

1937

38026

C0533/477

38026

KENYA

NON EUROPEAN OFFICERS PENSIONABLE POSTS AND
PERSONAL PENSIONABLE STATUS.

Previous

1935.

Subsequent

1940

27 19/4

R 309 29/5

Mr Pennington 24/6

Mr Parkin 16/6

Mr Flood 16

Mr C. Bottomley 12/6

Mr Duffin 23/6

Mr Woodcock 28/6

R 299 30/6

R 297

Pensionable Posts.

Mrs. petition by Kenya Asian Civil Service Assn.
regarding grant of pensionable status to the Indian
Education Officers appointed between 1.11.28 and 30.4.32

The petitioners refer to Kenya Government
Notice No. 331 of 1974 which specifies that non-
European Education Officers appointed on or ^{after} before
the 11th of November, 1928, will not be granted
pensionable status. ^{They point out that} whereas other non-European
Civil Servants who were appointed after that date
have been accorded such privileges, ^{and} The petitioners
allege discrimination against the teachers, ^{They} and ask
that the Indian Teachers named in the list
accompanying the petition be granted pensionable
status.

The Governor's despatch makes it clear that

(1) Asian staff other than clerks and the
Asian staff of the Education Department, ceased to be
engaged on probationary terms which promised
pensionable status after the 1st of January, 1927
(12th of November, 1928 in the case of the teaching
staff).

(2) Asian clerks continued to be engaged on
probationary terms which promised pensionable status
until the 9th of July, 1931.

There is no apparent reason why Asian
clerks continued to receive the more favourable
treatment up to the 9th of July, 1931, save that
no scheme for the revision of the conditions of
Asian clerks was under consideration when the review
of the conditions of non-clerical officers was
submitted in 1927.

It appears therefore, that the teachers
are correct in their statement, but they really
have

See
23004/32
below.

17036/27
EA

petition by Kenya Asian Civil Service regarding grant of pensionable status to Education Officers appointed between 1927 and 1931.

The petitioners refer to Government Notice No. 331 of 1974 which provides that non-European Education Officers appointed on or ^{after} before the 11th of November, 1928, will not be granted pensionable status. ^{They point out that} ~~whereas~~ other non-European Civil Servants who were appointed after that date have been accorded such privileges, ^{and} ~~the petitioners~~ allege discrimination against the teachers, ^{they} ~~and~~ ask that the Indian teachers named in the list accompanying the petition be granted pensionable status.

See
23/04/74
below.

The Governor's despatch makes it clear that

(1) Asian staff ~~other than clerks, and the Asian staff of the Education Department, ceased to be~~ engaged on probationary terms which promised pensionable status after the 1st of January, 1927, (12th of November, 1928, in the case of the teaching staff).

(2) Asian clerks continued to be engaged on probationary terms which promised pensionable status until the 9th of July, 1931.

There is no apparent reason why Asian clerks continued to receive the more favourable treatment up to the 9th of July, 1931, save that no scheme for the revision of the conditions of Asian clerks was under consideration when the review of the conditions of non-clerical officers was submitted in 1927.

17035/27
EA

It appears; therefore, that the teachers are correct in their statement, but they really

have

have no case since they (i.e. all those named in the list accompanying the petition) accepted appointment on terms which did not carry any right to pension privileges.

They were, however, eligible for a gratuity on retirement provided that they had been confirmed in their appointment and admitted to the permanent staff. On the introduction of the Kenya Asian Local Civil Service in 1927 the teachers in question like all other non-civil service employees who were serving on terms of appointment and on the 1st of January, 1933, had not completed eight years' continuous service, were given the option of transferring to the Kenya Asian Local Civil Service. This Service provides for permanent employment with Provident Fund benefits (see page 2, Category "C" of Kenya Secretariat Circular No. 15 of 1935).

I agree that if the concession requested by the teachers were granted it would be inequitable to withhold it from those non-civil service employees whose eligibility for pensionable status was discontinued in 1927.

