

EAST AFR. PROT.

C.O.

4385

REC:
Rfc: 6 FEB 13

4385

, D.B.

1913

February

Last previous Paper.

40/05/12

MRS BAASS
APPLICATION FOR GRATUITY

Trs further letter Major Treeby. Trusts it will carry great weight on further consideration of the case.

~~Int Baass~~

Major Treeby seems to have absolutely missed the points of your last letter 13th Jan. especially the 2nd para (beginning) He supposes that you meant that it was because he did not live for 48 hours more and then theoretically become eligible for exactly 4 months' leave, that his leave was not entitled to his leave pay! This was not the reason at all. In no case is any one but the officer entitled to receive leave pay: if the officer cannot receive it neither can anyone else claim it.

In this case ~~Int~~, as you stated, in your letter the Treasurer approved of a compassionate gratuity of £300, about equal to the sum to which Int Baass would have been entitled, had he lived (not had he lived for 48 more hours)

Recd. 13 Feb. 1913

This £300 included the 3 months leave pay and
cost of 1st class passage home. To this Mrs
Baas had no legal claim.

Indeed we may point out that she was really
very fortunate to receive the £300. She
was, on Mr Baas' mother's evidence, in possession
of £1000 (Insurance policy) + £300 (estate of Mr Baas)

Now the strict rules laid down by Treasury
(since this event in 1902) are for gratuities, as:-

- ① The applicant must be "destitute"
- ② She has no relatives
capable of supporting her
- ③ The officer in question must have lost
his life while on duty.

As regards Major Fruby's second 'sting fact', viz
that Mr Baas' tour really ended in Dec.
and he was staying on till March by request,
this was one of the points urged in Mr
Baas' request for a gratuity, and was
no doubt taken into consideration when
the £300 was granted. This ^{cannot} be used again. (see No 3A from Mr Baas
[in original] amongst the Baas papers)

There is nothing to do but to reiterate the
facts stated in your last letter
adding the fact that Mrs Baas had £1300
at her husband's death, and was really
fortunate to receive the £300 (mention
the Treasury rules since made).
Point out his misunderstanding of your

587

point as to the leave, saying that leave pay lapses with the death of the officer, and can only be given to his relatives as a gratuity (as was clearly done in this case). [You stated the facts as to his estate and the non-inclusion therein of this £300 in your letter, but Major Freby ignores this.]

Mr Baas's brother (see ²²¹~~221B~~_{3A}) seems to have made the same mistake both as to the legal right to the leave pay and to the inclusion of the £300 in the estate etc. ^{F.O} ~~has~~ thoroughly explained the facts to him in ^{their} ~~an~~ reply

^{275B}_{3A} July 4th (this letter is important)

and ? a copy of the brother's letter and the F.O Reply might be sent to Major Freby.

Lastly as to the fact of his prolonging his term by request, point out that this was one of the pleas which won the £300 gratuity for Mr Baas

and again say that the SO'S regrets that the case cannot be reopened.

W. Read

H 72. 1/2

But Butler has asked that this may be fully initiated in the ordinary way and

a draft prepared.

I am still unconvinced, but his own mind
might need modification if we are to avoid
further correspondence.

(1) It is true that the 4 months leave pay
would not have been due to the estate of the
Boass instead of being 2 days before the date
fixed for departure he had died two days
afterwards. But as I pointed out in my
minute of Jan 21 on 40705 the gratuity (except
for £50 for in respect of passage) was based
not on the 4 months' privilege leave but on the
3 months pay in lieu of notice which was a
recognized ~~type~~ substitute for the grant of
leave when the man was not required further.
It may be argued that pay in lieu of notice
would properly have been made on leaving
provision (probably it would not have been
paid then) & we must not labour this 48
hours point too much.

(2). Detention after end of term of service. This is
not referred to in Mrs Boass's application for a
gratuity (10 July 1902 - i.e. after the £300 had
been sanctioned). The letter to which she refers
refers bears no date but states that she
had already received the ~~leave allowance~~ £300
which she describes as "leave allowance". We
cannot certainly say that the point was
specially before the Committee.

(3). Mrs Boass's resources. I do not find any
figures for the deceased's estate in the Protector's
but in the brother's letter of 27.5.02 savings of £200 - £300

sense of the value of deceased's services & of the loss
his family had suffered was fresh in the minds of
the CEs, but it is impossible for him to do so unless
he can advise the Treasury that he can would in
the same circ^s have recommended a large gratuity at
the outset.

I would omit
this H.D.

