

1937

38086

CO 533/480  
KENYA

38086

13

13

PETITIONS

MESSRS MAINI + RAHMAN ON BEHALF OF ABDULLAH KHAN

Previous	298	24/5
	297	25/5
	<del>299</del>	
	R. 297	3/6
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Subsequent	R. 297	10/6
	R. 309	17/9
	R. 297	2/11
	309	24/4
	M. B. Khan	
	297	1/12
	297	
R. 297		1/12
R. 309		6/16
M. B. Khan		7/16
M. Robinson		9/4
M. Khan		10
Sir G. Paulson		14/12
Sir G. Boddley		12/5
Lord B. L. ...		15/6
M. J. ...		1/4
R. 299		23/4
297		29/4
M. J. ...		6/5
M. B. Khan		

C.I.

MISC. ENQUIRIES.

Nominal (K, M, R & P)

1. H.S.L. POLAK & CO..... 18.3.37. 2  
Draws attention to representation by Messrs. Maini & Rahman on behalf of Abdullah Khan, ex-sergeant in Kenya Police and requests S. of S. exercise his over-riding power and authorise payment of pension claimed.
2. H.S.L. POLAK (S/O TO S. OF S.)..... 18.3.37.  
Requests interview and with regard to representation of Messrs. Maini & Rahman urges S. of S. to over-ride Kenya Govt's decision and grant a pension to Khan.
3. To H.S.L. Polak (3 ansd.)..... 19.3.37.

DESTROYED UNDER STATUTE

4. A/GOV'S DEPUTY, KENYA..... 46 CONF..... 27.2.37.  
Trs. petition by Messrs Maini & Rahman on behalf of Abdullah Khan, ex-sergeant in Kenya Police, and comments thereon attaching copy of relevant memorandum.

No. 4. It is necessary to point out first of all that there is no provision in law for the award of a pension to an Asiatic Police Sergeant in Kenya.

The argument put forward by the petitioners is that, because a pension was granted to Kutub Din who retired in 1930, one should be granted to his colleague Abdullah Khan who retired in 1930. But the grant of a pension to Kutub Din was made on the grounds of compassion and was specially voted by the Legislative Council. It is true that there was no very special pleading put forward. What actually was said in the Governor's despatch was this :

"The Acting Commissioner of Police recommends that No. 24 First Grade Sergeant Kutub Din should be granted a pension in lieu of a gratuity of Sh. 600/- which would be payable to him in accordance with Section 37(2) of Chapter 36 of the Laws of Kenya.

"Kutub Din has attained the age of 55 years, he is drawing a salary of Sh. 120/- per mensem and will complete 27 years' continuous service on the 14th of January, 1931. It is understood that he served eight years in the Indian Army before he came to this country in 1901 in the employ of the Kenya and Uganda Railway from which Administration he was subsequently transferred to the Police Force on the 16th of January, 1904.

"I share the views of the Acting Commissioner of Police that a gratuity is an inadequate recompense for the long and meritorious service rendered by Kutub Din to this Government, and in the circumstances I

recommend

No 2  
17/2/31

recommend for Your Lordship's favourable consideration, the grant of a compassionate pension to Kutub Din at the rate of Sh.648/- per annum, i.e. the equivalent of  $\frac{1}{4}$  of the amount to which he would have been entitled had he occupied a pensionable post".

In 1932 new non-European Officers pensions legislation was introduced throughout East Africa in fairly similar terms, and in accordance with this legislation Abdullah Khan had been granted a gratuity but no pension. Executive Council was asked to grant him a compassionate pension and the memorandum submitted to Council (flagged A) was entirely sympathetic to Abdullah.

It is alleged by the petitioners that Abdullah secured a promise from his Superintendent in 1934 that he would be granted a pension as was granted to Kutub Din. This promise, if made, was of course out of order and I think it was mainly the danger of honouring a promise of this nature which caused the Executive Council to reject the application. Would it not be desirable in the first instance to enquire of the Governor whether the grant of a compassionate pension to Abdullah Khan would give rise to representations from other Asiatic Police Sergeants who have retired with thirty years' service since the introduction of the new non-European pensions legislation?

C. H. Ross Smith

6.4.37.

3

My own feeling in the matter is that this man has been most severely treated; & that the fear of creating a precedent was a wholly insufficient reason for the rejection of the case for a compassionate pension as set out in the memo. prepared for the Ex. Co.

