

1930

Kenya

No. 16296.

SUBJECT

C0533/402

Jawala Singh  
(Late of P. W. Dept)

App for gratuity

Previous

Subsequent

Refers to the case of JWALA BINGH, Mistry, late of the P.W.D., who is appealing for a gratuity - enclos various papers.

Minute by Mr. Byed.

DESTROYED UNDER STATUTE

The agreement of which a copy is enclosed was signed in 1907 & was for 3 years only. It was not therefore the agreement under which he was serving at the time of discharge. This does not appear to be enclosed.

Doubt if he has any case.

(with encls)

? send in reply to Gov.

asky what Mr Byed may be up to - that his letter has been

sent to the Cd. Reps

referred & returned to the Gov.

for his <sup>report</sup> ~~document~~ & that a further <sup>copy</sup> ~~letter~~ will be sent to him <sup>with</sup> ~~after~~ <sup>the Gov's report</sup> ~~these documents~~ has been <sup>or</sup> ~~counted~~ (the 8/5).

[i.e. through the Cd. Reps]

And ask the Gov. to return the ~~letter~~ with his reply.

[Signature] 20.8.30.

1 paper with the action proposed.

24/9/30

M. Duncan

Recd  
in 9.30  
at 11.11

3. Co. No. 759 - (No. 1 + encls. in orig) - <sup>27/11/31</sup> ~~27~~ SEP 1930

4. Nov. hood 15 \_\_\_\_\_ 9 January '31  
Reports circumstances attending discharge of Jawala Singh, mistry, from P.W.D. and is unable to reconcile decision and grant him a gratuity; returns Mr. Byrd's letter and enclosure.

As previously pointed out

the agreement enclosed is no. 1  
i. a 1907 agreement for 3  
years. It was not therefore  
the agreement under which  
Mr. S. was serving when his  
employment came to an end.

His case appears to rest  
on the <sup>allegation</sup> fact that his employment

was "terminated" on notice & that  
he was therefore entitled to  
a gratuity. The argument is  
that he must be entitled to a  
gratuity unless he was dismissed  
for misconduct - which apparently  
he was not.

Without the relevant  
to agreement it is impossible to  
tell whether there is any legal  
case for a gratuity. Clearly  
there is no moral case.

There are two courses:

either to tell the O.A.G., <sup>presented</sup>  
he is satisfied as to the  
legal position <sup>to inform the writer</sup> that the S/S is  
not prepared to interfere.  
or to ask the O.A.G. for a copy  
of his agreement & of the letter  
terminating his service.

I think the former is

B.iffice

*[Signature]*  
27/11/31

I don't think the  
agreement matters  
- the gratuity is his  
& determined by  
Reg. 117A.

DESTROYED UNDER STATUTE

Further letter was attached  
with the above ~~to envelope~~  
~~all papers~~ of it occurred to  
me that the regulations ~~of~~  
in case might help. I ~~was~~  
delayed to file accordingly for  
papers but those have not turned up.  
I think action as I proposed to be  
safe however.

J. G. Brown  
1.4.31.

This is a ~~statement~~ for a gratuity  
on the termination of service of the  
I think  
President of the Council Branch  
to advise what in the first instance  
in the light of the Regs - see letter from  
the Secretariat of 30 April 1930  
included among the papers in the  
envelope attached to No. 1.

J. W. Allen  
2/4/31

In the case of the Non European Staff  
pensions and gratuities are awarded on the  
analogy of the Imperial Superannuation Acts.  
It seems clear that the Secretariat  
statement of the position is correct, since  
the case does not fall within either of the  
categories specified in Sec. 4 of the Act of  
1887.

Encl. No. 2.6.31

I agree that he has no legal claim <sup>from the</sup>  
fact stated in the report he clearly has a  
moral claim either.

M. J. G.  
2/4/31

(See attached  
minutes  
No. 6)

It seems to me that as the reason  
for the termination this service is either  
in accordance or not with the wishes  
whether his service was continuous  
or (ii) satisfactory are all immaterial.

He would not be eligible for a  
gratuity if he retired in consequence  
of the abolition of his employment in  
order to effect economy or (b) in the  
"Period of ill-health" (- 14 & subject to  
7 days service & 6 to 15 years service).  
He does not seem to be retired on either  
of the above grounds & so has no  
claim.

? Mr. G. is not asking  
that the Secy write to Mr. G. that the  
Govt has carefully considered his  
representations but that as  
Mr. G. does not retire ~~in~~  
cases which rendered him  
eligible for the grant of a  
gratuity he (Mr. G.) sees no

Reason to dissent from the decision  
directly taken by the Government  
The letter (No. 5) may  
be put as the result  
do not accept they and hard to be  
blamed

H. Allen

10/24/31

Mr. Duncan

You discussed this with me. There can  
be little doubt that this man was serving on the  
permanent non-pensionable staff. The Government  
have not in their letters referred to the Agreement  
on which he was first recruited in Lahore in 1907  
for three years' service in Kenya, but they have  
purported to quote <sup>Reg.</sup> No. 335 as applicable to his  
case - a regulation concerning officers of the  
permanent non-pensionable staff. They also, at the  
time when they gave him notice of termination  
of his employment, awarded him leave with full  
pay to India on the ground of resident service in  
accordance, as far as I can see, with the  
regulations governing that class of officer -  
Regulation 114.