(H) That he could in a case of the sort be guided not by any
calculation of the payments which would have been
made in circ^s which did not arise but by the three
principles mentioned by the Director. Apply up there.

This should be
amplified

(i) Dotation £1300 (or) [is definitely inadequate as
provision for family but it] is not
dotation.

omit?
H.D.

(ii) No one else. Mr. Beeson said that she had no
relatives who were alive, but there is nothing
about Mr. Beeson's relatives, on whom the
children at all courts could have a
claim.

rather leave
this alone
H.D.

(iii) Mr. Beeson was killed owing to his not
having carried out the rules for running
trains

minutes of
Meeting 27.6.02

On this it would be impossible to recommend
the full pension, which is limited to six months
salary, (£500 in this case) & probably the figure
chosen would not be very different from that

suggested by the F.O.
If these general bases are approved I think I can do off a
I have arranged the important ^{to C.E.} ^{omit with letter.}
papers in chronological order
at the top of the F.O. file.
C.E.

Left for Governor.
H.D.
10/11

Colonial Office,
 Downing Street, S.W.

affd

H

13.2.13

Mr Harcourt.

Mr Douglas Hall, M.P.,
 is taken up with great
 ardour the case of a Mrs
 Beass, who was awarded
 compassionate gratuity ^{£300} in
 respect of the death of
 her husband, an engineer
 on the Uganda Railway.

Colonial Office,

Downing Street, S.W.

affd.

18.2.13

Mr Harcourt.

Mr Douglas Hall, M.P.,
 is taken up with great
 ardour the case of a Mrs
 Beass, who was awarded
 compassionate gratuity ^{of £300} in
 respect of the death of
 her husband, an engineer
 on the Uganda Railway.

in 1902. Mr. Hall thinks she
have ^{more} ~~more~~.
He has unresponded w
we direct hitherto, but it is
impossible to give him any
encouragement, and he
may at any moment turn
his attentions to you.
I think, therefore, that you
like to see this letter
which I am proposing

send to him, if you
see no objection. It has
been prepared by the 590
Department.

JAB

13.2.13.

February, 1913.

Dear Sir,

I have received your letter of the 5th of February, enclosing Major Treby's further letter of the 31st of January on the subject of the gratuity awarded to Mrs. Baass in 1902.

As regards Major Treby's reference to the short interval between Mr. Baass' death and the date on which he would have left Mombasa, if it were merely a question of ordinary leave the point would be immaterial, as salary during leave is only paid as it falls due. That is to say if Mr. Baass' death had occurred just after instead of just before his departure from Mombasa the amount of his salary for the remainder of the leave period would certainly not have been paid into his estate, as Major Treby appears to suppose.

B. HALL ESQ., M.P.

The

The papers show however that as Mr Baass' services would not have been required further he would under the recognized practice of the Uganda Railway Committee have received not the four months' privilege leave but three months' salary in lieu of notice, and it was on this three months basis, together with the cost of the homeward passage, that the amount of the compassionate gratuity was determined. Here again the 48 hours margin is immaterial unless it is to be supposed that the engagement would have been terminated and the money in lieu of notice paid over, before departure from Mombasa, which is very improbable. If he had died before the money was paid it would not have been due to the estate.

Quite apart from the immediate point of the 48 hours, I should like to make it clear that no claim, legal or moral, can be admitted in respect of money which would have been paid to a deceased officer if he had lived. Salary up to the date of death, and any other sums then owing to the deceased, are paid into the estate, but not sums in respect of any future period.

As

The papers show however that as Mr Baass' services would not have been required further he would under the recognized practice of the Uganda Railway Committee have received not the four months' privilege leave but three months' salary in lieu of notice, and it was on this three months basis, together with the cost of the homeward passage, that the amount of the compassionate gratuity was determined. Here again the 48 hours margin is immaterial unless it is to be supposed that the engagement would have been terminated and the money in lieu of notice paid over, before departure from Mombasa, which is very improbable. If he had died before the money was paid it would not have been due to the estate.

Quite apart from the immediate point of the 48 hours, I should like to make it clear that no claim, legal or moral, can be admitted in respect of money which would have been paid to a deceased officer if he had lived. Salary up to the date of death, and any other sums then owing to the deceased, are paid into the estate, but not sums in respect of any future period.

As

As regards Mr Baass' detention after he had qualified for leave in December 1901, I am not able to say definitely that this point was before the Committee when they decided to recommend a compassionate gratuity. They appear to have considered the matter very thoroughly and probably this question was not overlooked; but it is so common an occurrence in all tropical services for men to be detained beyond the ordinary term of service ^{that} and this point could not have been, and cannot now be, recognised as an essential factor in the matter.