? Reply accordingly?

& reply to No 1 that the S. J. P. has now received the memorial & is in communication with the Gov.

J. J. Pascoe  
7/4

There is much to be said for giving pensions, however small to ex-politicians as a matter of policy, but we must accept the position that Kenya does not give pensions to men of this class.

We are not in a position to judge of the compassionate grounds brought forward: the only substantial feature of the petition is the alleged

promise. I think that this point deserves more consideration than has been given to it locally. Public faith may be pledged although the officer who gave the pledge ~~was~~ was not authorised to do so. Para. 6 of the despatch is oddly worded and it looks as if more is known of the promise than would appear.

? Ask the Gov. whether it is not possible to obtain the facts, i.e. get a statement from the petitioner as to who made the promise and when; & then see what the officer concerned has to say about it. It can then be considered whether or not we are to say that public faith has been pledged

*J. H. H. H.*  
9.4.37.

I do not think that there is any need to refer the matter out further. The memorandum submitted to Executive Council says "There appears to have been no doubt that he was given verbal assurance in his Department that after his retirement he would obtain similar treatment to Kutub Din and on this assurance he continued to serve. While such assurance was not authorised it was natural to assume that he would not be placed in a less advantageous position after longer service". The memorandum wound up by suggesting that the present case is one in which an exception should be made to the general rule. In paragraph 6 of the despatch it is stated that the Commissioner of Police has no reason to doubt that a verbal assurance was given to Abdullah Khan that he would ultimately be given a pension.

Quite apart from this, which proves conclusively that he was promised a pension, is the question of natural justice. Abdullah Khan served the Government of Kenya for thirty odd years and when he retired he had a salary of £60 a year with free quarters which were valued at £24 a year. His total emoluments were thus £84 a year, or Sh.1,680. As a reward for his service he was retired with a gratuity amounting to £48.6s.14cents, this being a gratuity of a week's salary for each year of service, as provided in the non-European Pension Regulations for non-pensionable staff. Mr. Crossmith in his minute quotes the despatch which was sent home when Kutub Din was recommended for a pension and the same

arguments apply with even greater force to Abdullah Khan, who served four years longer on the strength of a definite promise.

I have no hesitation in advising that Kenya be told that in the opinion of the Secretary of State this case is an even stronger one than that of Kutub Din inasmuch as Abdullah Khan was definitely promised that he would receive a pension and that in any event it is little short of scandalous to remove an old and faithful employee and give him a ludicrously small gratuity such as this when throughout his service he had at any rate reason to believe that he would get some retiring allowance and towards the end had received a definite promise by whoever gave it. It might be added that in view of the long service and the definite promise similar cases could not be numerous.

Some East African Governments appear to have no bowels of compassion in dealing with their Asiatic employees and this is a case in point. It is really rather difficult to refrain from strong language.

10.4.37

10.4.37.

I agree with Mr. Flood.

S.J.D.D.

10.4.37

So do I, except that I should prefer

prefer "unfornable to justify" to "little short of scandalous"

There can be little doubt that the trouble has arisen from

- (a) The assurance given to Leg. Co. that there would be no more cases like Kutub Din's, +
- (b) the fear that other cases may arise.

As regards (a), they must face it out with Leg. Co. As regards (b), the compassionate pensions under the old arrangement is sure not of right and they will be able to resist applications on similar grounds that there is no evidence of pledged faith.

As his pond?

W.C.S.

12.4.37

As proposed. I, also, prefer "unfornable to justify"

D. at mee. 15/4.

Para: 5 of the memo. to EX: Co.

5 Do Kenya - Conf - (4 ansd)

23/8

23/4/37

? and an official reply to the 1st should wait for the first reply to

In London in view of the fact? The official reply to the 1st should wait for the first reply to

Dr. ...

To Polak & Co.

24.5.37

DESTROYED UNDER STATUTE

H.S. POLAK & CO.

25.5.37

DESTROYED UNDER STATUTE

Reks. (6) with comment

? Pully

*J. J. J.*

R. 297

*M. J. J.*

28/5/37

at once 31/5/37

B. u. no reply to no. 5 has been recd.

Civilian

297 10/9/37

It can wait.

*C. J. J.*

10/9/37

8. GOV. KENYA..... CONF. No. 159..... 15.11.37.  
(Ref. No. 5) Details motion approved by Leg. Co. on  
3.11.37.

? D. J. J. H.S. Polak & Co. arm. Draft

renewal.