Having treated him in that way the  
Government disclaim liability for gratuity on the  
ground that gratuity can only be given under the  
regulations in the case of satisfactory service.  
I don't think that it would be fair to hold that  
the words "may be given" give the Government a  
right to withhold it more or less at will. As far  
as the grant may be affected by conduct, it is made  
clear in <sup>a subsequent</sup> another Regulation (No. 339) in what  
circumstances gratuity would be withheld, viz.  
dismissal for misconduct or resignation for reasons  
other than duly certified ill health. He did not  
resign, and so far from dismissal him the  
Government when giving him notice of termination  
gave him a passage to India and full pay leave for

But he was not  
eligible for a  
gratuity No. 339  
was irrelevant  
M.A.

5 months nineteen days on ground of  
resident service.

*in these cases*  
Surely he cannot reasonably be  
refused the gratuity which may be granted  
under Regulation 335 to a man with his length  
of service whose employment is terminated as a  
matter of economy. Whether in this instance  
termination was for the purpose of effecting  
economy was not at the time declared by the  
Government - they declared no reason, either  
economy, misconduct, or any other - but I notice  
in paragraph 3 of No. 4 that he was reported on as  
"not worth his present rate of pay".

On other grounds it is questionable  
treatment to take a stand on the issue of  
misconduct in the case of an officer after  
18 years' service, in the course of which no  
adverse report was received for the first  
16 years; moreover he was not in the course  
of that service charged with misconduct, nor  
was it mentioned to him at the time as a  
cause of termination.

*S. N. Gent*

22-4

Assuming that Jwala Singh was on the  
permanent, non-pensionable staff, and that  
Regulation 335 applies to his case, it is clear  
as Mr. Allen says, that he would only be eligible  
for a gratuity if he served for not less than  
seven years and was retired in consequence of  
the abolition of his employment in order to  
effect economy, or if he served for not less  
than

than fifteen years and was retired on the ground of  
ill health. From the information available, it  
appears that Jwala Singh served for eighteen years;  
that he was not retired on the ground of ill health;  
that he did not resign; and that he was not  
dismissed the Service for misconduct (see Regulation  
339) - the Government, when giving him notice of  
termination, in fact, granted him a passage to India  
and full-pay leave for five months and nineteen days  
on the ground of resident service, presumably  
in accordance with Regulation 114. The question to  
be considered, therefore, is whether he was retired  
in consequence of the abolition of his employment in  
order to effect economy.

In this connection, Mr. Gent, if I under-  
stand him rightly, in effect argues that it is not  
open to the Government in a case such as this to get  
rid of a person serving on the permanent, non-  
pensionable staff, without giving him compensation,  
and that, as no reason (i.e., either economy,  
misconduct, or any other) for dispensing with  
Jwala Singh's services was given at the time by the  
Government, the presumption is that his employment  
was abolished to effect economy, and that he was  
retired in consequence.

It is true, of course, that in 1925 the  
Governor gave no reason for terminating Jwala Singh's  
employment, but I think regard must be had to the  
facts as they emerge, even at this stage. These  
facts seem to show that his employment was terminated  
because his services between 1923 and 1925 were not  
wholly satisfactory. In other words, I am not  
satisfied that there is any evidence that Jwala  
Singh was, in fact, retired in consequence of the  
abolition

*But it is definitely  
stated in para 4  
of No. 4 that his  
employment was  
terminated in  
para 4 of  
unclearly  
stated in the  
order with  
No. 4 of 1925  
except for no  
reason given  
in the  
order*

*Why did it be  
declared - it is or  
is not a fact.  
S. N. A*



abolition of his employment in order to effect economy; and if this is correct, it follows that he is not eligible for a gratuity under Regulation 335.

On the other hand, in view of the fact that Jwala Singh served for sixteen years without an adverse report; that nothing was said at the time (i.e., in 1925) about his services being unsatisfactory; and that the services of persons on the permanent, non-pensionable staff, against whom no allegations of unsatisfactory conduct have been made at the material time, are apparently not dispensed with unless compensation is paid, I think that the Governor <sup>might</sup> be invited to consider the desirability of making Jwala Singh a suitable ex gratia payment.

M. Duncan.

24th April, 1931.

Let us have a copy of note of the facts ~~and the circumstances~~

(Apologise for delay in his for other work)  
I spoke to Mr. Parkinson before he went on leave & he agreed that this should be referred to you as it is a "pension" matter. I put up a

I know of no authority for this (1931)

note of the fact. I cannot agree with Mr. Allen's minute; nor with the Government's (who agree Jwala Singh is not eligible) suggesting an ex gratia payment. The Kenya Govt has never been ungenerous in dealing with these cases & in my opinion his case is not deserving. Therefore, no reason to raise the proposed rule that forward in my minute of 10/4/31.

J.W. Allen 25/5/31

I agree that this man cannot be regarded as eligible for a gratuity under the regulations, and I see no reason to differ from Mr. Allen & the Kenya Govt. in thinking that it is not a deserving case for an ex gratia award.