In all the circumstances I request the Governor to inform the petitioners that the Secretary of State is not prepared to intervene.

C. G. G. 24/5-

J. R. Fairbridge 24/5/37

I agree that they have no case; but this petition shows the

C. G. G. 24/5-

inexpediency of dealing provisionally with revision of the conditions of service of comparable classes

? as proposed

J. R. Fairbridge 16/6

Yes the Clerks are better off than may be some teachers would be on the Budget's notice and said clearly that Teachers appointed after 1928 would not be pensionable but that was only saying about all the other non-civil service employees that they are pensionable. But that was not

the position as set out exactly in the report and I don't think it is necessary to mention it. There is always a question of its pension will and that is made in various posts non-pensionable for public holders as in fact as 1926. Most of those engaged after 1 Jan 1927 were non-pensionable but Teachers went on being engaged on pensionable terms till 11 Nov 1928 and Clerks for some unknown reason till July 1931. If it hadn't been for the anomaly some of the Clerks the Teachers would have no case at all, & if the Teachers are admitted then all the rest between 11.27 & July 1931 will have an equal case - which is absurd

? as proposed

J. R. Fairbridge

Lord Dufferin.

Kenya were very slow in making up their minds what they wanted to do as regards tenure of office by Asiatic employees and the consequence was that they took ad hoc action which has led us into the present anomalies. As Mr. Flood points out,

we have three dates after which it was ruled that future appointees of various classes should not be eligible for pension (the teachers, with whom we are now concerned, are subject to the middle date. All of these Asiatic employees were definitely on temporary terms of service when the decisions were taken, and it was only their ultimate possibilities of permanent employment that were concerned.

A additional point is that it would be necessary for various things were ^{first} contained in the original circulars and heads of departments to issue separate or other notices for the purpose.

The fact remains that these matters were not a thing which they were ever promised. ~~that~~ ^{but} they have been very slow in working up their alleged grievance, and that it is impossible to meet their wishes by applying to them the latest date of the three in question without bringing up the cases of all the general Asiatic employees who are now affected by the earliest date.

In the circumstances I think that we can only reply to the petition as Mr. Grossmith proposes.

W.C.S.

18.6.1937

Agrees

*DoA. 22/6/37
at once*

2 In Kenya - Govt (2) - (11/10/37)

30/10/37

ML

360 26737

C. O.

Mr. *Summit* 23/6
Mr. *Parkin* 23/6 f.
Mr.

BT

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State

C.D.
F. 24 JUN
24

30 June 1937

DRAFT.

Kenya
Conf (2)
for

in
I have the pleasure to acknowledge the receipt of Sir A Wade's Confidential Circular No 62 of the 27th of March regarding a petition addressed to me by the Kenya Indian Civil Service Association in which the petitioners ask that Indian Education Officers appointed to the Education Department of Kenya between the 11th of November, 1928 and the 30th of April, 1932, may be granted reasonable status.

FURTHER ACTION.

2. I have carefully considered

Pensionable Posts.

1. Acting Governor. ... 17.3.37.
Trs. petition by Kenya Asian Civil Service Assn.
regarding grant of pensionable status to the Indian
Education Officers apntd. between 11.11.28 and 30.4.32

X See
23084/34
below.

The petitioners refer to Kenya Government
Notice No.331 of 1934 which specifies that non-
European Education Officers appointed on or ~~before~~ ^{after}
the 11th of November, 1928, will not be granted
pensionable status. ~~whereas~~ ^{They point out that} other non-European
Civil Servants who were appointed after that date
have been accorded such privileges, ^{and} ~~The petitioners~~
allege discrimination against the teachers, ^{they} ~~and~~ ask
that the Indian teachers named in the list
accompanying the petition be granted pensionable
status.

The Governor's despatch makes it clear that

(1) Asian staff other than clerks, and the
Asian staff of the Education Department, ceased to be
engaged on probationary terms which promised
pensionable status after the 1st of January, 1927,
(12th of November, 1928, in the case of the teaching
staff).

