

Home (19 19) Department.

Examination

Cubana SERIES.

G.O. No. 1341

DATED 31-10-29

[Despatch Abstract.]

Agreement

Informing the Director of Public Instruction that an officer can be treated as serving under a 'special covenant' for the purpose of rule 12 of the rules for the study of oriental languages by the European and Eurasian officers of the Educational department only when the terms of his covenant allow him special concessions not contemplated by the rules or when there are material differences between the terms of his agreement and the rules framed by the Government.

PAPERS PUT UP WITH CURRENT No. _____

Papers of the department to which the current belongs.

Number.	Date.	Original (=O) or spare copy (= S.O.).	Remarks. (In this column such of the papers as have been removed for copying, printing, etc., should be marked with a cross.)	Initials of Referencer with date in token of return to Reference department

Papers of other departments.

Department.	Number	Date.	Original (= O.) or spare copy (= S. C.).	Initials with date of (1) Referencer acknowledging returns of the paper concerned or (2) Despatcher to denote the return of the papers to the department concerned.

HOME (EDUCATION)

DEPARTMENT.

Received



Registered

20-6-1919

Subject.

to be considered
Requesting to be favoured with the interpreta-
tion to be given to the term "Special covenant" mentioned in
Rule 12 of the Rules for the study of Oriental languages
approved in G. O. No. 738 Educational dated 14th December 1910.

ENCLOSURES

No. _____

R. C. No. 2441/1919

Spare copies _____

Station Madras, Dated the 18th June 1919.

From (Name) the Hon'ble Mr. R. Littlehales, M.A.,

(Designation) Ag. Director of Public Instruction.
M A D R A S.

To The Secretary to the Government of Madras,

HOME (EDUCATION) Department.

Sir,

I have the honour to request that you will be so good
as to let me know the interpretation to be given to the
term "Special covenant" mentioned in Rule 12 of the Rules
for the study of Oriental languages approved in G.O.No.738
Educational dated 14th December 1910, whether the covenants
executed by the members of the Indian Educational Service
and all others who are recruited by or with the sanction of
the Secretary of State such as the Kindergarten Lecturer,
Teachers' College, Saidapet, the Manual Training Instructors

attached to that college and the European Schools, the Principals of the Law and Engineering Colleges and the Instructor in Mechanical Engineering, College of Engineering all come under the above category or whether only the covenants executed by officers other than the members of the Indian Educational Service (Male and Female) are treated as special ones.

I have the honour to be,

Sir,

Your most obedient Servant,

G. V. S. Srinivasan

for Director of Public Instruction

Y. V. /17/6
Y. V. /17/6

Home (Education) Dept.

(C.No.1499 A) From the D.P.I., R.C.No.2441 dated the 18th June 1919.

3
Memo. 1499-3 /16.8.19

Clause 6 of the agreement executed by officers of the Indian Educational Service is as follows:-

Page 24 of 80. 1107 (R) 16.11.19

"6. That the party of the first part shall, within the period or periods prescribed by the rules and regulations relating to examinations in vernacular languages for the time being in force in the province within which he may be serving, and generally in accordance with, and subject to such rules and regulations, pass an examination or examinations in such vernacular language or languages as may be required by the Government, and on failure to pass such examination or examinations shall be liable to the penalties prescribed by the said rules and regulations. Provided that if the party of the first part shall fail to pass an examination in such one of the prescribed vernacular languages as may be required within the said term of two years, the Government may, notwithstanding anything in the next clause or the said rules and regulations contained, dispense with his services".

Rule 12 of the rules for the study of oriental languages by the European and Eurasian officers of the Educational department in the Presidency provides :- "An officer not

Page 97 of 80. 238 (W) 16.11.19

"serving under any special covenant who fails to pass the prescribed test within the time fixed in rule 5 shall be removed from the department unless the Government by special order extend the period and substitute a lesser penalty. An officer serving under a special covenant shall be dealt with under the conditions of his covenant".