It is, as I said in my letter of the 13th of January, perfectly clear that the Committee considered that the payment which they recommended was to be regarded as an act of compassion and not in any way as satisfying a moral claim. The amount of three months' pay in lieu of notice was taken merely as a convenient basis and the fact that the cost of a passage, which would not in any circumstances have been paid to Mr Baass, was added to it shows that there was no idea in their minds that they were
simply

As regards Mr Baass' detention after he had qualified for leave in December 1901, I am not able to say definitely that this point was before the Committee when they decided to recommend a compassionate gratuity. They appear to have considered the matter very thoroughly and probably this question was not overlooked; but it is so common an occurrence in all tropical services for men to be detained beyond the ordinary term of service ^{KN} and the point could not have been, and cannot now be, recognised as an essential factor in the matter.

It is, as I said in my letter of the 13th of January, perfectly clear that the Committee considered that the payment which they recommended was to be regarded as an act of compassion and not in any way as satisfying a moral claim. The amount of three months' pay in lieu of notice was taken merely as a convenient basis and the fact that the cost of a passage, which would not in any circumstances have been paid to Mr Baass, was added to it shows that there was no idea in their minds that they were simply

simply issuing sums equitably due to the deceased officer. They considered Mrs Beass' straitened circumstances, but for which (and I must emphasise this point) no payment of any kind would have been contemplated. They considered, too, Mr. Beass' excellent services and I think this factor had a good deal to do with the magnitude of the sum awarded.

So far as it is possible to judge I feel more that if a similar case arose now the gratuity proposed would not be greater than £500. Three conditions would be required:-

- (a) The dependents must have been left in a state of destitution;
- (b) There must be no relative able to afford help;
- (c) The death must have occurred in the course of duty.

Subject to these conditions a gratuity might be awarded but would not exceed the deceased officer's salary for six months (in Mr Beass' case £500)

Considering these points in order,

- (a) There was an insurance policy for £1000, and there also appear to have been savings

simply issuing sums equitably due to the deceased officer. They considered Mrs Baass' straitened circumstances, but for which (and I must emphasise this point) no payment of any kind would have been contemplated. They considered, too, Mr. Baass' excellent services and I think this factor had a good deal to do with the magnitude of the sum awarded.

So far as it is possible to judge I feel more that if a similar case came now the gratuity proposed would not be greater than £500. Three conditions would be required:-

- (a) The dependents must have been left in a state of destitution;
- (b) There must be no relative able to afford help;
- (c) The death must have occurred in the course of duty.

Subject to these conditions a gratuity might be awarded but would not exceed the deceased officer's salary for six months (in Mr Baass' case £500)

Considering these points in order,

- (a) There was an insurance policy for £1000, and there also appear to have been savings

of £200 or £300. I do not know what the value of the estate administered in the Protectorate amounted to, but it seems to have included about £60 as salary due up to date of death. We may take the total as about £1,300. This is certainly not destitution.

(b) In the circumstances this does not arise and in any case we have no definite information on the point.

(c) It is expressly stated in the papers that "Mr. Baass was killed owing to his not having carried out the rules for running trolleys".

The conditions would, therefore, not be satisfied and if any compassionate gratuity had been granted it would have been because of the value of Mr. Baass' services. It would certainly not have been granted because if Mr. Baass had lived he would have been entitled to certain monies and it would equally certainly not have been the maximum of £500.

It is not pleasant to say that the case cannot be reopened. It would be much easier to leave the responsibility to the Treasury, but as Mr. Harcourt could not recommend them to sanction any additional grant

it

596

it is hardly open for him to take that course.

James H. Kelly

(Sd) 7 G. A. Baker.

E. A. Dept.

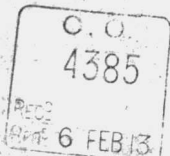


Please register, or
 send in the papers
 already registered. We
 shall have to send a
 very full reply, explaining
 the nature of leave, & also
 taking the point that, if the
 sum paid could have been
 considered due to the estate,
 Mrs. Baars would not have
 been destitute & would therefore
 not have been eligible for a
 compassionate gratuity.

JAB 6/2/13

598

February 5th 1913.



Dear Sir,

With further reference to your letter of the 13th inst regarding the case of Mrs Baass, the widow of an Engineer employed in the construction of the Uganda Railway in 1902, I beg to enclose you a letter I have received from Major Treeby which explains itself. The points he raises seem to be most important and I trust will carry great weight with you in further considering this case.

