In cases where a clerk is at present drawing house allowance at a higher rate than that to which he is entitled under this rate, he will draw the difference as a temporary non-pensionable additional allowance, less any increase over the aggregate of his present salary and War Bonus which he may now receive, and reduced subsequently by any further increase of increments of salary.

5. LEAVE AND PASSAGES. Statistics will be compiled for the period of the next 5 years, and the question of increasing the amount of privilege leave will then be reconsidered. In privilege leave:—

(a) The period of the voyage to and from India will not be reckoned in the period of leave earned by residential service under the leave regulations. The date of arrival at the port in India will be regarded as the first day of leave, and the day preceding embarkation from India the last day of leave.

(b) Any unexpired leave due to the necessity for departure from India by a steamer sailing before the full period of leave has been taken will be added to the next period of leave.

(c) Privilege leave and sick-leave will be granted with full salary, provided that the amount of full pay sick leave granted in any one period of twelve months shall not exceed three months. Extensions of sick leave may be granted with half salary up to a maximum of three months.

(d) When a clerk is sent to India on sick-leave in accordance with the recommendations of a Medical Board his passages to and from India will be paid by the Government.

6. PROVIDENT FUND. The institution of this is under consideration.

7. TRAVELLING (a) When travelling on the Uganda Railway subsistence allowance will be granted in accordance with the existing scale, subject to a minimum of Rs. 1/50 per night.

(b) When a clerk is detained at Mombasa on first appointment or return from leave pending instructions to proceed to his post, or on departure on leave or retirement from the service awaiting the departure of a steamer, he will be granted a refund of actual lodging expenses up to a maximum of Rs. 1.50 per night.

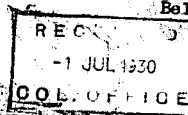
(c) All clerks in Grades I to IV, will be entitled to 2nd class accommodation on the Uganda Railway provided that there is room on the train, if there is no room no claim for the difference between 2nd class and lower class fares will be entertained.

8. WAR BONUS including assistance towards the cost of family passages will be discontinued forthwith.

Non-Europeans other than clerks will, if considered suitable by the Heads of their Departments, be placed on the same scale as the grade to the old scale of which their previous salary most nearly corresponded, under the same conditions as those laid down above. If Heads of Departments do not consider that arrangement suitable in any cases they may pay the present salary plus War Bonus as a fixed salary (in non-pensionable cases), or they may put up their own arrangements.

C. E. SPENCER,

for Chief Secretary to the Government.



Sir—

I most respectfully beg to lay before you the correspondence with the Hon'ble the Colonial Secretary for Kenya Colony on the subject of my pension which appears to me to require rectification.

2. On 10th Aug 1920 I was recommended for retirement on Pension by the Medical Board in Bombay. I was then Senior II Grade Clerk at Eldoret, Uasin Gishu Dist.

3. Three days later a new Circular No. 48 of 1920 was issued at Nairobi on 13th Aug 1920 revising the grades and scales of salaries and making it retrospective to 31st March 1920. On this date I was on privilege leave, consequently the Circular affected me. I beg to quote a few extracts of the Circular to elucidate my case.

Circular No. 48 of 1920 dated 13th Aug 1920.
Terms of Service for Non-European Officials.

The following alterations in the conditions of service for the Non-European Clerical Staff---have received the sanction of the Secretary of State.

1. Establishment. The number of posts in Grade I. will be increased from 25 to 42 etc etc.,
The names of the Senior Clerks in Grade II and III will be submitted to the Heads of their Depts to ascertain whether they are fit for promotion etc etc.,

His Majesty's Principal Secretary of State,

for the Colonies,

Downing Street, London.

2. Salaries. Grade I. Florins 260, (520 sh) per mensem with special additions of pay for good work and long service, etc.

Grade II. Florins 190, (380 sh) by annual increments of Fls 15 p.m. to Fls 255 (510 sh).

These will take effect from the 1st of April 1920

"Increments"

A clerk will enter the new scale of his Grade at the incremental step equal to or next above the amount of his salary and War Bonus as on the 31st of March 1920, and will draw an increment on his new scale on the

"Promotions"

1st of April 1920, unless he is promoted and his new salary exceeds the rate at which he was entitled to salary and War Bonus under the old scale on the 1st of April. If the aggregate of his salary and War Bonus exceeds the maximum of the new scale of his Grade he will at once draw the maximum of his new scale and an additional temporary non-pensionable allowance equivalent to the difference between the maximum of the new scale and the aggregate of his salary and War Bonus on the 31st of March.