2. The penalty provided in the agreement executed by officers of the I.E.S. for failure to pass in one of the recognised vernacular languages within the prescribed period of two years is removal from service. As this penalty is very severe and hard to enforce, the Govt. resolved in 1911 to substitute a lesser penalty, viz., the stoppage of annual increments to the salary of the officers failing to pass the examinations within the prescribed periods. Such penalty is usually imposed only after giving previous warning thereof to the officer concerned. The question has arisen whether, under the agreement and the rules as now framed, the Government are ^{legally} competent to ^{withhold} stop the annual increments of officers serving under covenants ^{when they} fail to pass the prescribed examinations in spite of warnings conveyed to them. The Govt. Solicitor is requested to favour Govt. with his opinion on the ^{point} question. In this connection his attention is invited to clause 1 of the agreement printed on p. 3 of G.O., No. 1101 Edl., dated the 4-10-15, and to clause 9 of the Memo. of information furnished to candidates for the I.E.S. printed on page 10 of G.O., No. 302 Edl. dated the 5-4-12, which provides that in all cases incre-

for NO 411 29-6-11 (P)

increments of salary are given for approved service only.

3. The undermentioned G.Os. bearing on the subject are enclosed:-

- (W) (1) G.O., No. 738 Edl., d/14-12-10, containing the rules for the study of oriental languages by the European and Eurasian officers of the Madras Edl. Dept.
- (P) (2) G.O., No. 411, dated the 29th June 1911, re: the penalty to be enforced for failure to pass the prescribed examinations.
- (H) (3) G.O., No. 302 Edl. dated the 5th April 1912, containing the memorandum of information furnished to candidates for the Indian Edl. service.
- (R) (4) G.O., No. 1101 Edl., dated the 4-10-15 containing the latest form of agreement prescribed for the officers of the Indian Edl. Service.

To

The Govt. Solicitor,
(with papers.)

(Reminder after one month).

SK
11-8-19
MS
14/10/19

15/8/19
16/7/19

Q

From



Ag: Government Solicitor,

Madras.

To

The Secretary to Government,

Home (Education) Department,

Stonehouse Hill,

Nilgiris.

Sir,

I have the honour to acknowledge receipt of Government -

Memorandum No.1499 A-3 dated the 16th instant and note that the question has arisen whether under the agreement and the rules as now framed Government are legally competent to withhold the annual increments of officers serving under covenants when they fail to pass the prescribed examinations in spite of warnings conveyed to them and that you wish to have my opinion thereon.

2. Under clause 6 of the agreement the officer is required to pass an examination in such vernacular language or languages as may be required by Government and on failure to pass, shall be liable to penalties prescribed by the said Rules and Regulations. Rule 12 provides on failure to pass the said examination, removal from the service unless Government by special order extend the period and substitute a lesser penalty. This must be taken to mean a lesser penalty than removal from the department and stoppage of increment would be such. What the proposed penalties are, do not appear to be set out in the rules themselves.

3. In the memorandum of information to which you refer increments are mentioned and it states that, in all cases, increments of salary are given for approved service only.

4. In paragraph 2 of the Memorandum it is stated that in 1911 it was resolved to substitute a lesser penalty than removal by stoppage of annual increments to the salary. There is no Government order to this effect. The Director's letter of the 1st June 1911 is printed in G.O. No.411 (Edl) dated 29-6-11 referring to this but the

suggestion is not included in the order itself and it is necessary for Government in each case to pass a special order extending the period within which officers should pass the examination and -- impose a penalty of stoppage of increment on failure, if they -- wish to do so and my opinion is that Government are legally --- competent to withhold the annual increment after passing such an order in the case of each individual officer.

5. I would suggest that clause 12 of the Rules and Regulations be altered so that it may not be necessary for Government to pass in each case a special order to extend the period and substitute a lesser penalty. The agreement provides for removal from the service and no rule such as that as set out in clause 12 is necessary on the point. This clause might be altered so as to read in the event of an officer not serving under any special covenant failing to pass the prescribed test within the time fixed under rule 5, he shall not be entitled to the annual increments until such time as he passes the examination unless Government order otherwise.

I have the honour to be,

Sir,

Your Obedient Servant,

Ag: Government Solicitor.

Home (Education) Dept.

From the Govt. Solicitor, No. 879 dated 22-8-19.