C. J. Jeffries  
29.5.31

I can find no reply to the <sup>1st</sup> ~~2nd~~ <sup>2nd</sup> ~~3rd~~ <sup>3rd</sup> ~~4th~~ <sup>4th</sup> ~~5th~~ <sup>5th</sup> ~~6th~~ <sup>6th</sup> ~~7th~~ <sup>7th</sup> ~~8th~~ <sup>8th</sup> ~~9th~~ <sup>9th</sup> ~~10th~~ <sup>10th</sup> ~~11th~~ <sup>11th</sup> ~~12th~~ <sup>12th</sup> ~~13th~~ <sup>13th</sup> ~~14th~~ <sup>14th</sup> ~~15th~~ <sup>15th</sup> ~~16th~~ <sup>16th</sup> ~~17th~~ <sup>17th</sup> ~~18th~~ <sup>18th</sup> ~~19th~~ <sup>19th</sup> ~~20th~~ <sup>20th</sup> ~~21st~~ <sup>21st</sup> ~~22nd~~ <sup>22nd</sup> ~~23rd~~ <sup>23rd</sup> ~~24th~~ <sup>24th</sup> ~~25th~~ <sup>25th</sup> ~~26th~~ <sup>26th</sup> ~~27th~~ <sup>27th</sup> ~~28th~~ <sup>28th</sup> ~~29th~~ <sup>29th</sup> ~~30th~~ <sup>30th</sup> ~~31st~~ <sup>31st</sup> ~~32nd~~ <sup>32nd</sup> ~~33rd~~ <sup>33rd</sup> ~~34th~~ <sup>34th</sup> ~~35th~~ <sup>35th</sup> ~~36th~~ <sup>36th</sup> ~~37th~~ <sup>37th</sup> ~~38th~~ <sup>38th</sup> ~~39th~~ <sup>39th</sup> ~~40th~~ <sup>40th</sup> ~~41st~~ <sup>41st</sup> ~~42nd~~ <sup>42nd</sup> ~~43rd~~ <sup>43rd</sup> ~~44th~~ <sup>44th</sup> ~~45th~~ <sup>45th</sup> ~~46th~~ <sup>46th</sup> ~~47th~~ <sup>47th</sup> ~~48th~~ <sup>48th</sup> ~~49th~~ <sup>49th</sup> ~~50th~~ <sup>50th</sup> ~~51st~~ <sup>51st</sup> ~~52nd~~ <sup>52nd</sup> ~~53rd~~ <sup>53rd</sup> ~~54th~~ <sup>54th</sup> ~~55th~~ <sup>55th</sup> ~~56th~~ <sup>56th</sup> ~~57th~~ <sup>57th</sup> ~~58th~~ <sup>58th</sup> ~~59th~~ <sup>59th</sup> ~~60th~~ <sup>60th</sup> ~~61st~~ <sup>61st</sup> ~~62nd~~ <sup>62nd</sup> ~~63rd~~ <sup>63rd</sup> ~~64th~~ <sup>64th</sup> ~~65th~~ <sup>65th</sup> ~~66th~~ <sup>66th</sup> ~~67th~~ <sup>67th</sup> ~~68th~~ <sup>68th</sup> ~~69th~~ <sup>69th</sup> ~~70th~~ <sup>70th</sup> ~~71st~~ <sup>71st</sup> ~~72nd~~ <sup>72nd</sup> ~~73rd~~ <sup>73rd</sup> ~~74th~~ <sup>74th</sup> ~~75th~~ <sup>75th</sup> ~~76th~~ <sup>76th</sup> ~~77th~~ <sup>77th</sup> ~~78th~~ <sup>78th</sup> ~~79th~~ <sup>79th</sup> ~~80th~~ <sup>80th</sup> ~~81st~~ <sup>81st</sup> ~~82nd~~ <sup>82nd</sup> ~~83rd~~ <sup>83rd</sup> ~~84th~~ <sup>84th</sup> ~~85th~~ <sup>85th</sup> ~~86th~~ <sup>86th</sup> ~~87th~~ <sup>87th</sup> ~~88th~~ <sup>88th</sup> ~~89th~~ <sup>89th</sup> ~~90th~~ <sup>90th</sup> ~~91st~~ <sup>91st</sup> ~~92nd~~ <sup>92nd</sup> ~~93rd~~ <sup>93rd</sup> ~~94th~~ <sup>94th</sup> ~~95th~~ <sup>95th</sup> ~~96th~~ <sup>96th</sup> ~~97th~~ <sup>97th</sup> ~~98th~~ <sup>98th</sup> ~~99th~~ <sup>99th</sup> ~~100th~~ <sup>100th</sup>

which provide for gratuity, not as a matter of course but in certain specified cases.

we should say something "off to  
Kenya about the desirability  
of not turning off members of  
the "movement now considered  
staff" without assigning a  
reason & giving a chance of  
reply.

[We are still pressing Kenya  
on the question of British pensions]

15.05 2/6/31

Mr. Cliffe,

Dr. Shiels is unwell, and unable to  
deal with this file before he goes to Geneva.  
He therefore asked me to send it to Sir Samuel  
Wilson with a request that he would dispose of  
it himself.

P. H. Morris  
10/6/31.

As proposed by Sir

C. Bottomley.

P.H.M.  
at once

(17.6.31)

8/17 (Ser. 47) - Hand - 6/7/31



C. O.

16297/1930 Kenya

C. D. 8  
R 4 JUL 8

Downing Street,

6 July, 1931.

Mr. Eastwood (17)

Mr. Parkinson

Mr. James

Mr. C. Bottomley

Mr. J. Shuckburgh.

Sir G. Grindle.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Sir,

I have, etc., to refer to Mr.