C. J. J. White

26/11

To Messrs. H.S.L. Polak (Tanod) - 1.12.37.  
+ Coy.

H.S.L. Polak & Co

2.12.37

Reks. (9) with thanks

DESTROYED

UNDER STATUTE

? Pully

*J. J. J.*

R. 297

4.12.37

*M. J. J.*

at once 7/12/37

C. O.

Mr. Costley-White. 26/11/37.

Mr. G. Parkin 27/11/37.

Mr.

Sir H. Moors.

Sir G. Tomlinson.

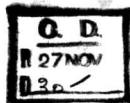
Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.



1 DEC 1937

November, 1937.

Sir,

I am etc. to refer to

**DRAFT.** for conson.

MESSRS. H. S. L. POLAK AND COMPANY.

⑦ your letter of the 25th of May on the subject of the petition of ex-Police Sergeant Abdullah Khan, and to inform you that on the 3rd of November the following motion was approved by the Legislative Council of Kenya:-

"In consideration of Mr. Abdullah Khan's 30 years, 6 months and 23 days satisfactory service in the Police Department of this Colony, this Council is pleased to award him a compassionate pension at the rate of Shs. 640/50 a year (which is equivalent to three-fourths of the pension which would have been awarded to him had he been serving on

**FURTHER ACTION.**

the pensionable establishment  
of this Colony), with effect  
from the date of his retirement,  
viz. the 1st April, 1935, instead  
of a gratuity of Shs.966/14 (vide  
Regulation 12 (1) of the  
Non-European Officers' Pensions  
Ordinance, 1932) to which he is  
strictly entitled under the  
Regulations."

I am, etc.

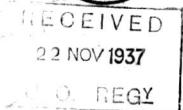
Signed I E W FLOOD



KENYA.

No. 159

CONFIDENTIAL.



8  
8  
GOVERNMENT HOUSE  
NAIROBI,  
KENYA.

15 November, 1937.

Sir,

5  
I have the honour to refer to your Confidential despatch of the 23rd of April last on the subject of the grant of a pension to Abdullah Khan, ex-Sergeant of the Kenya Police, and to inform you that on the 3rd November the following motion was approved by the Legislative Council:-

"In consideration of Mr. Abdullah Khan's 30 years, 6 months and 23 days satisfactory service in the Police Department of this Colony, this Council is pleased to award him a compassionate pension at the rate of Shs. 640/50 a year (which is equivalent to three-fourths of the pension which would have been awarded to him had he been serving on the pensionable establishment of this Colony), with effect from the date of his retirement, viz. the 1st April, 1935, instead of a gratuity of Shs. 966/14 (vide Regulation 12 (1) of the Non-European Officers' Pensions Ordinance, 1932) to which he is strictly entitled under the Regulations."

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

*R Brooke Popham*

AIR CHIEF MARSHAL,

G O V E R N O R .

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

C. O.

Mr. Grossmith.

Mr. Flood 16

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

Sir C. Bottomley

Sir J. Shuckburgh.

Perms. U.S. of S.

Parly. U.S. of S.

Secretary of State.

23 April, 1937.

Sir,

I have etc. to acknowledge the

receipt of Mr. Wade's Confidential despatch

No. 46 of the 27th of February <sup>forwarding</sup> regarding

a petition <sup>(to me)</sup> to me by Messrs. Maini and

Rahman, ~~Advocates~~ <sup>formerly a</sup> on behalf of

Abdullah Khan, ~~an~~ <sup>an</sup> Sergeant in the Kenya

Police.

2. I <sup>recognize</sup> appreciate that <sup>Abdullah Khan</sup> the only ~~is not pensionable under the terms of the non-European grounds on which~~ a pension could be ~~awarded~~ <sup>him only by special vote.</sup> granted to Abdullah Khan ~~are those of~~

~~compassion.~~ At the same time, I consider

that the case for the grant of a pension

to him is an even stronger one than that

of ex-Sergeant Kutub Din, inasmuch as it

~~is acknowledged that~~ Abdullah Khan was promised that he would

receive a pension on retirement. In

any event, I think that it would be

impossible

**DRAFT.**

KENYA.

CONFIDENTIAL.

Governor.