Memorandum. 1901 A-1/5.819

With reference to his letter No. 879, dated the 22nd August 1919, the Government Solicitor is informed that officers appointed to the I.E.S., are required to enter into an agreement with the Secy. of State for India and in view of this circumstance, they should apparently be treated as officers serving under special covenants for the purpose of rule 12 of the rules printed in G.O., No. 738 Edl., dated the 14-12-10. The Govt. Solicitor is requested to state whether in case they are so treated Govt. can legally direct the stoppage of increments to their salary for failure to pass the prescribed examinations even after due warning.

To

The Govt. Solicitor.

From

C. Moresby

AG: Government Solicitor,

M a d r a s

The Secretary to Government

Home (Education) Department

Stonehouse Hill,

Nilgiris.

Sir,

With reference to your Memorandum No. 1901 A-1 dated 5th September 1919 I am asked to state whether if officers appointed to the Indian -- Educational Service under agreements with the Secretary of State as such are treated as officers serving under a special covenant, increments to their salary can be stopped for failure to pass the required examination.

2. Rule 12 provides for two classes of officers viz. those serving under special covenants and those not serving under special covenant. The distinction I understand is that an officer under special covenant is generally an officer for some particular post in respect of which -- special covenants are required from him. If ~~therefore~~ all officers are to be treated as under a special covenant the covenant itself must be -- considered and adhered to.

3. The covenant is contained in clause 6 of the agreement under which the officer is liable to the penalties prescribed by the rules and -- regulations relating to examinations in vernacular languages. The rule to be referred to is then rule 12 the first part of which would not then be applicable and the officer under a special covenant would not have -- the advantage of the substitution of a lesser penalty than removal from the Department. Being under a special covenant he must be dealt with -- thereunder and the rules are not applicable.

4. This seems to be repugnant to the clause in the agreement under -- which it is clearly the intention that the rules and regulations shall

be

Madras 13th September 1919.



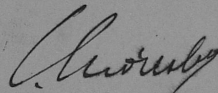
10/
be applicable. It therefore seems to, ^{follow} in a way ~~prove itself~~ and to ~~make~~ ^{be} evident that officers under these agreements cannot be said -
to be officers under a special covenant.

5. My answer to your question is that Government cannot legally direct the stoppage of increments to the salary of such officers if they are to be treated as under a special covenant as the special -
covenant should and does not provide for penalties.

I have the honour to be,

Sir,

Your obedient servant,



AG: Government Solicitor

85,192-3-17.
07-18

NOTES.

9
Home (25th) Sept.

CN 1499 A. From the D.P.S., R.C. 2441 by 18.6.19.

Subject. Regarding the term special
covenant occurring in the rules
for the study of oriental languages

page 9 of so. 738
14.12.10 (14)

Rule 12 of the rules for the study of oriental languages by European and Eurasian officers of the Educational Dept states that an officer not serving under any special covenant who fails to pass the prescribed vernacular test within the time fixed in the rules shall be removed from the department, and that an officer serving under a special covenant shall be dealt with under the conditions of his covenant. The D.P.S. asks whether the expression "special covenant" refers to the agreements executed by the officers of the Indian Educational Service & all other officers holding special appointments outside the service, or only to the latter. It is submitted that the distinction drawn in rule

rule 12 between officers serving under a special covenant and those not serving under any such covenant, has been in existence since 1883. In that year, the D.P.S., ~~proposed~~ in submitting revised rules for the study of oriental language, ~~suggested the insertion of a~~ ~~rule~~ introduced a rule similar to the existing rule 12. This was approved by govt. From the rules it appears that the term 'special covenant' covers all agreements executed by Educational officers, whether in the regular cadre or outside it. It is also observed that there is no difference in the form of the agreement executed by officers of the Indian Educational Service + those holding special appointments so far as the clause relating to their obligation to pass the vernacular test is concerned. In these circumstances, it is submitted that the D.P.S. may be informed that the expression in question covers all agreements. A draft order

Rule 10 on p. 5, 6, 7
No. 103 & 1. 3. 1883 (E)

cf. clause 6 on p. 4 of 1161
4.10.15
clause (10) on p. 7 of 228
26.2.15
(R)
(R)

is submitted for approval.