(2) Asian clerks continued to be engaged on
probationary terms which promised pensionable status
until the 9th of July, 1931.

There is no apparent reason why Asian
clerks continued to receive the more favourable
treatment up to the 9th of July, 1931, save that
no scheme for the revision of the conditions of
Asian clerks was under consideration when the review
of the conditions of non-clerical officers was
submitted in 1927.

17035/37
EA

It appears; therefore, that the teachers
are correct in their statement, but they really
have

have no case since they (i.e. all those named in the list accompanying the petition) accepted appointment on terms which did not carry any right to pension privileges.

They were, however, eligible for a gratuity on retirement, provided that they had been confirmed in their appointment and admitted to the permanent staff. On the introduction of the Kenya Asian Local Civil Service in 1935, the teachers in question like all other non-pensionable Asian officers, who were serving on letters of appointment and on the 1st of January, 1933, had not completed eight years' continuous service, were given the option of transferring to the Kenya Asian Local Civil Service. This Service provides for permanent employment with Provident Fund benefits (see page 2, Category "C" of Kenya Secretariat circular No. 10 of 1935).

I agree that if the concession requested by the teachers were granted it would be inequitable to withhold it from those non-clerical officers whose eligibility for pensionable status was discontinued in 1927.

In all the circumstances I request the Governor to inform the petitioners that the Secretary of State is not prepared to intervene.

C.H. Spence
24/5

J.R. Fairclough
24/5/37

I agree that they have no case;
but this petition shows the

inexpediency of dealing with
reversis of the conditions of service of
comparable classes.

as proposed.

J.J. Parnham
16/6

Yes; the Clerks were lucky but there may be some
trouble hereafter over the Gazette notice. That said clearly
that Teachers appointed after 11.11.1928 would not be pensionable,
but did not say anything about all the others. They may argue
later that they are pensionable. But that can wait.

The position is set out clearly in the despatch and
I don't think it is necessary to minute further. Kenya is
always afraid of its pension bill and decided to make its
various posts non-pensionable for future entries as far
back as 1926. Most of those engaged after 1 Jan 1927 were then
non-pensionable but Teachers went on being engaged on
pensionable terms till 11 Nov 1928 and Clerks, for some
unknown reason till early 1931. If it hadn't been for the anomaly
over the Clerks the Teachers would have no case at all, & if the
Teachers are admitted then all the rest between 1.1.27 & July 1928
will have an equal case - which is absurd.

? as proposed

D.S. Flood
16.6.

Lord Duffie in.

Kenya were very slow in making up their
minds what they wanted to do as regards tenure of
office by Asiatic employees and the consequence was
that they took ad hoc action which led us into
the present anomalies. As Mr. Flood points out,

we have three dates after which it was ruled that future appointees of various classes should not be eligible for pension (the teachers, with whom we are now concerned, are subject to the middle date). All of these Asiatic employees were definitely on temporary terms of service when the decisions were taken, and it was only their ultimate possibilities of pensionable employment that were concerned.

An additional point is that it would seem that the various rulings were ^{first} contained in secretariat circulars to heads of departments instead of in Gazette or other notices for general information.

But the fact remains that these teachers, ^{lost} notwithstanding which they were ever promised, ~~but~~ they have been very slow in working up their alleged grievance, and that it is impossible to meet their wishes by applying to them the latest date of the three in question without bringing up the cases of all the general Asiatic employees who are now affected by the earliest date.

In the circumstances I think that we can only reply to the petition as Mr. Grossmith proposes.

W.C.S.
18.6.1937

Agreed:

DoA. 22/6/37
at once

2 2 Kauri - bonf(2) - (1 Anad) — 30/6/37

W.C.S.

C. O.

Mr. *Spencer* 23/6

Mr. *Parkinson* 23/6 f.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Parlt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

C.D.
R 24 JUN
D 28

30 June, 1932

DRAFT.