Pensions Ordinance, as that

**FURTHER ACTION.**

impossible to justify the ~~termination~~ <sup>removal</sup>  
~~of the services~~ of an old and <sup>valuable</sup> ~~valuable~~

employ such as Abdullah Khan with the  
grant only of a small gratuity, when  
throughout his service he had, at any  
rate, reason to believe that he would get  
some retiring allowance, and towards the

end of his service had received a definite  
promise <sup>of a pension</sup>, and ~~no doubt~~ <sup>no doubt</sup> would have been treated in the same way as  
Kutub Din if he had retired  
at the same time.

3. ~~In view of the long service and  
the definite promise, it is reasonable to  
assume that similar cases could not be  
numerous, and, in <sup>all</sup> these circumstances, I  
request that the application on behalf of  
Abdullah Khan may be reconsidered.~~

I have, etc.

3 In this case the petitioner has rendered long service and  
has received a definite promise. It is therefore unlikely  
that there can be many men in similar case<sup>s</sup> so  
that the risk of creating an awkward precedent is  
not great. In all the case<sup>s</sup> I think that the public  
faith may be considered to have been pledged and  
I trust that ~~the~~ you will be able to give  
further consider. to the application and support the  
award of a retiring allowance to Abdullah Khan.

(Signed) W. ORMSBY GORE.

4.

KENYA.

NO. 46

CONFIDENTIAL.



RECEIVED  
27 MAR 1937  
C. O. REGY

GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

27 February, 1937.

Sir,

I have the honour to transmit a petition addressed to you by Messrs. Maini and Rahman, Advocates, on behalf of one Abdullah Khan, ex-Sergeant in the Kenya Police, who retired from the Service on the 1st April, 1935.

Petition.  
10. 2. 37.

Abdullah Khan's gratuity papers were forwarded under cover of the Colonial Secretary's Note No. S/Est. 19/1/2004/22 of the 8th March, 1935.

(24) on 38018/35  
(P.T.)

Recd (5)

2. Before the introduction of the Non-European Officers' Pensions Ordinance compassionate pensions were granted in a number of cases to Asian servants of Government who, after long and meritorious service in non-pensionable posts, had been retired either on the attainment of the age limit or on being invalided. Such a pension was approved in the case of Kutub Din, Sergeant in the Police Department, who retired in April, 1931, at the age of 55 years after service amounting to over 27 years and to which reference is made in the enclosure to this despatch.

Kutub Din's compassionate pension was calculated in accordance with the usual procedure then obtaining at three-quarters of the amount which he would have received had he been on the pensionable establishment. In this connection the late Mr. Martin's despatch No. 775 of the 13th December, 1930, and Lord

(2) on 17004/31

Passfield's

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

(4) on 17/004/31

Passfield's despatch No.40 of the 21st January, 1931, refer.

3. In December, 1934, the Commissioner of Police recommended the grant of a pension to Abdullah Khan as personal to himself on the grounds that a pension had been awarded to ex-Sergeant Kutub Din.

In reply the Commissioner of Police was informed by Government that his recommendations could not be entertained for the following reasons:-

- (1). That Abdullah Khan was not on the pensionable establishment.
- (2). That his post was not one recommended for pensionable status by the Inter-Departmental Committee appointed in 1925 to consider conditions of service for Asiatics other than Clerks (Mr. Amery's Confidential despatch of the 17th February, 1927, refers). In this connection the recommendations of the Commissioner of Police were at the time obtained and did not include the post of Sergeant.
- (3). That on the introduction of the Non-European Officers' Pensions Ordinance, 1932, the question of granting pensionable status in deserving cases was fully considered and Abdullah Khan's name was not among those to whom such status was accorded.
- (4). That the case of Kutub Din could not be regarded as a precedent since the Non-European Officers' Pensions Ordinance had not been promulgated at the time his pension

was awarded and, whereas before the promulgation such cases were treated on their merits, subsequent to the promulgation they were treated strictly in accordance with the terms of the Ordinance.

4. The Commissioner of Police's representations were followed in February, 1935, by representations from the late Mr. M. H. Malik, an Advocate, on behalf of his client Abdullah Khan and an answer in similar terms issued.

5. Messrs. Rahman and Rahman, Advocates, the predecessors of the present firm of Maini and Rahman, submitted a petition on the 22nd May, 1936, addressed to the Governor for the grant of a pension to Abdullah Khan.

By direction of Sir Joseph Byrne these representations were considered in Executive Council and the Governor accepted the advice of his Council that the grant of a compassionate pension should not be approved.