Moore's despatch No. 15 of the 9th

January, in which he reported ~~some~~

the circumstances attending the

discharge of Jawala Singh, Mistri,

late of the Public Works Department of

Kenya, whose case was brought to my

notice by Mr. K.D. Syed.

2. I shall be glad if Mr. Syed

may be informed that I have carefully

~~read~~ <sup>considered</sup> his representations, but that

as Jawala Singh did not retire in

circumstances rendering him eligible

for the grant of a gratuity under the

regulations (which provide for gratuity

not as a matter of course but in certain

specified circumstances), I see no reason

to dissent from the decision already

taken

DRAFT.

KENYA

No. 471

Gov.

taken by your Government.

~~Private~~  
Private

3. I agree with Mr Moore in thinking it unfortunate that Jawala Singh was not informed at the time of his original discharge that he was ineligible for a gratuity under the regulations. It is clearly important that ~~that he was not~~ ~~that he was not~~

~~care will be taken that in future members of the permanent non-pensionable staff <sup>and</sup> not be dismissed without being informed of the reason for their dismissal & being given an opportunity of making representations, and I have to request that steps may be taken to <sup>ensure that</sup> ~~bring this point to~~~~

~~the notice of all concerned~~  
The proper procedure is followed in future

(Signed) PASSFIELD.

79

NOTE

Jwala Singh was originally engaged for service in the Public Works Department in 1907. The first official complaint against him reached the Director of Public Works on the 16th May, 1923, when he was reported for (a) being drunk, both on and off duty; (b) being absent from work without permission; (c) returning questionable travelling claims; and (d) questionable treatment of native labour.

He was then transferred to Mombasa and it was reported that his foreman <sup>as allowing him to</sup> ~~was not satisfied with his work~~ <sup>interfered with his work</sup> ~~was not~~ <sup>his untrustworthiness as not</sup> worth his present rate of pay. In view of his unsatisfactory conduct and work his services were terminated at the end of 1925.

Subsequently he was re-engaged (without the knowledge of the Director of Public Works) in a temporary capacity in the Kisumu Division in 1926, and his services were apparently satisfactory. He was further engaged in 1928 on an hourly basis in the Nakuru Division but was summarily dismissed owing to misconduct stated to be due to insobriety early in 1930.

Jwala Singh now claims a gratuity in respect of his service between 1907 and 1925.

The Regulation under which he claims is worded as follows:-

"An officer of the non-pensionable permanent staff may be granted a gratuity not exceeding £1 or one week's pay, whichever is the greater, for each completed year of service, subject to a limit of the amount of one year's salary, if he has

served

served for not less than seven years and is retired in consequence of the abolition of his employment in order to effect economy, or if he has served for not less than 15 years and is retired on the ground of illhealth".

In reply to local representations on his behalf, the Colonial Secretary pointed out that in accordance with the Regulations in force, Jwala Singh could be granted gratuity only if he had been retired

(a) on the ground of illhealth provided he had at least 15 years continuous satisfactory service;

(b) in the interests of economy and re-organisation of the Department provided he had completed at least seven years continuous satisfactory service.

(N.B. The word "satisfactory" is ~~not~~ underlined in both places in the original letter).

The Colonial Secretary's letter went on to say that the termination of Jwala Singh's appointment was not due to either of the two causes stated above, and the Governor, after careful consideration of all aspects of the case, was unable under the Regulations to interfere with the decision not to grant him a gratuity. The Regulations themselves do not speak of <sup>continuous or</sup> satisfactory service, but pensions and gratuities are <sup>invariably</sup> ~~subject~~ subject to a certificate that the officer has administered his duties with such diligence and fidelity as to justify the grant. It seems quite clear that no such certificate could have been given, since as will be seen above, the Governor definitely states that Jwala Singh's services were

11  
were terminated in view of the unsatisfactory reports on his conduct and work.

3  
Apart from this, the fact is that even if such a certificate would have been justified Jwala Singh was not eligible for a gratuity since he did not retire on abolition of employment ~~and~~ to effect economy or on the ground of illhealth. The Acting Governor admits that it is unfortunate that Jwala Singh was not informed at the time of his original discharge that he was ineligible for a gratuity under the Regulations, and that there were conflicting reports by the officers under whom he served. Mr. Moore adds that the case has received the fullest investigation in all its aspects and that he was satisfied that no justification existed whereby he could recommend any re-consideration of the decision already taken.

16297/30

Kenya

12

Mr. Home

(S. 4)

The Act does not  
state "continuous satisfactory  
service" Can you say who is  
that authority the Secretariat  
insert that phrase into  
their letter? Are there local  
By-laws based on the  
Act?

J. W. Allen

8/4/31

Mr. Lloyd.

Mr. Allen.

It is not clear why the Secretariat  
should refer to continuous satisfactory service.  
Sec. 335 of the Code of Regs. does not say  
anything about satisfactory service, and it has  
not been possible to trace any amendment to that  
section.

It will be observed, however, that the  
section reads "An officer --- may be granted ---  
and Kenya may have interpreted this as meaning  
"may, provided that his service has been  
satisfactory, be granted etc.

There are at present no local regulations  
governing the award of pensions and gratuities  
to Asiatics, but the local Govt. has been



requested to introduce an Ordinance on the lines of a draft prepared here ( despatch of 11 March - copy attached ).

ENBORNE

10.4.31.