"Other than Clerks"

Non-Europeans, other than clerks, will if considered suitable by the Heads of their Depts be placed on the same scale of which their previous Salary, most nearly corresponded under the same conditions as those laid down above. If Heads of Depts do not consider that arrangement suitable in any cases they may pay the present salary plus War Bonus as a fixed salary (in non-pensionable cases) or as salary and compensation allowance (in pensionable cases) or they may put up their recommendations.

4. From the above it will be seen that "increments" and "promotions with increments" are affected. I did not receive any "increment" nor any "promotion with

increment". But clerks who were in the II Grade were promoted and received Sh.30 increment making their salary Sh.564 and everything pensionable, and latterly some have been promoted to Special Grade on Sh.600.

By this arrangement all the officials who were continuing in Service were benefitted, and this part of the non-pensionable allowance (temporary) the Circular refers solely to them and is essentially meant for them. As there is no provision made for those who were medically boarded between 1st April 1920 and 13th Aug 1920 the date of the Circular, it is obvious that this part of the Circular does not affect them and they are exempted from it. For if it did affect them they would be penalized on retirement after serving devotedly for a number of years.

To put it more plainly let me say that an official's salary with War Bonus is £550. Now to fix the scale of the Grade, taking the maximum at £500, he will be credited with £500 salary and £50 non-pensionable allowance, and if he retires on the date of the Circular his pension will be computed on £500 only, thus depriving him of his pension of £50. Would this, Sir, be fair and equitable after so many years meritorious services? Is there an official in any Govt Department who would gladly forfeit this sum? I am quite sure that nowhere in the British Empire an official's salary has been reduced when computing his pension - on the contrary he has always received the most generous treatment.

5. For ~~over~~ years up to the day I was boarded my salary was Sh.440 and War Bonus Sh.94 = Sh.534. My pension has been computed on Sh.510 the maximum of II Grade and Sh.24 knocked off - as non-pensionable allowance.

*Home Card
Loves do
Let for Service
a file cut
Living hours
M.H.*

*This is not
quite
correct
statement
of the facts
M.H.*

[The following text is mirrored and largely illegible due to heavy noise and bleed-through from the reverse side of the page. It appears to be a continuation of the official's argument.]

...the scale of the Grade, taking the maximum at £500, he will be credited with £500 salary and £50 non-pensionable allowance, and if he retires on the date of the Circular his pension will be computed on £500 only, thus depriving him of his pension of £50. Would this, Sir, be fair and equitable after so many years meritorious services? Is there an official in any Govt Department who would gladly forfeit this sum? I am quite sure that nowhere in the British Empire an official's salary has been reduced when computing his pension - on the contrary he has always received the most generous treatment.

...in the II Grade were ...

...received \$1,300.00 in the II Grade were ...

...arrangement of the officials who were ...

...containing in service was ...

...the date of the ...

...the date of the ...

...the date of the ...

...the date of the ...

...the date of the ...

...the date of the ...

...the date of the ...

...the date of the ...

...the date of the ...

...the date of the ...

...the date of the ...

...the date of the ...

...the date of the ...

His address
should be
forwarded
JMS

On one portion of the War Bonus pension has been computed, and on the other not.

6. As the maximum of the 1st Grade is above Sh.520 it stands to reason that for Sh.534 I should have been placed in the scale of the 1st Grade or Special Grade, which corresponded fairly with my salary so that I may not be deprived of my dues, as it is I was not receiving anything extra.

7. The Hon'ble the Colonial Secretary in his letter dated 10th May 1928, a copy herewith attached gives as reason why the question of my promotion could not arise, "as I was boarded 3 days before the Circular was issued, and that on 10th Nov 1920 he issued another Circular confirming the promotions". I was recommended for pension on 10th Aug 1920 and was notified by the Bombay Agent of the sanction of the Secretary of State fixing my pension on 2nd March 1921. It will be seen that no adjustment of my pension was made till 7 months after the Circular was issued. If the New Circular affected me then it is plain that my right for promotion could not be eliminated by having been boarded, by retirement or even by death, as Sir, you are well aware that posthumous honours and even Victoria Crosses have been awarded by His Majesty's Government long after the demise of the would be recipients.