This decision was accordingly communicated to Messrs. Rahman and Rahman.

A copy of the memorandum which was circulated to Council and in which the case was summarised is enclosed for your information.

Memorandum.

6. I take this opportunity of stating that although there is nothing on record in the Police files of any promise having been made to Abdullah Khan that he would ultimately be given a pension, the Commissioner of Police has no reason to doubt that a verbal assurance was given to him in the Police Department to this effect although it is needless to remark that such an assurance, if given, was entirely unauthorised and therefore of no force.

This

This point was considered fully by the Governor in Council at the time but the view taken was that Government would be creating a most dangerous precedent were it to honour a promise of this nature.

7. Reference is made in paragraph 8 of the accompanying petition to the grant of a compassionate pension to the widow of the late Dr. L.D. Lowsley in which case the Legislature approved the award to her of a compassionate pension at the rate of £50 a year with effect from the 12th May, 1936. In this connection Sir Joseph Byrne's despatch No. 681 of the 21st December last refers.

77/  
PF 14194 E.A.

You will realise that the two cases are entirely dissimilar and in all the circumstances I am unable to agree that any new reasons have been adduced in the present petition on behalf of Abdullah Khan which would justify the grant of the petitioners' request and I am therefore unable to recommend it for your favourable consideration.

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

ACTING GOVERNOR'S DEPUTY.

MAINI &amp; RAHMAN.

ADVOCATES.

A. N. MAINI.  
H. A. RAHMAN.

P. O. Box No. 784,

Nairobi,

Kenya Colony.

IN REPLY PLEASE QUOTE NO. \_\_\_\_\_ AND DATE 10th February 1937.

The Right Hon'ble  
The Secretary of State for the Colonies,  
Downing Street,  
London;  
Through His Excellency the Governor of Kenya,  
N a i r o b i.

Sir,

We respectfully beg to bring to your notice the case of our client, Mr. Abdullah Khan, ex-sergeant in the Kenya Police.

1. Our client entered the employ of the Government of Kenya as a warder in the Mombasa Prison in the year 1902, and was appointed in the Police Department in the year 1904 in which Department he served until 1935 when he retired. In the course of his services he was awarded the African Police Medal which is a tangible proof of his loyal, faithful and satisfactory service to Government.
2. In 1930 our client's colleague, Sergeant Kutub Din, who was serving on identical terms as our client, contemplated retirement. He applied for and was awarded a pension instead



of a gratuity. Incidentally, the yearly pension granted to him amounted to more than the gratuity he would normally have received. Our client lost no time in making representations for the award of a pension when the time for his retirement came, and received the assurance of his Superintendent that there would be no question of his being treated differently, and that he would be granted a pension on the same lines as Kutub Din.

3. To make more sure of his receiving treatment identically with Kutub Din, our client engaged the services of Mr. M. H. Malik, a local Advocate, who, during the Select Committee stages of the Police Bill, interviewed the then Commissioner of Police and obtained from him the assurance that Abdullah Khan would be granted a pension on retirement.

4. In the year 1934 Abdullah Khan proceeded on leave preparatory to retirement. He made representations to his Superintendent for the award of a pension as promised to him nearly four year ago, and was informed that the Commissioner of Police, obviously true to the assurance made by his predecessor, had recommended to Government that he should be given a pension. Later, however, to his utter

surprise and disappointment, he was informed that he was not to be granted a pension, but gratuity.

5. Our client made many attempts to persuade the Government that the promise of pension made to him should be honoured, but he was unsuccessful in his endeavours. He once again approached Mr. M. H. Malik who took up his case with Government. Mr. Malik was informed by Government that the question of granting pensionable status to officers was considered at the time of the introduction of the Non-European Officers' Pensions Ordinance 1932, but Abdullah Khan's name was not among those to whom pensionable status was accorded. Mr. Malik was further informed that the case of Kutub Din was not a precedent and special cases were dealt with on their merits.

