

1921

KENYA

CNO  
52890 520

O. A. G.  
OTLEY

1318

DATE  
20TH SEPTEMBER 1921

OCT 21

REGULATION :-

SUBJECT

MR K. S. PATEL

CLAIM FOR GRATUITY

Enclose petition with comments. No grounds for extending a concession.

11/10/21  
27/10/21  
11/10/21  
11/10/21  
11/10/21  
11/10/21

Precedent Paper

MINUTES

*S. H. Keas  
S. H. Keas*

? act. receipt. request that  
W. Patel be inf? that Spt.  
he received his letter, to  
that he cannot see the  
to take any action in  
matter - work  
Spt. what ~~had~~  
been taken in regard to  
these rules, on which  
concerned adversely (enc. 3  
of enclosure)

Subsequent Paper

*all  
27.10.21*

We are apparently expected to send this  
on to the S.O., but I think we can  
ignore

expressly both that & the fact that a copy has been sent to India.

By the hour of 10 minutes & more, when that part expressed, considered, however, as that being considered of the matter by the committee the result is in favor of the

expression

1. ad 27/10

2. 3. 26.

27. 27/10

28. 27/10 21/10

We have seen that a list of the names of members of the committee is given in the minutes. I do not think it is necessary to mention the names of the members of the committee but bring up the names of the

17 3-22

at the

at the month

19/6/22 at the



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

20th September, 1921.

52890

Sir,

I have the honour to transmit a copy of a petition from Mr. Kalidass Somabhai Patel, an ex-employee of the Uganda Railway in which he lays claim to a gratuity which has been refused him.

2. Mr. Patel joined the service of the Uganda Railway in October, 1907, and resigned in June 1920 on the completion of 12 years and 8 months service for the reason as he states that he could expect no further promotion.

3. The only post lying in the line of Mr. Patel's promotion was that of Assistant Goods Agent, but his abilities and power to control staff were not considered commensurate with a post normally filled by a European, and for that reason his promotion thereto was after consideration not recommended.

With regard to the alleged promises of transfer and promotion, I am informed that the Traffic Manager has neither recollection nor recollection of them: Mr. Patel was told that a recommendation was going forward that the maximum salary of the grade in which he was serving would be raised, and this has subsequently transpired. Mr. Patel was, however, not content to abide by this prospect and resigned.

4.

THE RIGHT HONOURABLE  
WINSTON CHURCHILL, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET, LONDON, S. W.

... 11 years ... service ...  
 would ... as 11 years would ...  
 the support of special ...  
 circumstances ... the applicant would have no ...  
 control and would in any case only be granted as an ...  
 act of grace. There is however in my opinion no ...  
 ground for extending a concession to this applicant ...  
 who left the service of his own accord under an ...  
 imagined grievance, and I trust your view will accord ...  
 with mine.

5. I have to add that the Inter-Colonial Railway ...  
 Council considered itself incompetent to investigate ...  
 such cases as this and forwarded the petition to me ...  
 without further comment.

I have the honour to be,

Sir,

Your humble, obedient servant,

*W. K. ...*

ACTING GOVERNOR.

*Handwritten notes and signatures at the bottom of the page.*

ENCLOSURE

In Despatch No. 1318 of 20.7.1921 593

Nairobi, 27th. June 1921.

The Right Hon<sup>ble</sup> The Secretary of State for India,  
India Office,  
London, England.

Through:-

The Chairman of the Railway Board,  
Nairobi,  
Kenya Colony.

His Excellency The Governor,  
Government House,  
Nairobi, Kenya Colony.

The Rt. Hon<sup>ble</sup> The Secretary of State for the Colonies,  
Colonial Office,  
London, England.

Sir,

I respectfully submit for favour of consideration and such  
action as you may deem necessary copy of letter addressed by me to  
the Chairman of the Railway Board, Nairobi, Kenya Colony, and the  
Chairman of the Railway Board, Simla, India, which letter contains  
full particulars of my case against the Uganda Railway Administration.

Sir,

Your obedient servant,

W. O. G. Box 457

Nairobi

ENCLOSURES:-

Nairobi

29<sup>th</sup> June 1921

The Chairman,  
Railway Board,

P.O. Box No. 445,

N A I R O B I.

Sir,

I beg leave to bring before the Members of the Railway Board my case against the Uganda Railway Administration.

I joined the railways in India on the 18th April 1902 and resigned on the 24th August 1907 in order to be free to take up an appointment on the Uganda Railway. During my period of service on the Indian Railways I filled the positions of Signaller, Booking Clerk, and Goods Clerk at different stations and was therefore well qualified to take up the post of Station Master on my arrival in East Africa.

I joined the Uganda Railway service on the 7th October 1907 and was posted to Nairobi Station on a starting salary of Rs. 80/- per month. On the 29th October 1907 I was transferred to Kisumu Station as Goods and Coaching Clerk. I remained at Kisumu Station till I went on leave and on my return from leave on the 15th March 1911 I was posted as Goods Clerk at Nairobi Station. I held this position till I next went on leave and on my return from leave on the 13th August 1917 I was again posted as Goods Clerk at Nairobi Station which position I held until January 1920 when I again went on leave. I returned from this leave in April 1920 and was again posted as goods Clerk at Nairobi Station which position I held until June 1920 when I ceased to be a servant of the Railway.