Clearly the Kenya Govt were in their their rights in interpreting the word "satisfactory" since even where there is statutory authority for his part of pension etc the law contains a section (of Act 5(2)(3) <sup>under 27</sup> of the Kenya European Officers Pensions Act) of which the effect is that satisfactory service is a condition of his part of pension.

JH/62

10/4/31

~~Approved by the Govt~~

~~Enborne~~

JH/62

13 H



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

KENYA.

No. 15

RECEIVED  
-2 FEB 1931  
COL. OFFICE

9<sup>th</sup> January, 1931.

My Lord,

NO 2

With reference to Your Lordship's despatch No. 759 of the 27th September last, I have the honour to report as follows on the circumstances attending the discharge of Jawala Singh, Mistry, late of the Public Works Department in this Colony.

2. In April 1926 the Director of Public Works reported that the first official complaint as to Jawala Singh's misconduct reached his office on the 16th May, 1926, when the Executive Engineer at Naivasha reported him for:-

- (a) being drunk both on and off duty;
  - (b) being absent from work without permission;
  - (c) returning questionable travelling claims
- and
- (d) questionable treatment of native labour.

3. Jawala Singh was then transferred to Mombasa, where the Foreman in charge (Mr. E. Wilkinson) reported that "Jawala Singh has been in the habit of allowing drink to interfere in his work....owing to his untrustworthiness I do not consider him worth his present rate of pay."

4. In view of the unsatisfactory reports on his conduct and work Jawala Singh's services were terminated on the 8th September, 1925.

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

5.

Ans a - 471 - 6/7/31

5. It is the case as stated by Mr. Syed that the man was subsequently re-engaged in the Kisumu division of the Public Works Department in a temporary capacity in 1926, and also in the Nakuru division in 1928 on an hourly basis but he was summarily dismissed from the latter division for misconduct due to insobriety in January 1930.

6. It is unfortunate that Jawala Singh was not informed at the time of his original discharge that he was ineligible for a gratuity under the regulations, and that there are conflicting reports by the officers under whom he served.

7. The case, however, has received the fullest investigation in all its aspects and I am satisfied that no justification exists whereby I could recommend any reconsideration of the decision reached for the reason that the employe's conduct and work have not been consistently satisfactory throughout his service.

8. Mr. Syed's letter together with its enclosures

Letter.

RO.8.30 & Encls. is returned in accordance with Your Lordship's wishes.

*Returned as to 1 a/p*

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

*H. Williams*

ACTING GOVERNOR.

O.O.

Mr. Entwistle 2579

Mr. Parkhurst

Mr. C. Bottomley

Sir J. Shuckburgh

Sir G. Grindle

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

R 25 SEP  
D 26 S.

16257/30 L 3  
20th dated acct  
later than 27 Sept  
when Sir S. Gray will  
leave Kenya  
15  
29. Sept 1930

DRAFT.

Kenya

No. 759

W. H. Murray

to

I have the pleasure to transmit to you,  
in original, a communication  
which has been received from  
Mr K. D. Syed with regard  
to the case of a certain  
Jwala Singh, Mistry,  
late of the Public Works  
Dept. in Kenya, & to request  
that you be furnished with  
a report of the case of the case  
& that shall be laid to  
Mr Syed may be informed  
that his letter has been received,  
and that according to the  
Colonial Regs it has been  
referred to you for your  
report, & that a further  
communication after I have  
considered your report.

7. 12. 30  
no. of all cases  
in orig.

I shall request  
you to send him

3. It would be convenient  
if you would return Mr  
and its enclosures  
Sgt's letter with your  
reply

(Signed) PASSFIELD.

(1)  
K. D. SYED, B.A., LL.B.  
ADVOCATE.

1 TELEGRAMS  
"SYED" ADVOCATE.

P. O. Box 15.

REGISTERED POST.

J. 639/8/30

In reply please quote No. .... and date.

RECEIVED

18 SEP 1930

COL OFFICE

16  
Donald Avenue,

Nakuru,

(Kenya Colony)

W. & Africa.

20th, August, 1930.

The Private Secretary,

To,

The Rt. Hon'ble The Secretary of State for the Colonies,

London. (England)

Sir,

Most respectfully I venture to write these few lines to you in the hope that you would be pleased to lay them before the Rt. Hon'ble the Secretary of State for the Colonies for his just consideration.

I am desired by my client named Jwala Singh, Mistry, late of Public Works Department, Kenya Colony, to address you on the subject of his gratuity, which the Department has withheld, notwithstanding his representations, made to the Public Works Department, in the first instance and then to His Excellency the Governor.

The facts of his case, briefly submitted, are that he was employed by the Agent-General in India and Emigration Agent, for the British Protectorates in Africa on behalf of His Majesty's Government, as Stone /



Stone Mason in 1907, per copy of the agreement, attached herewith. He worked in the Public Works Department till 1925 and discharged his duties most diligently and laboriously, as will be borne out by the copies of enclosed certificates. By a letter No. 179 dated the 20th January 1925 (Copy attached) my client was informed by the then Director of Public Works Department that his service would not be required after the termination of his leave. I may submit here that my client's engagement was determined by the Department, obviously under clause 8 of the agreement. He was awarded full pay of the period of his leave as is shown from his last Pay Certificate (Copy attached). After the receipt of the above referred to letter, my client applied for gratuity and Mr. H. E. Hoëy, then Chief Accountant, assured my client, in his letter No. 420 dated the 12th February, 1925, that the question of gratuity would receive due consideration on the retirement of my client, (Copy annexed for your kind perusal). On his return from India he applied for gratuity and he was informed by the Department that no gratuity would be paid to him.