6. The present writer then made representations to His Excellency the Governor pointing out the injustice done to Abdullah Khan. It was represented that:-

(a) though an Ordinance derogatory to the rights

of a Government servant had been enforced, it was incumbent upon the Government to preserve the rights of individuals whose cases were of a special nature;

(b). the question of Kutub Din's case not being treated as a precedent did not arise at all. Abdullah Khan had been given an assurance which, it was submitted, should be honoured;

(c) the reasoning that when Kutub Din retired the Non-European Officers' Pension Ordinance was not in force but that when Abdullah Khan retired it was in force was illogical and it was submitted that had Abdullah Khan retired earlier (i.e. before the said Ordinance came into force) or had he retired at the same time as Kutub Din, there would never have arisen any question of refusing him a pension;

(d) it was inconceivable how by continuing to serve Government longer a person should lose his rights which he would unquestionably have

received if he had merely discontinued his service at the same time as his other colleague. This amounted to saying that the longer one served the Government the less reward he received;

- (e) the grounds on which Kutub Din was granted a pension instead of a gratuity applied equally, if not with much stronger force, to the case of Abdullah Khan.

7. The Colonial Secretary replied to the effect that after full consideration of the representations of our client's case in Executive Council His Excellency had accepted the advice by Council that no Compassionate pension should be granted to him <sup>in</sup> lieu of the gratuity he had already received.

8. Naturally, we are unaware of the reasons on which His Excellency's advisers recommended against our client, but when we find that in December last the local Legislative Council approved the grant of a Compassionate

-6-

pension to the widow of an officer who died after enjoying his pension for a considerable number of years, we feel that our client's claim deserves to be given further consideration.

9. It is evident from the above citation that the door of compassion is not closed and we appeal to those sentiments of justice and fairplay for which the British Government is famous to redress the legitimate grievance of our client, who, we submit:-

- (a) never doubted that the promise made to him nearly four years before his retirement would not be honoured;
- (b) has served for a longer period than his colleague, Kutub Din;
- (c) was serving on precisely the same conditions as Kutub Din, therefore he should in equity be given similar treatment;
- (d) is a decrepit old man without any means by which he can make both ends meet.

10. We respectfully beg to emphasise the fact that our client's statement of the assurances given to him and to his Advocate have remained unrefuted and, in so far as he was concerned, he naturally expected those whose

duty it was to safe-guard his claim when the Non-European Officers Pensions Ordinance was contemplated, and we beg to submit that it is manifestly unfair that the penalty for oversight on the part of the authorities concerned should be paid by our client.

11. We therefore earnestly commend to your favourable consideration this appeal, both from its legitimate and humane standpoints. We are confident that our client's right, of which he has been so glaringly deprived, will be restored to him.

We have the honour to be,

Sir,

Your Obedient humble servants,

FOR MAINI & RAHMAN,



No. EST. 19/1/2004.

Circulated to all Members of Executive Council on the 8<sup>th</sup> July, 1936.

APPLICATION FOR COMPASSIONATE PENSION BY  
ABDULLA KHAN, ex-SERGEANT KENYA POLICE.

Sergeant Abdulla Khan's appointment in the Police was terminated on the 31st March, 1935, after over thirty years' service. In accordance with the terms of the Non-European Officers' Pensions Ordinance, 1932, he was paid a gratuity of Shs.900/14, the grant being approved by Council. In 1935 the late Mr. Malik submitted that a pension should have been paid. The Colonial Secretary was not, however, prepared to agree.

Messrs. Rahman and Rahman, Advocates, have now submitted a petition to His Excellency the Governor that their clients case be reconsidered and His Excellency proposes that Council should consider whether a compassionate pension should be granted or not.

2. The posts of Sergeants in the Police have never been pensionable. No pension is therefore permissible in the case of Abdulla Khan under the Ordinance. A pension computed on the basis of the Regulations under the Ordinance would amount to Shs.854/- per annum. It is for consideration as to whether Council should recommend the payment of an ex-gratia pension of this, or any lesser amount. The grant of an ex-statutory pension of this nature would require the sanction of the Legislative Council and the Secretary of State.

3. There appears to be little doubt that had Abdulla Khan retired before the enactment of the Non-European Officers' Pensions Ordinance the sanction of the Legislative Council and the Secretary of State would have been sought to pay him a compassionate pension.

Before the introduction of the Non-European Officers' Pensions Ordinance compassionate pensions were granted in a number of cases in respect of Asian Servants of Government who, after long and meritorious service in non-pensionable posts, had been retired either on attaining the age limit or invalidation on medical grounds.

Such an arrangement was approved in the case of 1st Grade Sergeant Kutub Din Police Department who retired in 1931 at the age of 55 after service amounting to 27 years 3 months and 14 days. His pension (calculated in accordance with the usual procedure of three-quarters of the amount which he would have received had he been on the pensionable staff) amounted to Shs.600/- per annum.