SK
27.19.

SK
27.19

SK
47.19
5

Why not interpret special court to mean a covenant which specially refers to any clause defining a procedure for default of conduct? If you put up an I.E.S. officer's covenant & anything, I shall note what I mean

SK
5/7/19

For the form of agreement of I.E.S. officers

- (R) please see G.O. No. 1101, dated the 4th October 1918.
Agreement executed by ^{some} officers outside the I.E.S. are in G.O. No. 225, dated the 26th February 1915, & pages 3 & 4 of G.O. No. 1400, dated the 1st November 1918.

SK
67.19.

SK
67.19

SK
87/19
5

- (N) Should interpret Rule 12 in G.O. 738 of 1910 as follows: -

In the case of the officer concerned, has he entered into any covenant which prescribes *inter alia* for default in passing? If so, the prescription should be applicable.

If there be no covenant or if there be one but contains no special condition for time of pany Rule 5 is applicable

2. In the case of the DE 3 others, they execute a special covenant & are governed and this matter by rule 6 of their covenant. In the case of Mr. Tyfe he is governed by rule 10 of his covenant. and soon

Does BPP agree & does the above meet his difficulty?

Wm 9/7/19

DP I say



^{in brief}
I agree, but my difficulty is thereby

increased.

This reference arose from the fact that Mr. Tyfe has not yet passed his vancouver test, and I had to consider what recourse and action I should make to Govt. in this regard. This required me to look up the terms of his contract with the Secretary of State and the practice hitherto adopted in similar cases that had arisen in this Presidency.

1101
4.10.15 (R)

225
26.2.15 (R)

Letter no. 1479A-1
9.7.19

Redm
11/2/19

No 240 7/14.7.19

The position is brief this: accepting the position that all contracts made by members, the E.S. are special contracts, together with those ~~contracts~~ of certain other officers like his wife, his, his wife, etc., under their covenants these officers are compelled to pass the vouches test within a certain time, failing which ^{either} Govt. may dispense with their services, or they shall be liable to the penalties prescribed by Govt. in their rules and regulations relating to the passing of vouches campaigns. Turning now to the "Penalty for not passing the Examination" which forms the second part of Rule 12 of these rules and regulations we find that officers are divided into two classes (a) those not-serving under a special contract, and (b) those serving under a special contract. ~~As~~ As

regards the (a) class, Govt. may dispense with their services or substitute a lesser penalty. As regards the (b) class Govt. may deal with them only under the condition of their contract.

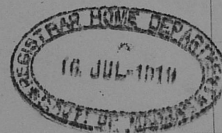
Now in the case of all special contracts the penalty prescribed is the possibility of dispensing with the services of the officers employed. The contract gives no contractual sanction to the substitution of a lesser penalty, either explicitly or under the rules framed by Govt., for the lesser penalty is ~~not~~ expressly

if any ~~other~~ penalty at all is to be imposed,

(in these rules) stated to be applicable only to ~~one~~ persons not serving under a special contract. The rules framed by Govt. do not permit, the substitution of a lesser penalty than dismissal in the case of those who serve under a special contract.

term of the
My interpretation of the contracts & bonds therefore to the following: (1) Govt. may dispense with the service of messrs type, etc. or they may take no action at all; (2) the lesser penalty (of stopping increments) which has already been ^{imposed} by Govt. in some members of the Est. Dept. is ultra vires, and if contested in a Court of Law would be held to be illegal.

Right I suggest that it might be desirable to obtain the advice of the Advocate General in this matter of interpretation of contracts so that whatever action is taken may be strictly according to legal sanction? If the intention of Govt. is not represented by the phraseology of its rules it is always possible to alter these rules for ~~other~~ application to future cases.