Sometime last year he consulted me and I represented his case to the Department. The Director in his letter No. Conf. 175/78/26 dated 9th Sept. 1929, says, " Your client Jwala Singh's services with this /

this Department were terminated on grounds of misconduct. Since 1923 repeated complaints of misconduct were received from officers, under whom he was employed," (Copy attached). A further representation was made to His Excellency the Governor and his reply also is enclosed for your consideration.

My submission is that if my client was guilty of misconduct, at the time of the termination of his services in 1925, he ought to have been dismissed and his pay forfeited under clause 11 of the agreement, whereas from his last Pay Certificate as well as from the Department's letter dated 20th January, 1925 it will be clear to you, Sir, that his services were terminated on notice and no allegations of misconduct were then made by the authorities concerned. Besides this my humble submission is that my client was given a definite assurance by the Department of the consideration of the question of his gratuity, in 1925, by Mr. Hoey, Chief Accountant (Ref. his letter No. 420 dated 12th February, 1925).

I may be permitted to draw your attention particularly to the certificate of Mr. Walby granted to my client during the course of his service in 1925 and this officer is now included by the Department as one of those, who sent adverse reports of my client's conduct and work since 1923.

I shall be much obliged to you if

if you kindly consider the following points which I wish to submit in connection with the present petition,

1. My client was not dismissed from service in 1925 under clause 11 of the agreement. His engagement was determined by the Head of the Department, on notice, under clause 8.
2. No allegations of misconduct were made by the Department in 1925 but on the other hand it gave him a definite assurance of the consideration of the question of gratuity after the expiration of my client's leave.
3. Mr. Walby's certificate granted to my client during the course of his service in March, 1925, before proceeding to India, on leave, is an abundant proof of the good work and conduct of my client, although this officer is now included amongst those, who reported against him, " Since 1923 ".
4. If there were any allegations regarding the misconduct of my client in 1925 he ought to have been given a chance of rebutting the same. I hope, Sir, you will doubtless appreciate the fact that it is very hard for a man to devote the best part of his life in a foreign country in the expectation of enjoying the last days of his life in peace and contentment, simply to find in the end, that his entire career of service extending over 18 years, though diligent and laborious in its nature, has been blasted away, by certain allegations, made at his back and without affording him an opportunity to rebut them. /

5. It is also to be noted, Sir, that my client in spite of the alleged adverse reports against him, was re-engaged by the Department in 1926, as admitted by the Director of Public Works in his letter, dated 9th September, 1929 (Copy attached).

In the end, Sir, I would request you to lay this petition before the Rt. Hon'ble Secretary of State for the Colonies and I beg him to go through this case and be pleased to revise the order of the Government.

Apologizing for the intrusion.

I have the honour to be,

Sir,

Your obedient servant,

*K. D. Syed*

ADVOCATE.

Encl: 10.

KDS/MJP.

COPY.

21

7  
Copy.

PUBLIC WORKS DEPARTMENT,  
HEAD OFFICE,  
NAIROBI.

20th January 1925.

Ref:No.179.

Executive Engineer,

Kisumu.

(Eldoret Sub- Division)

Kindly inform Mistry Jwala Singh that a single deck passage has been engaged for him on the S. S. "Karagola" sailing for Bombay on or about 13th March next.

2. He should also be informed that his services will not be required after the termination of his leave.

(sd) S. E. J. Howarth.

for DIRECTOR OF PUBLIC WORKS.

---

Eldoret, 29th January 1925.

No. 46/1/16.

MISTRY JWALA SINGH.

P. W. D. Eldoret.

Copy forwarded to you for your information.

(sd) H. G. Walby.

OVERSEER, P. W. D.

(HWP)

COPY.

22

Copy.

PUBLIC WORKS DEPARTMENT.

Head Office,

Nairobi, 12th Feb. 1925.

No. 420.

Ag. Executive Engineer,

Kisumu.

JWALA SINGH.

-----  
Ref: your No. 54/1/16 or 31/1/25.  
-----

Mistri Jwala Singh is not on the pensionable staff. Any claim that he chooses to make, after his leave has expired, for a gratuity on retirement, will receive due consideration.

(Sd) A. E. Hoey.

for CHIEF ACCOUNTANT, P.W.D.

---

Eldoret, 18th February 1925.

No. 189/1/16.

MISTRI JWALA SINGH,

P. W. D. Eldoret.

Copy forwarded to you for your information and necessary action.

(Sd) H. G. Walby,

OVERSEER, P. W. D.

(HNP)



A M E N D E D:Colony and Protectorate of Kenya.  
-----LEAVE AND// LAST PAY CERTIFICATE.  
-----

- certify  
1. Hereby ~~certify~~ that permission has been given to Mistry, Jwala Singh, Carpenter, Public Works Department, to proceed to India by the steamer leaving Mombasa on or about the 18th March, 1925, and that he has been granted leave of absence, with full salary, on the grounds of Resident Service for the period of the voyage to India; for five months and nineteen days in India.
- 2.- Mr, Singh's Salary- full salary is at the rate of Shs. 298/- per mensem and has been paid locally up to the 12th March, 1925 inclusive and to no later date.
- 3.- Mr, Singh is entitled to full salary at the rate of Shs. 298/- per mensem from the 13th March, 1925 inclusive and onwards
- 4.- Mr-----should be provided on arrival in India, with a -----class-----to----- and, on returning to East Africa with a similar----- from----- and with a-----class passage to Mombasa ~~with food~~ ~~without food~~ ~~with food-allowance~~

Mistry Jawala Singh's services will not be required by the Public Works Department at the expiration of the leave granted to him.