4. Had Sergeant Abdulla Khan retired at the same time there is no doubt that he would have been granted a pension similarly but owing to his post not having been made a 'pensionable office' under the Non-European Pensions Ordinance, 1932, was provided with a gratuity only.

There appears to have been no doubt that he was given verbal assurance in his Department that on retirement he would obtain similar treatment as Kutub Din and on this assurance he continued to serve.

While

While such assurance was not authorised it was natural to assume that he would not be placed in a less advantageous position after longer service.

5. It was hoped that upon the enactment of the Non-European Officers' Pensions Ordinance it would no longer be necessary to seek the sanction of the Legislative Council periodically to the payment of compassionate pensions, as evidenced by the fact that in his speech in the Legislative Council on the 9th May, 1932, in connection with the Motion for the award of a pension in lieu of a gratuity to Sergeant Kutub Din, the Treasurer stated:....."and it is only now that the Government is in a position to present to the Council this Pensions Bill for Asians, which has already been published and will be introduced to Council either at this or the next Session. Once that Bill is passed, Sir, there will be no more recommendations of this kind to bring before Council."

It may be considered, however, that the present case is one in which an exception should be made to the general rule.

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HY. S. L. POLAK.

DANES INN HOUSE,

265. STRAND,

LONDON, W. C. 2.

18th March, 1937.

TELEPHONE: HOLBORN 3805.

TEL. ADDRESS: KALOPH, ESTRAND, LONDON.

CABLES: KALOPH, LONDON.

BENTLEY'S CODE.

P/M.

The Rt. Hon. Mr. W. Ormsby-Gore, M.P.  
Colonial Office,  
Downing Street,  
L O N D O N, S.W.1.

E

My dear Ormsby-Gore,

PERSONAL

It was a pleasure to see you yesterday after a long and looking so well. I have just returned from a professional visit to India, in the course of which, however, I was brought into contact with various phases of problems relating to Indians overseas, notably as regards administration, social and I should very much like to hear from you as to how you are getting on presently, if and when you can spare the time.

In the meanwhile, I am writing to you in connection with a petition submitted to you formally, to that the Government of Kenya, under date the 10th ultimo, 3 years. I am advised by advocates, of Nairobi, on behalf of ex-office Sergeant Abdul K Khan of the Kenya Police. I do hope that it may be possible for you to over-ride the decision arrived at by the Kenya Government. My private information is that the promise alluded is not challenged. The man himself is ignorant and, I am informed, substantially illiterate. I have seen a letter

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Handwritten number 2.

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person, he would probably have taken the necessary steps to obtain confirmation in writing of the promise of a pension made by his Superintendent.

I have only to add that the wretched man's plight is described as miserable, and that he is now mainly dependent on charity. May I ask you to be good enough to give this matter your early personal attention? These little human things make a tremendous difference, as you know, in the psychology of communities, and I feel sure that a favourable decision would be very greatly welcomed in circles much wider than those immediately associated with the man in question.

With kind regards,

Yours sincerely,



H. S. L. POLAK & CO.  
SOLICITORS AND PRIVY COUNCIL AGENTS.  
H. S. L. POLAK  
ATTORNEY OF THE SUPREME COURT OF S. AFRICA  
(TRANSVAAL AND NATAL PROVINCIAL DIVISIONS).  
M. H. L. POLAK.

TELEPHONE: HOLBORN 3865.  
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P/M.

The Rt. Hon. The Secretary of State  
for the Colonies,  
Colonial Office,  
L O N D O N, S.W.1.

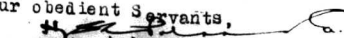
Sir,

We have been requested by Messrs. Maini and Rahman, Advocates of Nairobi, to draw attention to a representation made by them to you on the 10th February last, on behalf of their client, Mr. Abdullah Khan, ex-sergeant in the Kenya Police.

We can add nothing to the facts stated therein, but we venture to express the hope that, having regard to <sup>the</sup> equities and to the strong moral claim that ex-sergeant Abdullah Khan has upon the Kenya Government, you will be pleased to exercise your over-riding power and to authorise the payment to this unfortunate man, who has served the Crown so loyally and for so long a period, of the pension that he claims, in the absence of which his declining years will be spent in penury.

We have the Honour to be, Sir,

Your obedient Servants,



DANES' INN HOUSE,  
265, STRAND,

LONDON, W. C. 2.  
18th March, 1937.

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