8. Again on 11th July 1928 in his reply to my request that my case, on account of its peculiar circumstances, be exempted from that part of the Circular which affects officials continuing in Service, the Colonial Secretary states that Superannuation Regulations do not allow it. I submit, Sir, that every man has an

exception, and Circulars which are altered and modified frequently ought to have exceptions.

~~I would~~ therefore humbly request that,

1. I may be granted exemption from that part of the Circular already mentioned, and,
2. That I may be placed in the Special Grade for purposes of pension (by which my salary is not increased as I have retired) and,
3. That my pension may be computed on Sh.534, the actual amount drawn for several years, and that 15% House Allowance be assessed on Sh.534, which would work as follows:

Service 21 years 7 months.

$\frac{21}{60}$ of Sh.534 + House Allowance 15% of Sh.534 = Sh.214'93 p.m.

The difference between Sh.214'93 and Sh.198'45 p.m. the present pension is Sh.16'48 p.m.

It will be seen that this amount is not much, but to me it means a little help as I have to maintain my family and educate six children born in Kenya, and have no other means of income, having been incapacitated by the great strain put upon me by the extra Military work saddled on me for over five years, for which I was paid not a penny. I beg to leave to append lists showing the duties I performed for the Military in addition to those current in the Dist Comr's Office, and to state that the present holder of my post is drawing Sh.600 in the Special Grade without being encumbered with any Military work. Had a special Clerk been detailed to do the military work it would have cost the Govt the very least Sh.300 p.m.

exception, and Circulars which are altered and modified frequently ought to have exceptions.

I would therefore humbly request that,

1. I may be granted exemption from that part of the Circular already mentioned, and,
2. That I may be placed in the Special Grade for purposes of pension (by which my salary is not increased as I have retired) and,
3. That my pension may be computed on Sh.534, the actual amount drawn for several years, and that 15% House Allowance be assessed on Sh.534, which would work as follows:

Service 21 years 7 months.

$\frac{21}{60}$ of Sh.534 + House Allowance 15% of Sh.534 = Sh.214'93 p.m.

The difference between Sh.214'93 and Sh.198'45 p.m. the present pension is Sh.16'48 p.m.

It will be seen that this amount is not much, but to me it means a little help as I have to maintain my family and educate six children born in Kenya, and have no other means of income, having been incapacitated by the great strain put upon me by the extra Military work saddled on me for over five years, for which I was paid not a penny. I beg to leave to append lists showing the duties I performed for the Military in addition to those current in the Dist Com's Office, and to state that the present holder of my post is drawing Sh.600 in the Special Grade without being encumbered with any Military work. **Had** a special Clerk been deputed to do the military work it would have cost the Govt the very least Sh.300 p.m.

--6--

total Sh.18,000 for 5 years.

10. ~~Having~~ waited for so long in the hope that the Colonial Secretary would make some revision, and as I have no other remedy but to bring the matter to your notice, I hope to be excused for intruding on your precious time, and trust you will give a favourable consideration to my humble appeal, for which I will be grateful.

I beg to remain,

~~Yours~~ Sir,

Your most obedient servant,

Victor de Souza

20

Appendix "A".

The District Commissioner's Office was occupied with the following ~~rough~~ work at the outbreak of the War.

1. General Administration of Uasin Gishu District.
2. General Correspondence etc.
3. Licences and Taxes - Issuing licences for guns, game, motor, liquor, Conservancy etc. etc.
4. Collection of Poll Tax - European and Asiatic.
5. Collection of Hut Tax - Native including Elgeyo.
6. Registration of Documents.
7. Land Department - Collection of Farm Rents.
8. Administration of Estates.
9. Judicial Department - 1st Class and 2nd Class Magistrates' Courts, Civil and Criminal, Judicial Returns etc.
10. Prison Department - Clerical work in connection with 90 odd prisoners and 10 Warders, Prison stores etc.
11. P.W.D. - Preparation of Vouchers etc for construction of European School and buildings and contracts with Settlers for road making and payments.
12. Transport of goods to Kacheliba, Marakwet and Elgeyo. Dist. Comrs.
13. Registration of Births, Deaths, and Marriages, and Monthly, Quarterly and Annual Returns.
14. Veterinary Department - Cattle passes, and sale of anti-rinderpest serum and sale accounts.
15. District Stores.
16. Treasury Department. Receipts, Payments, Accounts, Monthly Quarterly and Annual Returns, Monthly Cash-book Abstract, Vouchers, Cash-Book and responsibility of Cash.
17. Native Road Passes.
Etc. Etc. Etc.