Sd/ G.W. Knapman  
for Ag. Colonial Secretary.

The Secretariat,  
Nairobi 14th April, 1925.

C O P Y.

24

P.O.Box. 662.  
Telephone No.497.

PUBLIC WORKS DEPARTMENT.

Head Office,

NAIROBI.

In reply please quote  
Ref. No. CONF.175/78/26

KENYA COLONY.

CONFIDENTIAL.

9th September, 1929.

Mr. K. D. Syed,  
P.C. Box. No. 15.  
N A K U R U.

Sir,

JOWALLA SINGH, LATE PUBLIC WORKS

DEPARTMENT MISTRI.

Your client, Jowalla Singh's services with this Department were terminated on grounds of misconduct. Since 1923 repeated complaints of insobriety were received from officers under whom he was employed. His case was fully considered by Government who decided not to re-engage him and, in view of the reason for termination of his services, not to grant him a gratuity.

2. Since his discharge, unknown to me, he appears to have obtained temporary employment under the Executive Engineer, Kisumu, who states that his character was satisfactory during this period.

I have the honour to be,

Sir,

Your obedient servant,

Sd/ W. M. Lynde.

For DIRECTOR OF PUBLIC WORKS.

P. O. Box. No. 621.

THE SECRETARIAT,  
NAIROBI. KENYA.

When replying please quote:-  
No.S./E.18816/2262/33 and date.

30th April, 1930.

Sir,

With reference to your letter No.J.G.1/29 of the 23rd  
of December last on the subject of the question of a gratuity  
to Jwala Singh in respect of his service in the Public Works  
Department, I have the honour to inform you that in accordance  
with the regulations in force Jwala Singh could be granted  
gratuity only if he had been retired.

- (a) On the ground if ill-health provided he had at  
least fifteen years continuous satisfactory  
service or
- (b) in the interest of economy and re-organization  
of the Department provided he had completed at  
least seven years continuous satisfactory service

2. The termination of Jwala Singh's appointment was  
not due to any of the two causes stated above and His Excellency  
the Governor has directed me to inform you that, after careful  
consideration of all aspects of the case, he is unable under the  
regulations to interfere with the decision already communicated.

3. I have to express regret for the delay in dealing  
with the representations submitted on behalf of your client.

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

Sd/ J. Cement Wood.

For COLONIAL SECRETARY.

K. D. Syed, Esq., B.A.L.L.,

P. O. Box. 15.

N a k u r u.  
-----

EAST AFRICA PROTECTORATES.

AN AGREEMENT made this Eighth day of May Nineteen hundred and seven between, (1) the Agent-General in India for the British Protectorates in Africa on behalf of His Majesty's Government ( hereinafter <sup>after</sup> referred to as " the Agent-General " ) of the one part and (2) Jawala Singh Stone Mason ( hereinafter referred to as " the Emigrant " ), more particularly described in the Table of Particulars hereto, annexed of the other part.

WHEREAS the British Government ( hereinafter referred to as " the Government " ) has agreed to engage the Emigrant and the Emigrant has agreed to serve the Government upon the terms and conditions hereinafter hereinafter specified;

It is hereby agreed as follows:-

The Emigrant agrees and binds himself as follows:

1. That he will immediately go to Mombasa in the vessel indicated by the Agent-General and thence proceed to \_\_\_\_\_ at such time in such manner and by such route as may be indicated by \_\_\_\_\_ there.

2. That he will diligently, faithfully and to the best of his ability obey all such orders and perform all such work appertaining to his craft or to the purpose for which he has been engaged as may be given to him by any person under whose authority he may be placed during the currency of the Agreement.

The Government agrees as follows:-

3. The Emigrant will be provided with employment either on a monthly pay equivalent to that provided in clause 6 or on piece or contract work as the case may be at rates which will be not less than will yield him a minimum rate of pay equivalent to the monthly pay on which he

was engaged ( vide clause 6 ) and he will be entitled during illness or other enforced idleness to a minimum wage at a rate not less than half the monthly pay on which he was engaged ( vide clause 6 ) and he will be provided in all cases with free medical attendance for himself and also for the persons ( hereinafter referred to as " his dependents " ) named and described in the Table of Particulars hereto annexed.

4. The Emigrant and his dependents named and described in the Table of Particulars hereto annexed shall be provided by the Government with a free passage from place of recruitment, viz., Lahor to Mombasa and back.