Kenya
Conf. (2)
for

Sir,

I have the pleasure to acknowledge the receipt of Sir A. Wade's Confidential despatch No 62 of the 27th of March regarding a petition addressed to me by the Kenya African Civil Service Association in which the petitioners ask that Indian Education Officers appointed to the Education Department of Kenya between the 11th of November, 1928 and the 30th of April, 1932, may be granted reasonable claims.

I have carefully considered

FURTHER ACTION.

Commends the petition and the
Proas in the report, and
I request that you will
Cause the petitioners to be
informed that I am not
prepared to intervene.

Shave etc.

(Signed) W. ORMSBY GORE.

Considered the petition and the
Objections in the reports, and
I request that you will
Cause the petitioners to be
informed that I am not
prepared to intervene.

I have etc.

(Signed) W. ORMSBY GORE.

KENYA.

No. 62

CONFIDENTIAL.



RECEIVED
26 APR 1937
C. O. REGY

GOVERNMENT HOUSE,
NAIROBI,
KENYA.

27 March, 1937.

Sir,

Petition.
13.1.37 & Encl.

I have the honour to transmit a petition of the 13th January, 1937, addressed to you by the Kenya Asian Civil Service Association, regarding the grant of pensionable status to the Indian Education Officers appointed between 11th November, 1928, and 30th April, 1932.

1 and 2 in
15454/29

2. In this connection I would invite reference to Sir Jacob Balfour's Confidential despatch No. 62 of the 14th May, 1929, and Lord Passfield's Confidential despatch of the 3rd July, 1929, approving the introduction of terms of service for the Indian Teaching Staff in the Education Department. The Teaching Staff in the Education Department were definitely informed in a circular issued by the Director of Education that on completion of the usual probationary period teachers appointed to the establishment before the 12th November, 1928, would be eligible for admission to the pensionable staff if they were recommended and confirmed in their appointments. Teachers appointed or graded after that date, on completion of the usual probationary service and on confirmation in their appointments, might become eligible on retirement for the usual gratuity only.

In this connection I would also refer to paragraph 3 of Mr. (Sir Henry) Moore's despatch

1/3346/33

THE RIGHT HONOURABLE
W. ORMSBY-GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON S.W.

No. 593

KENYA.

No. 62

CONFIDENTIAL.



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED
26 APR 1937
C. O. REGY

27 March, 1937.

156026/27

Sir,

Petition.
13.1.37 & Encl.

I have the honour to transmit a petition of the 13th January, 1937, addressed to you by the Kenya Asian Civil Service Association, regarding the grant of pensionable status to the Indian Education Officers appointed between 11th November, 1928, and 30th April, 1932.

1 and 2 enc
15457/29

2. In this connection I would invite reference to Sir Jacob Barth's Confidential despatch No. 62 of the 14th May, 1929, and Lord Passfield's Confidential despatch of the 3rd July, 1929, approving the introduction of terms of service for the Indian Teaching Staff in the Education Department. The Teaching Staff in the Education Department were definitely informed in a circular issued by the Director of Education that on completion of the usual probationary period teachers appointed to the establishment before the 12th November, 1928, would be eligible for admission to the pensionable staff if they were recommended and confirmed in their appointments. Teachers appointed or graded after that date, on completion of the usual probationary service and on confirmation in their appointments, might become eligible on retirement for the usual gratuity only.

In this connection I would also refer to paragraph 3 of Mr. (now Sir Henry) Moore's despatch

1/3346/33

THE RIGHT HONOURABLE
W. ORMSBY-GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON S.W.

No. 593

2/3206/33

No. 593 of the 19th October, 1933, and to paragraph 4 of Lord Plymouth's despatch No. 20 of the 10th January, 1934.

Circular Letter.
9th July, 1931.