13.7.14

clause 6 of the agreement
page 4 of 80. 1101 (R)
4.10.15

Rules, page 8 of 80. 738 (W)
14.12.10

The agreement executed by educational officers provides that they should pass the tests in vernacular languages as prescribed by the rules in force in the province and on failure to do so, would be liable to the penalties prescribed by those rules. It also provides that the services of an officer who fails to pass the test in one of the languages within the probationary period of two years, may be dispensed with. The rules issued by this Govt. lay down that every officer must pass the compulsory test in the first language within two years of his appointment and that every officer engaged in work of inspection must also pass the test in the second language within four years of his appointment in the department. While prescribing a penalty in the case of officers serving without any special covenant, for not passing the examination, the rules state that an officer serving under a special covenant shall be dealt with under the terms of his covenant. Thus, while the covenant states that the penalty will be as prescribed by the rules, the rules in force in this Presidency state that the penalty will be according to the covenant. Further, though the agreement provides for an ultimate punishment for failure to pass one of the tests within the first two years of appointment, no penalty is prescribed either by the agreement or by the rules for failure to pass the second vernacular test in the case of inspecting officers.

2. The question of the penalty which may be imposed for failure to pass the vernacular tests was examined in 1911. As it was thought that 'dispensing with the service' altogether was not one which ^{it was desirable to} ~~was desirable to~~ enforce, the Government decided in consultation with the D.P.I. that the

Note on page 1 to 3 of
notes to go. 411 (P)
29.6.11

para 1 of D.P.I. letter
on page 2 of 80. ibid + notes
on page 4 of 80. notes to go.

penalty might be withdrawal of increment in the case of officers of the Indian Educational Service. The Director feels doubtful as to whether the Govt. can, under the rules and regulations now in force, impose a lesser penalty for the maximum penalty provided in the agreement and advises that the Advocate-General might be consulted on the point. It is submitted that ^{clause 19} the agreement states that the penalty shall be as prescribed by the rules, it appears to be sufficient to modify the rules suitably. Moreover, the form of the agreement has been prescribed by the Secretary of State for the whole of India and any alteration therein will require his sanction. Further in other provinces also the penalty to be imposed appears to have been incorporated in the rules framed by the local Govt. - please see para 2 of letter from the ~~Government of~~ Central Provinces ^(Administration) on p. 3 of G.O. 302, dated 5-4-12. It is therefore submitted that the last sentence of rule 12 on p. 9 of G.O. 738 Edl., dated the 14th December 1910, may be amended as follows:-

"An officer serving under a special covenant shall also be similarly dealt with, subject to any special conditions in this regard in his covenant".

3. As regards what has already been done in the past, it does not appear to be necessary to consider its legality now unless the question is raised by any of the officers affected. Till now the penalty of withdrawal of increment has been imposed only on two officers viz., Messrs Smith and Douglas. In both these cases, it was for failure to pass the test in the first vernacular language. Under the agreement the services of these officers could have been dispensed with. It was not done; but after giving warnings, the increment was withheld till they passed the test. The officers are not likely

page 4 of 80. 1101 (R) 4-10-15

and ~~as~~ ^{as} it was expressly modified in 1912 so as to allow of these conditions being embodied in the rules

10. 302 (H) 5-4-12

① The A.G. states in another connection that increment was withheld from him
x 80. No 319 B 15-3-19 (T)

to protest against the milder form of punishment.
Mr. Fye, ^(whose case is) referred to in the Director's note, has
since been transferred to the Industries Dept.

88
24/7/19.

CR
26/7/19
S

24/7/19.
24/7/19.

The operative part is
(a) in the case of J.E.S. officers, cl 6 para 1
(b) in the case of Mr. Fye had he
continued in Education, cl 6

In either case the language is the
same.

2. I see that this question has
been specifically considered in G.O.
411 of 29 June 1911. As the rule
stands by itself, the only
penalty from the under the covenant
to removal from service. But it is
usual to issue warnings & give
extensions. When the increments
are stopped, they are not in
pursuance of the rule, but in
pursuance of the warning which
has been accepted by the officer
as a milder penalty.

3. Further see the memorandum
of information furnished to
candidates for the J.E.S. cl 6.

-p-6 ante

p. 4782. 1101
4.10.15 (P)
p. 7982. 225
26/1/15 (P)

700.10.2
 80. 302 (H)
 1.6.12
 pay 3 of 80. 1101 (R)
 6.10.15

910 distinctly says that "in all cases increments of salary are given for approved service only". Under cl. 1 of the agreement, the appointment is bound by the memorandum of information. And if an officer does not pass his vermaacular examinations in the prescribed time, it is reasonable to hold that his service is not "approved".