Appendix "A".

The District Commissioner's Office was occupied with the following routine work at the outbreak of the War.

1. General Administration of Uasin Gishu District.
2. General Correspondence etc.
3. Licences and Taxes - Issuing licences for guns, game, motor, liquor, Conservancy etc. etc.
4. Collection of Poll Tax - European and Asiatic.
5. Collection of Hut Tax - Native including Elgeyo.
6. Registration of Documents.
7. Land Department - Collection of Farm Rents.
8. Administration of Estates.
9. Judicial Department - 1st Class and 2nd Class Magistrates' Courts, Civil and Criminal, Judicial Returns etc.
10. Prison Department - Clerical work in connection with 90 odd prisoners and 10 Warders, Prison stores etc.
11. P.W.D. - Preparation of Vouchers etc for construction of European School and buildings and contracts with Settlers for road making and payments.
12. Transport of goods to Kacheliba, Marakwet and Elgeyo. Dist Comrs.
13. Registration of Births, Deaths, and Marriages, and Monthly, Quarterly and Annual Returns.
14. Veterinary Department - Cattle passes, and sale of anti-rinderpest serum and sale accounts.
15. District Stores.
16. Treasury Department. Receipts, Payments, Accounts, Monthly Quarterly and Annual Returns, Monthly Cash-book Abstract, Vouchers, Cash-Book and responsibility of Cash.
17. Native Road Passes.
Etc. Etc. Etc.

21

Appendix "B".

The additional duties imposed by the Officer Commanding Troops at Eldoret were as follows.

1. Typing of circulars for each Farm in Uasin Gishu District, for commandeering of men, guns, horses, mules, oxen, Dutch-waggons etc.
2. Lists of men commandeered,
 - do. fit after medical examination,
 - do. guns, description, value, owners' names,
 - do. mules, horses, saddles value, do.
 - do. Dutch waggons, capacity, value, do.
 - do. Yokes, chains, (number) owners' names,
 - do. payments for oxen, wagons etc. mules, saddles, guns.
3. Military correspondence to Headquarters etc.
4. Purchase of maize from Settlers for export to Military.
5. Maize - weighing, packing, transporting to Londiani and Railway Warrants.
6. Purchase of Biltong, weighing, packing, Railway Warrants etc.
7. Food control - Returns, indents etc.
8. Payments to relatives, pension, and administration of Estates of deceased persons at the Front.
9. Lists of distribution of oxen to Settlers whose oxen were commandeered.
10. List of payments by Settlers for oxen received.
11. Import of maize from the Military, weighing, storing and distribution to Settlers and others and account sales.
12. Sale of ammunition from the Military after the War, transport distribution and sale accounts.
13. Defence ~~Force~~ at Uasin Gishu and Elgeyo Raid
14. Red Cross shows in which I had to take active part and which resulted in about £800.

Etc. Etc. Etc.

22

Coff

THE SECRETARIAT,
NAIROBI, KENYA.

No. 68 20239/35.

11th July, 1928.

Sir,

I have the honour to acknowledge the receipt of your letter of the 11th ultimo and to inform you that the Superannuation Regulations under which pensions are computed do not permit of any variation therefrom and I regret in the circumstances that your request for exemption in this respect cannot be acceded to.

I have the honour to be,

Sir,

Your obedient servant,

SH. - - - Wood

for AG. COLONY & SECRETARY

Mr. Doctor de Souza
Bella Vista, Novo-Portugal,
Moira, Bardoza,
G O A.

26 July 1930

16234/30.

Sir,

I am directed by Lord Passfield to acknowledge the receipt of your letter of the 28th of May, enclosing correspondence with the Colonial Secretary of Kenya on the subject of your pension, and to inform you that your letter has been referred to the Governor of the Colony. A further letter will be sent to you on the receipt of his reply.

I am, Sir,

Your obedient Servant,

MR. HECTOR DE SOUZA.

copy 12
Moira, 11th June, 1928.

REF: NO.S.B.20239/33 OF 10TH MAY, 1928.