2/18114/32

3. With regard to the statement in paragraph 2 of the petition, which refers to "other civil servants" appointed between the 11th November, 1928, and the 30th April, 1932, I would explain that after the 9th July, 1931, when a Circular letter on the subject was issued, a copy of which is enclosed, no Asian staff was engaged other than on a purely temporary basis. On the 30th April, 1932, Secretariat Circular No. 23 issued from which it will be seen that instructions were given to the effect that such staff should be informed that their posts would not henceforward carry pension rights. It is, however, the case that Asian Clerks engaged between the 11th November, 1928, and the 9th July, 1931, were engaged on probationary terms which promised pensionable status.

H X 17035/24

2/X 17035/24

4. It will be observed from paragraph 8 of Sir Edward Grigg's Confidential despatch No. 370 of the 14th December, 1926, on the subject of the terms and conditions of service of Asian staff other than Clerks, approval to which was conveyed in Mr. Amery's Confidential despatch of the 17th February, 1927, that in accordance with the procedure approved for Uganda, it was proposed to treat such posts as non-pensionable except in the case of those individuals who had been accorded pensionable status. As you are aware these terms and conditions of service were brought into force with effect from the 1st January, 1927, vide Secretariat Circular No. 50 of 1927, and

5/X 17035/24

those pensionable posts affected by the Circular in question ceased to be pensionable from that date. In the case of the Teaching Staff of the Education Department, however, it was not until the 12th November, 1928, that the Director of Education was notified that those teachers who had been appointed to the permanent graded establishment after that date would not be eligible for pensionable status.

5. It will thus be seen that whereas Asian Clerks continued to be engaged on probationary terms which promised pensionable status until the 9th July, 1931, other Asian staff ceased to be engaged on such favourable terms after the 1st January, 1927, with the exception of the Asian teaching staff of the Education Department from whom the concession was withdrawn on the 12th November, 1928.

6. In the Letters of Appointment issued to those officers enumerated in the enclosure to the petition who were appointed to the graded establishment, the following condition was specifically included:-

"It must be clearly understood that this Letter of Appointment does not carry with it any right to pension privileges."

while in the Letters of Appointment issued to those officers who were appointed on a purely temporary basis and not to the graded establishment the following appeared:-

"Your appointment does not entitle you to privileges of leave or passage or other concessions enjoyed by members of the Local Civil Service."

The only officer to whom this condition was

not originally applied was Mrs. K. D. Shastri who has now left the Service (see the Acting Colonial Secretary's Confidential Note No. S/Est. 19/1/980/76 of the 8th February, 1937). This lady, who was unmarried at the time of her appointment, was issued on appointment to the graded establishment, with a Letter of Appointment which promised pensionable status after completion of the requisite period of probation but which rendered her subject to all Regulations then or at any future time in force. She was married before she was confirmed and by her marriage thus forfeited her eligibility for admission to the pensionable establishment in accordance with standing Regulations.

7. In the circumstances while it is true that the eligibility for pensionable status in the case of the Asian Clerical Staff was not discontinued until the 9th July, 1931, I see no reason for the grant of the concession now applied for by the officers mentioned in the petition. To grant the concession would no doubt result in the submission of claims, which would be difficult to refuse, for similar treatment from a large number of other non-clerical officers throughout the Service whose eligibility for pensionable status had been discontinued at an earlier date. I am therefore unable to recommend the petition for your favourable consideration.

I have the honour to be,
Sir,
Your most obedient, humble servant,

A. N. D.
ACTING GOVERNOR.

Kenya Asian Civil Service Association.

P. O. Box No. 441,

Nairobi 15th January, 1957.

KENYA COLONY.

The Right Honourable

W. Ormsby Gore, P.C., M.P.,
Secretary of State for the Colonies,
Downing Street,
London, S.W.1.

Thro' The Hon. The Colonial Secretary,
Nairobi,

and

The Hon. The Director of Education,

Nairobi.

Sir,

We are directed by the Council of the Kenya Asian Civil Service Association to make the following representation to you with regard to certain grievances of the Indian Education Officers appointed between 11th November, 1928 and 30th April, 1932 and earnestly pray that you will be kind enough to consider their case sympathetically and redress their grievances.