4. It might be better to have the penalty clause in the agreement modified to permit infliction of minor penalties. But the above ~~shows~~ that the existing procedure is legal & the change is not imperative. It may continue to be adopted. ~~The 1000's letter~~ ^{revised} ~~may be~~ ^{1/8/19}

Row no 1499 A-2
 8.8.19

1000's

No. Camp N-262/999-84

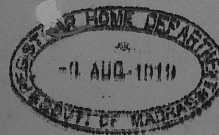
This is in the main, a matter of legal interpretation. ^(in which) I am not ~~competent~~ ^{competent} to express an opinion of any weight, but I regret that I am not convinced by the above note (H. 9010). Regarding para 2, the penalty of stopping an increment ^{was} ~~was~~ ^{being given} imposed upon the officer without ~~him~~ ^{him} ~~accepting~~ ^{accepting} given the option of accepting it or of accepting

and rules framed
under or in support
of agreements.

the major principle. Regarding para 3, if
"approval" is to be decided by Court satisfaction, there
is no question but that increments can be stopped,
but if the question of "approved service"
has to be decided on national grounds by
some court of law - and I contend that
all Court. agreements should be so framed
as to stand the test of trial in a
Court of law - then it is open to doubt
as to whether increments can or cannot be
stopped. Each individual case would have
to be discussed on its merits and with reference
to the work or service which the incumbent
has been called upon or was proposed - The
future to be called upon to do.

All that I at present suggest is
that legal advice be obtained so that the
rules drawn up are in accordance with the
intention of Court.

M. 9.8.19



Home (254) Dept.

For orders whether the Govt. Solicitor
should be consulted. [No officer of the
Dept. has yet made a repre-
sentation to Govt. on the subject]

WKS
10/9/19

11.8.19

90 12

Prepare a draft referring to me
Govt. Solicitor for opinion
my 12/8/19

A draft memo is submitted.

SK
12/8/19.
NH
14/1/19

CA
12/8/19
5

my 16/8/19

[O.M. No. 1499-3 of 16.8.19.]

C.No.1901-A From the Govt. Solicitor, No.879 of 22-8-19

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page 6 of cf.

The Govt. Solicitor's view will be right only if officers of the Indian Educational Service are ~~xxxx~~ treated as 'not serving under special covenants'. As they enter into agreements with the Secretary of State, they should apparently come under the class of officers serving under special covenants. The Govt. Solicitor's attention may be drawn to this and he may be asked whether he still adheres to his original opinion that, in the case of such officers Govt. may substitute a lesser penalty, such as stoppage of increment. Draft C.M. is submitted.

NH
31/9/19

CA
4.9.19
5

my 5/9/19

[O.M. No. 1901 A - 1 of 5.9.19.]

CM 2093A. From the Govt Solicitor, No. 777,
 13. 9. 19.

The Govt Solicitor is apparently for treating officers of the Indian Educational Service as not serving under 'special covenants'. The covenants executed by manual training instructors are also on the same lines as those executed by officers of the Indian Ed^t Service and, if the Govt Solicitor's view is accepted, they must also be treated as officers not serving under 'special covenants'.

2. The Govt Solicitor states that if officers of the Indian Ed^t Service are treated as officers serving under 'special covenants' for the purpose of rule 12 of the rules relating to the study of vernacular languages: by European Eurasian officers, a lesser penalty, such as, stoppage of increment, cannot be substituted for the maximum penalty prescribed in the agreement for failure to pass the compulsory vernacular test.