Sir,

I have the honour to acknowledge receipt of above letter with thanks and to note that there is a regulation which makes a portion of the War Bonus non-pensionable, thus reducing my salary from Sh.534 to Sh.510 for purposes of pension. Whilst, I hear, that in the case of those in the Service, the non-pensionable allowance is converted into pensionable in course of time. It is quite clear therefore, that this rule is applicable more to those continuing in the Service, than to those, who have retired prior to the Circular on whom it inflicts a heavy fine.

2. As this rule causes a substantial loss to me, for no fault of mine, and as you, Sir, are of the opinion that my retirement synchronising with the issue of the circular, also unfortunately precluded me from all its benefits, viz; promotion, increments, etc., may I humbly request you to kindly recommend my claim for an exemption under this rule, for His Excellency the Governor's favourable consideration, for which favour I will feel highly obliged.

I have the honour to be,

Sir,

Your most obedient servant.

The Hon'ble The Colonial Secretary Sd. Hector de Souza.

Kenya Colony,

N A I R O B I.

Copied
(1) 7

THE SECRETARIAT,
NAIROBI, KENYA.

No. CB 20239/33.

10th May, 1928.

Sir,

With reference to your letter of the 14th April, I have the honour to point out that the maximum salary of the grade in which you were serving prior to retirement was Shs: 510/- per mensem and any addition thereto which was due to the absorption of war bonus into salary must, in accordance with the regulations in force, be regarded as non-pensionable allowance. In the circumstances it is regretted that your request for the revision of your pension on the basis of salary at Shs: 534/- per mensem cannot be acceded to.

2. With regard to promotion, I am to state that recommendations from Heads of Departments in regard to promotions of clerks under the 1920 revision were sought in a Circular dated the 25th August 1920 and approval of promotions made on receipt of the recommendations with retrospective effect to the 1st April 1920 was conveyed in a Circular dated the 10th November 1920. It will thus be seen that as you retired from the Service with effect from the 10th August 1920, the question of your promotion could not arise.

I have the honour to be,

Sir,

Your obedient servant,

Sd. Wood

for COLONIAL SECRETARY.

MR. H. DE SOUZA,
BELLA VISTA, RIVU-PORTUGAL,
MOIRA, BARDEZ,
G O A.

Copied

(1)

THE SECRETARIAT,
NAIROBI, KENYA.

No. CB 20239/33.

10th May, 1928.

Sir,

With reference to your letter of the 14th April, I have the honour to point out that the maximum salary of the grade in which you were serving prior to retirement was Shs: 510/- per mensem and any addition thereto which was due to the absorption of war bonus into salary must, in accordance with the regulations in force, be regarded as non-pensionable allowance. In the circumstances it is regretted that your request for the revision of your pension on the basis of salary at Shs: 534/- per mensem cannot be acceded to.

2. With regard to promotion, I am to state that recommendations from Heads of Departments in regard to promotions of clerks under the 1920 revision were sought in a Circular dated the 25th August 1920 and approval of promotions made on receipt of the recommendations with retrospective effect to the 1st April 1920 was conveyed in a Circular dated the 10th November 1920. It will thus be seen that as you retired from the Service with effect from the 10th August 1920, the question of your promotion could not arise.

I have the honour to be,

Sir,

Your obedient servant,

Sd/- Wood

for COLONIAL SECRETARY.

MR. H. DE SOUZA,
BELLA VISTA, RUA O-PORTUGAL,
MOIRA, BARDEZ,
C O A.

THE SECRETARY

NAIROBI, KENYA

NO. 80239/53

TEN MARCH 1958

With reference to the letter of the 14th
 April 1958, the honoree to inform that the minimum
 number of the number in which you were serving prior
 to the termination of your service, was 1000.
 The number which was due to the expiration of your service
 was 1000. This number was continued with the organization
 in order to be retained as a non-regular allowance.
 In the circumstances it is suggested that you should
 for the retention of your position on the basis of salary
 at the 1000, but cannot be exceeded.
 With regard to promotion, it is to state
 that recommendations from heads of departments in the
 past recommendations of date under the 1950 regulation
 were made in a circular dated the 28th August 1950
 and approval of promotions made by receipt of the re-
 commendations with the appropriate dates to the fact
 April 1950 was conveyed in a circular dated the 15th
 November 1950. It will thus be seen that as you re-
 main from the service with effect from 1st Feb 1951
 August 1950, the question of your promotion cannot be
 considered.