Provided as follows:-

The return passage shall be forfeited absolutely:-

1. The Emigrant, after being discharged, fail with-  
<sup>reasonable</sup>  
 out ~~responsible~~ cause ( of the ~~responsibility~~ reasonable-  
 ness of which in case of dispute the Chief of the  
~~Administration~~ Administration for the time being shall  
 be the final and conclusive judge ) to avail him-  
 self of the opportunity to return offered to him; or
2. If the Emigrant, after duly completing his engage-  
 ment, fail to claim his return within six calendar  
 months of the termination of the engagement,  
 further

The Parties hereto/agree as follows:-

5. This engagement shall, unless sooner determined, as hereinafter provided, continue for three years from the day on which the Emigrant sails from India.
- 6.- The pay of the Emigrant as shall be at the rate of Rupees ~~fifty~~ <sup>fifty</sup> only per month or Rupees Fifty five only per month when rations are supplied to him.
7. The pay of the Emigrant shall begin, on the day on which he sails from India and ( unless he be discharged in

exercise of the power hereinafter by Articles 10 and 11 reserved) shall continue until the day on which he lands in India on his return. Provided that if the Emigrant, after duly completing his engagement, shall for his own convenience, fail to proceed or to continue on his return journey as indicated by a competent officer, then his pay shall cease on and from the day on which his engagement ended.

8. The Government may at any time, by giving one calendar month's notice in writing, determine the engagement of the Emigrant.

9. It shall be competent to the Government to withhold and retain any proportion not exceeding one-sixth of the Emigrant's money wages and to place the same in deposit during the currency of the engagement as part security for the performance of the agreement by the Emigrant. All wages so withheld shall be payable to the Emigrant, or to his heirs, legal representatives or assigns, at the termination of the engagement, except as hereinafter provided.

10. In the event of the Emigrant being found incompetent to perform the work agreed upon to be performed ( of which incompetency the Chief of the said Administration for the time being shall be the sole judge), he shall be liable to instant dismissal and thereupon this agreement shall be at an end, except as regards the provisions of clause 4 specified above.

11. If, in the opinion of the Government, the Emigrant shall be guilty of misconduct, insubordination, or any other wilful breach whatever of this agreement ( of which misconduct or insubordination, the Chief of the said Administration for the time being shall be the sole judge), it shall be competent to the Government:---

(a) To fine the Emigrant to any extent not exceeding the deposit at his credit, or a month's pay and also not

exceeding Rs.48, subject always to a right of appeal to the nearest Officer exercising judicial powers; and also (b) in lieu of or in addition to any such fine, to instantly discharge the Emigrant. In the event of his being so discharge, his pay and allowances shall forthwith cease and thereupon this agreement shall be at an end except as regards the provisions of clause 4 specified above.

12. If any difference of opinion shall arise as to the true intent of this agreement or any part thereof, the decision of the Chief of the Administration for the time being on the point shall be and conclusively binding on both parties.

1. Sd/ J. A. Devian

Sd/ C.F. Smith.

2. Suran Ditta, Sd.

Witnesses.

Sd/ Thumb mark

( Signature or Mark of Emigrant )

i.e. Jwala Singh

Sd/ W. D. Luman  
Agent-General in India &  
Emigration Agent, for the  
British Protectorates in Africa

Sd/ A.C. Boyd  
Protector of Emigrants.

on behalf of His Majesty's Government.

C O P Y.

To whom it may concern.

Bearer Jwalla Singh has been under my control as a Mistry on Public Works for several years.

He is quite a good all round man and understand his works fairly well, he can also read plans.

Sd/ H. G. Walby,

C/o P. W. D.

Eldoret.

Kenya.

4-3-25.



C O P Y.

Nandi,  
British East Africa,  
March, 2/1911.

" Jwala Singh has asked me to give him a certificate to say that he can build houses with bricks. He has just built one here and made the bricks himself and the house appears to be well much." Jwala Singh appears to be a capable person, a very willing worker and most obliging in every way.

Sd/ N. Moncheten.

COPY.

32

No.....

P. W. D. Form No. 24.

EAST AFRICA PROTECTORATE.

PUBLIC WORKS DEPARTMENT.  
-----

Certificate of discharge.

Kisumu Station.

28-8-1926.

Name. Jwala Singh.

Designation. Mistry.

Date of engagement. 25th January, 1926.

Date of discharge. 28th August, 1926.

Cause of discharge. Work slack.

Character. Good.

Remarks :- This man has always done his work satisfactory.

Sd/ A. C. H. Jones.

for Ag. EXECUTIVE ENGINEER.

P. W. D. KISUMU.

-----  
COPY.

Eldoret.

July, 26th, 1924.

To whom it may concern.

I have known Mistry Jwala Singh for ten years. He is thoroughly experienced and capable of taking charge of building operation.

Sd/ H. M. Jones.

-----  
COPY.

Memo.

EAST AFRICA PROTECTORATE,

P. W. Dept.

June 21st, 1917.

Jwala Singh has worked for me for 15 months as Mistry. He is a very good all round work man and is especially good on building work.

COPY.

32

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33  
END  
Maji-ya-Cham uka.

Gilgil. 6-3-23.

To whom it may concern.

Mistry Jwala Singh has been working making a road & bridge through my Farn and five miles South of same for P. W. D. I have seen him working and supervising natives and he gets a lot of good work done efficiently and economically.

Sd/ C. Dodd. Capt.

Memo.

Kenya.

Karbarnet Dept,  
Dec. 15th 1922.

Mistry Jwala Singh P. W. D. has been repairing the Government buildings at Karbarnet. He is quite capable and able to look after the Fundies under him.

Sd/ H.E. Evans.  
D.C.

Catholic Mission.  
P.O.Box. 50.  
Kisumu.  
Kenya Colony.  
August 28th 1926.

Bearer Jwala Singh has been working for the mission on several occasions and always given satisfaction and done his work conscientiously.

Sd/ G. Brandem.

Prefect Catholic.