I am, Sir,

Yours faithfully,

Douglas B. Hall

Author
F.G.A. Baker Esq,
Colonial Office,
Downing Street W.

Hotel Belvedere 539

St. Moritz.

Switzerland

Jan^y 31st 1913

to Late M^r. G. R. Baass.
Superintending Engineer
to the Lugano Railway.



Dear Sir

In further reference to Mr. Butler's letter which you kindly forwarded to me - I feel encouraged to believe that what he says herein greatly strengthens the case for which I earnestly plead!

When it is remembered that Mr. Baass' death occurred on the 22nd March and his leave was due on the 25th - it would appear almost incredible under the sad circumstances of his death that the Authorities could have taken advantage of the narrow margin of 48 hours in order to pronounce the four months' leave as forfeited!

Of course that it was legally so, could not be otherwise than admitted. But I would very respectfully submit that the sum which was given to the widow was in reality - if the point of the marginal grace of 48 hours be conceded - (as I believe it very reasonably should have been) - not a Compassionate Gratitude at all, but was the actual sum which Mr. Baass's wife was virtually entitled to.

hope that due consideration shall be given
to the fact that Mr. Baass' engagement was
completed in Dec^r 1901 - and he should have
returned to England at this time. He was
however in deference to the expressed wish of the
Committee that he stayed on, in order to accelerate
the work of completion in anticipation of the
Opening Ceremony. But for this Mr. Baass would
naturally speaking be alive today.

Taking then these two strong facts into con-
sideration, I would earnestly pray that the case
be reviewed in the above light, and that
Mr. Baass, who has as yet only received what
was virtually due to him, should now be given
a Compassionate Institute, such as would be
commensurate with the splendid services rendered
by Mr. Baass & the sad circumstances in which
his poor widow has been left.

I am - Dear Sir,

Yours faithfully,

H. P. Treby, Major,

J. P. for Surrey

M. I should add that at the time of writing
I had not seen a very recently the...

60
11 FEB
13

H
4385
E.A.P.

639

Receipt for Mr. Baass's sig

13th Feb. 1913

DRAFT.

Douglas B. Hall Esq. M.P.

MINUTE.

Mr. Atkinson 20/2

Mr. Reed 10

X Sir G. Fiddes 12/2

Sir H. Just.

Sir J. Anderson.

Lord Emmott.

Mr. Harcourt.

for com

Dear Sir,

I have received your letter of the 5th of February, enclosing Major Treby's further letter of the 31st of January on the subject of the gratuity awarded to Mr. J. R. Baass in 1902.

As regards Major Treby's reference to the short interval between Mr. Baass's death and the date on which he could have left Bombay, if it were merely a question of ordinary leave ~~extended~~ the point would be immaterial, as salary during leave is only paid as it falls due. That is to say if Mr. Baass's death had ^{occurred just before} occurred just after ^{his} ~~his~~

departure from Montosa
The amount of his salary
for the remainder of the
leave period would certainly
not have been paid into
his estate, as Major Trevelyan
appears to suppose.

The papers also however
show that as the Baars' services
would not have been
required further he would
not be recognized as a member
of the Uganda Railway
Committee have received
all the four months
provisional leave and three
months' salary in lieu of
notice, and it was on this
three months leave, together
with the cost of the homeward
passage, that the amount
of the compensation gratuity
was determined. Here again
the 48 hours margin is
immaterial unless it is
to be supposed that the
engagement could have been
terminated, and the
money in lieu of notice
paid on his departure.

(by permission minute)
9.27.5.02

have been due to the estate

from Montosa, which is
very improbable. If he had died
before the money was paid it would
have been paid from the private
account of the 48 hours, I should
like to make it clear that no
claim, legal or moral, can be
admitted in respect of money
which would have been paid
to a deceased officer if he had
lived. Salary up to the date
of death, and any other ^{sums} ~~payments~~
then owing to the deceased, are
paid into the credit estate, but
certainly not sums due in
respect of any future period.

As regards the Baars' detention
after he had qualified for
leave in Decr 1901, I am not
able to say definitely that the
point was before the Committee
when they decided to
recommend a compassionate
gratuity. They appear to have
considered the matter very
thoroughly & probably this ^{question} ~~point~~
was not overlooked, but
it is so common an occurrence
in all tropical services for
men to be detained beyond the
ordinary term of service that

the board could not have been,
and cannot now be, recognized
as an ^{essential} ~~material~~ factor in the matter.
As I said in my letter of the 13th of January, perfectly clear
It is, ~~absolutely certain~~ ^{undoubtedly certain} that

the Committee considered ~~that~~
the payment which they recommended
was to be regarded as an act of
compassion and not in any way
as satisfying a moral claim.