I have the honour to be

Yours faithfully,

Sh. S. Wood

TOP GOVERNMENT SECRETARY

NO. 80239/53
 THE SECRETARY
 NAIROBI, KENYA

Moira, 14th April, 1928.

Ref. No. S/E 20239/80 of 20th March 1928.

Re application of Mr. H. de Souza dated 17th December, 1927, requesting error in calculation of his pension be rectified.

Sir,

I have the honour to acknowledge receipt of your above letter with thanks.

2. At the very outset, I may state some of the reasons why the application could not be sent earlier: partly because of my inability to attend to my affairs properly owing to the broken down condition of my mind and body due to the severe strain of work of the District Office, Uasin Gishu, combined with Military work, on account of which I had to retire and observe complete rest under Medical advice, and partly, trusting implicitly in the Government in their dealings with my affairs. But the chief reason is that I was not aware of any new Circular having been issued, synchronising with the date of my retirement, until very recently, without full knowledge of which it was not possible for me to point out the error in the calculation of my pension.

3. Para 2 of your letter states that when Circular No. 48 of 1920 was being applied regarding promotions it was found that I was not in the Service, and therefore it was not possible to consider my claim for promotion, though others I have since heard, who were drawing Shs. 554 together with me at the date in question, received increments of Shs. 30 bringing up their total to Shs. 584.

The Hon. The Colonial Secretary,

NAIROBI.

As the Circular is retrospective, and as I was on privilege leave on 31st March, 1920, there is not the least doubt that I must be considered to have been in the Service for the purposes of that Circular, and, if promotion was not possible, is it to be understood that reduction of the original salary by Shs.24 could in any way be possible?

4. I have stated previously that I had drawn Shs.534 p.m. for several years even up to the very date of retirement, and it is only right that my pension should be based on Sh.534 and not on an artificial salary of Shs.510 a reduction by Shs.24. Regarding you will agree Sir, does not mean that the salary should any how be reduced to fit it into some grade or the other of a new Circular. Taking Shs.534, it is evident that this should suit the Special Grade as the 1st Grade's initial salary Shs.520 is less by Shs.14. It could not be called promotion in my case as it does not carry any increment with it, but is simply a re-naming or re-allocation of a grade to bring in line with the new Circular. But, grade or no grade, nothing is plainer to see than that a reduction of the salary for pension purposes is an error, and knowing of your proverbial fairness and justice I am quite sure that you will not allow the error to stand for a second longer.

5. The result of this would be a trifling matter of a few shillings and would work out as follows:

Service 21 years and 7 months.

$\frac{21}{60}$ of Shs.534 plus House Allowance 15% of 534 sh =

Shs.214.93 p.m.

Difference between Shs.214.93 and Shs.198.45 =

Shs.16.48 p.m. due from 10 August 1920, up to the date the rectified amount of Shs.214.93 p.m. is ordered

to be paid. That's all.

As this trifling amount will in no way create any difficulties, and appreciating very much your past kindness in considering my appeal. I humbly request that my application be sanctioned, for which I will be very grateful.

I have the honour to be,

Sir,

Your most obedient servant.

Sd. Hector de Souza.

29
THE SECRETARIAT,
NAIROBI, KENYA.

No. S. E. 20239/30.

20th March, 1928.

Sir,

I have the honour to acknowledge receipt of your letter of the 17th December, 1927, and to inform you that your representations have been very fully considered but it is regretted that no application for a recalculation of the amount of your pension can be entertained.

2. I am to point out that you were no longer in the Service but actually had proceeded on pension when the question of promotions under the terms of Secretariat Circular No. 48 of 1920 were being considered and it was then not possible to take your claim into account nor is it clear why the matter has only been brought to notice at this late date.

I have the honour to be,

Sir,

Your obedient servant,

Sd. - - - - -

for COLONIAL SECRETARY.

MR. H. DE SOUZA,

BELLA VISTA, NOVO-PORTUGAL,

MOIRA, BARDEZ, GOA.

Copy
10
Bella Vista, Novo-Portugal,

Moira, Bardez, Goa.

17th December, 1927

Sir,

I have the honour to bring to your notice that there appears to be an error in the calculation of my pension and humbly request that it may be rectified.