2. Government Notice No. 351 of 1934 published in the Official Gazette of the 1st May 1934 specifies that teachers appointed between the above mentioned dates will not be granted pensionable status whereas other civil servants appointed between these dates have been accorded such privilege. Lists of staff affected are attached to illustrate the above fact.

3. This discriminating treatment is on the face of it unfair to the teachers affected who perform duties
entailing

entailing responsibilities equal to if not greater than those of other civil servants and our Association are unaware of any reasons why the Education officers should not be granted similar treatment in respect of pensionable status as has been accorded to clerks and other staff.

4. Teaching is a profession which requires higher education, special training, adaptability and aptitude. To mould the minds and character of the future citizens is a most important work and the staff engaged on such should be free from worries of their future so that they can concentrate all their energies on the work in hand. The discrimination that has been made between them and the staff of other Departments is having a most disturbing effect on the teachers. The sooner it is remedied the better for all concerned.

5. In Tanganyika Territory the same anomaly existed but that has been removed and pensionable status accorded to teachers side by side with other civil servants.

6. Our Council most respectfully beg you to consider the case of the teachers concerned and grant them pensionable status of which they have been unfairly deprived.

We beg to remain,

Sir,

Your most obedient and humble servants,

S. M. U. Shah

PRESIDENT.

[Signature]
HONY. GENERAL SECRETARY.

LIST OF NON-PENSIONABLE INDIAN TEACHERS APPOINTED

AFTER 12TH NOVEMBER, 1928.

	<u>N A M E</u>	<u>DATE OF APPOINTMENT</u>
1.	Mr. S.M. U. Shah	14-10-29.
2.	Kashmirilal	5-1-29.
3.	N.B. Patel	29-4-29.
4.	L.R. Bassi	4-1-30.
5.	M.A. Mallick	1-1-30.
6.	K.P. Nayar	3-1-30.
7.	D.D. Meghani	8-1-30.
8.	M.A.K. Ghaurie	17-8-29.
9.	N.V. Badiani	1-2-30.
10.	S.B. Patel	3-1-30.
11.	V.P. Patel	1-1-31.
12.	J.M. Patel	1-2-31.
13.	M.D. Sud	1-1-31.
14.	M.D. Patel	4-1-32.
15.	J.V. Karia	Unknown.
16.	K.S. Raval	1-1-32.
17.	Osman Ladha	1-5-28.
18.	Mrs. K.D. Shastri	1-1-25.
19.	Mr. Ilahi Bar	22-2-29.
20.	T.D. Chand	30-5-29.
21.	Mohamed Sultan	31-8-29.
22.	B.C. Vyas	31-8-29.
23.	M.I. Jeshi	31-8-29.
24.	S.A. Rabady	31-8-29.
25.	H.D. Gupta	2-1-30.
26.	D.S. Bedi	2-1-30.
27.	T.K. Kamdar	3-1-30.
28.	B.S. Mohindra	2-10-30.
29.	N.L. Patel	8-1-30.
30.	S.A. Shah	1-3-29.
31.	M.P. Patel	1-1-31.
32.	S.D. Patel	5-3-29.
33.	L.K. Patel	1-9-31.
34.	P.C. Patel	1-9-31.
35.	Mohamed Sadiq	1-1-32.

CIRCULAR LETTER.

NO. S/E. 21530/8/10.

THE SECRETARIAT.

NAIROBI,

9th July, 1931.

APPOINTMENT OF OFFICERS ON TEMPORARY TERMS.

I am directed by His Excellency the Governor to state that until further notice all appointments which are made locally should be on a month to month basis and that only a letter of temporary appointment, in accordance with Appendix 4 of the Code of Regulations, should be given.

Officers at present serving on a temporary basis should not be recommended for agreement or for admission to the permanent staff pending further instructions.

SD. JUXON BARTON
for COLONIAL SECRETARY.

ALL HEADS OF DEPARTMENTS.