The amount of three months' pay is
clearly ^{purely} ~~clearly~~ ^{of justice} ~~of justice~~ ^{and the fact}
convenient here, and the fact
that the cost of a passage,
which would not in any circumstances
have been paid to Mr. Boass, was
added to it shows that there
was no idea in their minds that
they were simply ^{or} ~~equitably~~ ^{equitably}
due to the deceased officer. They
considered ^{from} Mr. Boass' excellent
services under the strained
circumstances, ^{but (for which}
~~of his services, and~~ ^{circumstances, of his services, and}
^(and I should want to emphasize this point)
the fact that but for those
circumstances no payment
of any kind would have
been contemplated. They considered,
too, Mr. Boass' excellent services,
and I think the factor had a good
deal to do with the magnitude of

(Minutes of meeting
of 29.5.01)

DRAFT.

? omit
H. J. G.

MINUTE.

- Mr.
- Mr.
- Sir G. Eddes.
- Sir H. Just.
- Sir J. Anderson.
- Lord Emmott.
- Mr. Harcourt.

the sum awarded. 0.7

It would in any case be
difficult for the Harcourt at
this late date to propose
any change in the proposals
made by the Committee since
their appreciation of
the Board's services, and their
sense of the loss which his
family had suffered would
despoil them to the almost
absolute which they thought
to be possible. It would
be impossible for him to
so recommend ^{a further grant} ~~to the Treasury~~,
whose approval in 1901
would have to be obtained
unless he was prepared to
say that if he had then
been responsible for the
Railway he would have
proposed a larger sum.

So far as it is possible
to judge I feel sure that
if a similar case ~~had~~
arose now the gratuity
proposed

proposed would not
be greater than £300.
These conditions would be
required, and if they were
not satisfied

- (a) The dependents must have
been left in a state of
distress.
- (b) There must be no relative
able to afford help.
- (c) The death must have occurred
in the course of duty.

Subject to these conditions a
gratuity might be awarded
but would not exceed the
deceased officer's salary for
six months (in Mr. Beards' case
£500).

Considering these points in order,

- (a) There was an insurance
policy for £1000, now paid and
there also appear to have
been savings of £200 or £300.

I do not know what the
value of the estate administered
in the Protectorate amounted
to, but it seems to have
included about £60 as
salary due up to date of
death. We may take the total
as about £1300. This is
certainly not destitution.

(Minutes of
Meeting of 29.5.02)

(b) In the circumstances this
does not arise and in any
case we have no definite
information on the point. 603

(c) It is expressly stated in
the papers that Mr. Beards
was killed owing to his not
having carried out the rules
for running brooms.

The conditions would therefore
not be satisfied and if any
gratuity or handsome gratuity
had been granted, without
reason it would have been
because of the value of Mr.
Beards' services. A reward
certainly would have been granted
because of Mr. Beards' death
had he been a soldier
settled to certain services
and it would equally certainly
not have been the maximum
of £500.

I am sorry to have to
say that the case cannot be
reopened. It would be
such a pity to leave
the responsibility to the

proposed would not
be greater than £500.
These conditions would be
required, and if they were
not satisfied

- (a) The dependents must have
been left in a state of
distress.
- (b) There must be no relative
able to afford help.
- (c) The death must have occurred
in the course of duty.

Subject to these conditions a
gratuity might be awarded
but would not exceed the
deceased officer's salary for
six months (for Mr. Beards' case
£500).

Considering these points in order,

- (a) There was an insurance
policy for £1000, savings for and
there also appear to have
been savings of £200 or £300.

I do not know what the
value of the estate administered
in the Protectorate amounted
to, but it seems to have
withheld about £60 as
salary due up to date of
death. We may take the total
as about £1300. This is
certainly all distribution.

(Memento of
Beards' salary)

(b) In the circumstances this
does not arise and in any
case we have no definite
information on the point. 603

(c) It is expressly stated in
the papers that "Mr. Beards
was killed owing to his not
having carried out the rules
for running troopers."

The conditions were, therefore,
not satisfied and if any
gratuity or benefit, probably
had been granted, it would have been
because of the value of Mr.
Beards' services. If some
amount had been granted
because of Mr. Beards' death
it would have been
entitled to certain money
and it would equally certainly
not have been the maximum
of £500.

I am sorry to have to
say that the case cannot be
reopened. It would be
such a loss to have
the responsibility of the

(Mr. G. Beards' letters
of 27.5.02 + 17.02)