When I proceeded on privilege leave on 13th October, 1919, I was stationed at Eldoret as 2nd Grade Clerk, Provincial Administration and besides the duties of the District Commissioner's Office I had to carry on the work of the Military as the District Commissioner's Office and Staff were commandeered by the Military in 1914 at the outbreak of the War. Owing to this extra military work for nearly six years, which completely broke me down, on expiry of my leave I had to retire from service on 10th August, 1920.

Just then Secretariat Circular No. 48 of 1920 dated 13th August, 1920, was issued, which affected all clerks in service on 31st March, 1920, and as I was on privilege leave on that date it is obvious that the provisions of the circular affected my service also. I was then the most senior

The Honourable the Colonial Secretary,

Kanya Colony, Nairobi.

2nd Grade Clerk standing at the top of the Staff
 list drawing Sh.440 as salary plus Sh.94 War Bonus
 = Sh.534 per mensem.

My present pension is based on Circular
 No.48 of 1920 but on Sh.510 the maximum of the
 2nd Grade, and 15 per cent house allowance assessed
 on the initial salary of the 2nd Grade viz Sh.380
 = Sh.198.45 pension per mensem.

According to the Circular the initial
 salary of 1st Grade is Sh.520 and as my salary and
 War Bonus was Sh. 534 it is only right and fair
 that I request that I may be placed in the 1st
 Grade or Special Grade.

As far as my services are concerned,
 for
 extending as they are ~~over~~ 22 years, all the High
 Court Judges, the Provincial Commissioners and the
 District Commissioners, under whom I served, have
 reported very favourably on my work, and just
 before proceeding on leave the District Commissioner,
 Eldoret, sent a confidential despatch on the
 manner I carried out the extra additional work
 of the Military during the War, and which was
 acknowledged by the Hon'ble the Colonial Secretary

2nd Grade Clerk standing at the top of the Staff
 list drawing ~~Sh. 440~~ as salary plus Sh.94 War Bonus
 = Sh.534 per mensem.

My present pension is based on Circular
 No.48 of 1920 but on Sh.510 the maximum of the
 2nd Grade, and 15 per cent house allowance assessed
 on the initial salary of the 2nd Grade viz Sh.380
 = Sh.198.45 pension per mensem.

According to the Circular the initial
 salary of 1st grade is Sh.520 and as my salary and
 War Bonus was Sh. 534 it is only right and fair
 that I request that I may be placed in the 1st
 Grade or Special Grade.

As far as my services are concerned,
 for
 extending as they are ~~xxxx~~ 22 years, all the High
 Court Judges, the Provincial Commissioners and the
 District Commissioners, under whom I served, have
 reported very favourably on my work, and just
 before proceeding on leave the District Commissioner,
 Eldoret, sent a confidential despatch in the
 manner I carried out the extra additional work
 of the Military during the War, and which was
 acknowledged by the Hon'ble the Colonial Secretary

32

in his letter No.S 20239/2 dated 10th September, 1919, a copy of which is attached.

I therefore humbly request that I may be placed in the 1st Grade or Special Grade in the new or old Scale, on a salary of Sh.534 per mensem from 1st April, 1920, and that my pension be based on Sh.534, as I was drawing this amount for for several years.

2nd. That house allowance of 15 percent for pensionable purposes be assessed in my case on Sh.534, as has been done in the cases of others, and as I was drawing this amount before the Circular was issued.

For which favour, I will remain, ever grateful.

I have the honour to be,

Sir,

Your most obedient servant,

Sd. Hector de Souza.

Cafq

107

The Secretariat,
Nairobi,
East Africa Protectorate.

10th. September, 1919.

The Ag. Provincial Commissioner,

NAIVASHA.

re: MR. H. DE SOUZA - DISTRICT CLERK,
ELDORET.

Ref. letter dated 9th August from the D.C.
Eldoret forwarded to this Office by
you on 20th ultimo.

Mr. Scholefield's remarks on the work performed
by Mr. H. de Souza have been noted with satisfaction and
the letter has been placed on record in his personal file.

Sd/- W.J. MORSON.
for Chief Secretary.

The District Commissioner,

Eldoret.

Please inform Mr. H. D'Souza.

Sd/- H. Hastings Horne
Ag. Provincial Commissioner.

Naivasha,
13. 9. 19.

Copy forwarded to Mr. H. D'Souza for his information.

Sd. K. Hunter.
A.D.C.
for District Commissioner.

Eldoret,
22. 9. 1919.