You will notice that I took up the duties of goods Clerk at Nairobi - the principal station on the system - in March 1911 and that on each return from leave, viz., August, 1917, and April 1920

I took up my old position -

I took up my old position as Goods Clerk, Nairobi thus proving, if proof were indeed needed, that my services were satisfactory.

During my period of service with the Uganda Railway, i.e., from 7th. October 1907 to 9th. June 1920 - total period say 12 years and 8 months - I received the following increments, viz.,

1 - 4 - 1909.	Rs. 10/-
1 - 4 - 1911.	" 10/-
1 - 4 - 1912.	" 10/-
1 - 11 - 1913.	" 20/-
1 - 4 - 1915.	" 10/-
1 - 4 - 1916.	" 7/-
1 - 4 - 1917.	" 12/-
1 - 4 - 1918.	" 11/-
1 - 4 - 1919.	" 10/-
	<hr/>
	" 100

Thus it took me 12 years and 8 months to rise in salary from Rs. 65/- per month to Rs. 100/-p.m. the average increase per annum being 1/- per month.

As regard to leave I wish to draw special attention to the Jan 1920 leave. The Administration held that as I ~~stated~~ had not completed 33 months service from the time of return from last leave and had not earned 3 months leave in respect of such tour I was not entitled to a free passage to and from India. I held, however, that as I had accumulated leave standing to my credit which together with the leave due - all earned leave - same entitled me to a free passage.

I took legal advice on the matter - the only alternative open to the Indian employee of the Uganda Railway when justice is denied him - and I was advised to take action for recovery of the sum I had paid out in respect of my passage.

The case came up in the Resident Magistrate's Court at Nairobi (Civil Case 1064 of 1920) and judgment was given in favour of the Railway. An appeal against this judgment was made and the case came up in the High Court, Nairobi on the 26th. November 1920. Mr. Justice Maxwell in stating the case remarked in regard to the Leave Rules, viz. "Apparently these

Apparently these (leave) rules were published by authority of the  
 were drawn up prior to 1900 and I am surprised to find that the  
 leading cases on their interpretation have been quoted to me for the  
 phraseology is amazingly obscure. It is high time I suggest that they be  
 set into intelligible and correctly spelt English. Included in the  
 case for a refund of passage was a claim for salary in respect of 15  
 days accumulated leave. In the Resident Magistrate's Court this case  
 was decided in my favour. The railway appealed against the decision so  
 that both appeals came before Mr. Justice Maxwell. In regard to the 15  
 days accumulated leave Mr. Justice Maxwell's judgment states:-  
 "But - and the but is important in this - the employees arrange-  
 ments were (disorganised (as were those of many bigger men) by the War  
 it was solely (due to that that his leave when due and duly applied for  
 was not granted him. I consider it both unreasonable and arbitrary to attempt  
 to penalise him therefore."

In regard to the case for refund in respect of passage to and from  
 Africa, appeal was made against the judgment of Mr. Justice Maxwell  
 in the High Court and the case then came before the Court of Appeal for  
 Southern Africa. Judgment was given in my favour and costs in both the  
 High Court and the Court of Appeal.

This is a very illuminating case and the position taken up the  
 Railway Authority is typical of their attitude towards their employ-  
 ees. I suppose it is looked upon as a crime to take any action  
 to secure what one is entitled to or the hire of his labour.  
 When I was paid salary of Rs. 100 per month I had read  
 that in 1919 I would receive  
 until promoted to a higher post I received  
 under which my maximum salary would be Rs. 300/-  
 being held the post of goods clerk at Nairobi Station for such  
 length of time and after nearly thirteen years service I think I was  
 entitled to look for such promotion. In February 1919 the Assistant  
 Traffic Manager promised that I should be appointed as Supervisor of



...with the maximum salary of the post  
 ...was done and when I wrote for this  
 ...see the Traffic Manager the  
 ...see the Traffic Manager on this  
 ...my resignation.  
 ...that the maximum salary  
 ...er the post would be Rs. 300/- per m

On each occasion I was satisfied with the response and  
 contented to wait a reasonable time for the same.

Up to the time I went on leave in January 1920 nothing was done  
 and on my return from leave in April 1920 I brought the matter up.  
 On the 20th April 1920 I saw the Acting Traffic Manager who promised  
 that within a week I would be transferred to a roadside station.

This promise was also unfulfilled and as I continued to  
 press the matter I could get no satisfaction. On the 11th May 1920  
 Manager. On the 11th May 1920 I wrote to the Acting Traffic Manager to the  
 effect either to carry out the promise made or to accept my  
 resignation. My resignation was accepted and I was notified on the  
 10th June 1920.

What I wish to point out is that I had been in the service of the  
 and in a little over two years time I had attained the position of 20 years  
 years service and therefore be entitled to a gratuity for fifteen  
 years service. I confidently assert that I have been deprived through injustice  
 and indifference to my claims to take my gratuity and I shall be  
 pleased if my case can be considered by the Members of the Board.

I am sending a copy of this letter to the Chairman of the Railway  
 Board, India.

Yours obedient servant,  
 H. S. Patel



(3) I shall be glad to be informed what  
~~whether any amendment has been made in~~  
~~action has been taken in regard to the~~  
whether any action has been taken in regard to the  
leave rules, on which, as stated on page  
3 of the enclosure to the despatch, Mr  
Justice Maxwell ~~made a statement~~ commented as follows

WINSTON B. CHURCHILL