3. In the light of the Govt Solicitor's

para 4 - pages 9-10 of CF

clause 10, p. 7 of 88. ²²⁶
 26.2.15

+ clause 6, p. 4 of 88. ¹¹⁰¹
 4.10.15

para 5, p. 10 of 88.

p. 9 of 88. ⁷³⁸
 14.12.10

144
22

view, it appears ~~best~~^{proper} to treat an officer as serving under special covenant only when the terms of his covenant allow him special concessions not allowed in the rules for the passing of vernacular examinations, either as regards the period within which the examination should be passed or as to the penalty to be imposed, or when there are material differences between the terms of the agreement & the rules framed by govt. In the case of officers of the Indian Educational Service, no special concession is allowed in the agreement ~~allowed~~^{in respect of the above matter} executed by them & there is no conflict between the rules & the terms of the agreement. They cannot apparently be treated as officers serving under special covenant. The file may be sent to the D.P.S. for further remarks.

AK
29/9/19

A
29.9.19

The best thing seems to be to accept the above position. The matter is a purely legal question & our legal adviser considers that the above view

Box 23
24-10-19

Exonno 209A-1

30-9-19

is legal. Evidently "covenant" & "special covenant" are different. The officer is likely to dispute this ruling

my
30/9/19

DPG/107

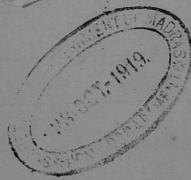
U.O. Reply No. 300 D/16/10/19

Under our constitution I presume that the views expressed are final. The result is that no person who covenants in the form of clause 6 of the agreement prescribed by the Secretary of State is under special covenant. I have nothing further to add.

H. 13.10.19



Recd 21/10/19



Home (25th) Dept

A draft order is submitted for approval

8th
18/10/19
M
21/10/19

25.10.19
24/10/19

Hue

LD 27

(I think there has been unnecessary insistence on the point of law. What is there to prevent our giving the holder of a special covenant the option between removal and stopping of increments? Of course he will elect for the latter, provided that that practically solves the problem?)

With reference to H.M.'s note above,
it is respectfully submitted that rule
12 of the rules printed in G.O. 738 D
14-12-10 provides that an officer serving
under a special covenant shall be dealt
with under the conditions of his covenant
if the penalty provided in the covenant
is removal from service, an officer will
be only too glad to accept the alternative
of stoppage of increments. It has not,
however, been usual to call on ^{an} officer
of the D.F.S. who has failed to pass the remainder of the
to make a choice in the matter, but
merely to direct the stoppage of increments
after due ^(the choice being assumed) warnings. The Director questions
the legality of the procedure hitherto
adopted; but no exception can be taken
to the procedure suggested by H.M. // ^{however} ~~however~~
The opinion expressed by the govt. Solicitor
officers of the D.F.S. cannot claim to be
based on serving under special cove-
nants; and, if his view is accepted, it
will not be necessary for govt. to call
on an officer to decide as to the nature
of the penalty he would accept, but govt.
in their discretion, may pass such orders
as they think fit under the first part of
rule

(W)

Q "unless the first 4 special
ords... substituted
"less penalty."

rule 12. On the whole it would tend to
and strengthen the position of God
minimise correspondence if the great

Solicitor's view, as embodied in the draft
order is accepted

MS 29/11/18
OR 30/10/18
5

He has accepted. Done
11/31/10/18

approved H.M.

Agreement.

Informing the D.P. that an officer can be treated as serving under a 'special covenant' for the purpose of rule 12 of the rules for the study of oriental languages by the European and Eurasian officers of the E.P. Dept. only when the terms of his covenant allow him special concessions not contemplated by the rules or when there are material differences between the terms of his agreement and the rules framed by the D.P. 191

READ ALSO:-

C. No. 1499A From the D.P. R.C. No. 2441/19 dated 18. 6. 1919

" " 1901A " Govt. Solicitor " 879 " 22. 8. 1917

" " 2093A " " " 977 " 13. 9. 1917

ORDER.

No. 1341 dated 31. 10. 1919

ms

The D.P. is informed that an officer can be treated as serving under a 'special covenant' for the purpose of rule 12 of the rules for the study of oriental languages by the European and Eurasian officers of the E.P. Dept. printed in G.O. No. 738 E.P. dated

p. 9 of G.O. (W)

the 14th December 1910, only when the terms of his covenant allow him special concessions not contemplated in the rules or when there are material differences between the terms of his

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19

ENCLOSURE TO C. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH LITTO.

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