

Law (1925) Department.
Education

Ordinary SERIES.

G.O. No. 1138

DATED

30/6/25

[Despatch Abstract.]

Lee Commission Report - Officers in specialist and miscellaneous appointments -

Government of India reference - replied.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Letter - From the Offg. Joint Secretary to the Govt. of India,
Home Department,
To - The Chief Secretary to the Government of Madras.
No. - 201/1/24 Ests.
Dated - Simla, the 14th May 1925.

Subject:- Application of the Royal Commission's recommenda-
tions to officers in specialist and miscellaneous ap-
pointments, and also to European officers in the regular
Provincial Services.

With reference to correspondence ending with your letter-

(N) Madras, No.43-Mis., dated the 10th January 1925,
on the subject noted above, I am directed to communicate the
orders of His Majesty's Secretary of State for India in regard to
the application of the recommendations of the Royal Commission
on the Superior Civil Services in India, to officers in specialist
and miscellaneous appointments serving under local Governments.
The case of officers in the regular Provincial services will be
dealt with in a separate letter. In Mr. Crerar's letter No.
F.201-24-Ests. dated the 7th August 1924 the Government of India
distinguished officers appointed by the Secretary of State ac-
cording as they were holding permanent appointments or were ~~servi~~
serving under contract, and they indicated that the main headings
under which the treatment of these officers must be considered
were (i) security of tenure, (ii) financial relief, and (iii)
the right to retire on proportionate pension. It will be con-
venient in this letter to follow that classification and these
headings, but as a preliminary point I am to explain that all
officers appointed in England prior to the passing of the Govern-
ment of India Act in December 1919 should be regarded as having
been appointed by the Secretary of State in Council. The power
of contracting in England prior to that date was vested in the
Secretary of State in Council and that authority cannot be held
ever to have acted as the Agent of the Governor General or of a
Local Government.

2. Officers in permanent employ who were appointed by the
Secretary of State in Council.

(i) Security of tenure -

These officers have the security of appointment by the Secretary of State in Council. Their pay is non-votable and they can be dismissed only by order of the Secretary of State in Council. They are therefore in so far as security of tenure is concerned, in practically the same position as members of the regular All-India Services and they require no further security.

(ii) Financial Relief -

The Local Government should classify these officers into two classes, namely,

(i) those whose position is closely analogous to that of members of any regular service and whose pay has been fixed with regard to the pay of that service;

(ii) those whose position is unique and not comparable with that of the members of any regular service.

Officers falling in the first category should receive concessions similar to those granted to the members of the corresponding regular service. The cases of officers falling in the second category should be considered individually on their merits, special regard being had to whether the pay of the post has been recently fixed or not. I am to ask that, with the permission of the Governor in Council the Local Government will at once proceed to classify officers on these lines and submit their recommendations in each case to the Government of India.

3. Officers on contract entered into with the Secretary of State in Council.

So far as the Government of India are aware, there are two main classes of contracts, (i) contracts for a definite period, terminable at the end of the period or within the period on fixed notice, (ii) contracts for an indefinite period or for a definite initial period with provision for unlimited extension but terminable on a fixed period of notice, which is ordinarily six months. So far as security of tenure is concerned the position of both sets of officers is the same, but the Secretary of State is of opinion that some distinction should be drawn between officers serving under the different

forms of contract for the purpose of considering the financial relief that should be afforded to them.

(i) Security of tenure.

All these officers have the security that results from appointment by the Secretary of State in Council. Their pay is non-votable and they can be dismissed only by the Secretary of State or by an authority to whom he has delegated this power under the terms of the contract. Their protection lies in the fact that they can be dismissed only by the Secretary of State or, if dismissable by another authority, have a right of appeal to the Secretary of State. Nevertheless owing to the fact that their contracts contain a provision for the termination of their services on receipt of a stated period of notice, it cannot be denied that their position is less secure than that of officers in permanent employ. The Secretary of State is not prepared to admit that officers whose service is pensionable and liable to termination on a stated period of notice have any legal claim to compensation if their services are terminated under the provisions of the contract, even if the reasons for termination are other than the completion of the work for which they have been employed ^{on} satisfactory work. The Royal Commission, however, have recommended that if a contract is terminated for other than the unsatisfactory performance of duty, the officer should be granted compensation on grounds of equity and that the compensation should be fixed by the Government concerned in consultation with the Public Service Commission. The Secretary of State has accepted this view and is considering whether it should be made in future agreements for compensation in these cases. Furthermore, since continued renewals of contracts are liable to give officers an impression that their service is of indefinite duration, the Secretary of State has decided that the cases of officers present serving under contracts, whose contracts are for a fixed or who having served the fixed initial period are renewed for an indefinite period, should be examined with the view of putting them in view:-

(i) where the employment is virtually permanent

definitely permanent;

(ii) where the employment is not made permanent, to leave the officer in no doubt as to his real position.

I am to ask that the Local Government will without delay undertake the necessary examination of these cases and further will, in future, when deciding to retain the services of an officer after completion of his initial period, consider whether the circumstances of his employment justify it being made permanent.

(ii) Financial Relief -

(a) Officers serving under contract for an indefinite period, and officers who having completed the initial period of their -- contracts, are now serving for an indefinite period should be treated in the same manner as officers in permanent employ.

(b) The cases of officers serving on contracts for definite periods or serving the initial period of contracts providing for a definite initial period with provision for indefinite extensions should be considered individually on the lines suggested by the Royal Commission in paragraph 61 of their report. That is to say if the contract contained a clear implication that permanent employment was ultimately contemplated, it should be revised. On the other hand if the terms of the contract clearly contemplated employment for a limited period only, there would appear to be no case for revision. I am, however, to request that in examining the cases of individual officers, separate lists should be prepared (1) of those whose contracts contained a clear implication that permanent employment is contemplated and (2) of those who have acquired in other ways reasonable expectation of permanent employment, even though their contracts may not hold out expectation of such employment. I am to request that with the permission of the Governor in Council the local Government will now undertake without delay the necessary examination of individual cases and will submit their recommendations to the Government of India.

4. The question of the right of officers serving in specialist or miscellaneous appointments to retire on proportionate pension is still under the consideration of the Secretary of State and a further

Definitely permanent;
(ii) where the employment is not made permanent, to leave the
officer in no better a position than

I am to say that the Local Government will, without delay,
undertake the necessary examination of these cases and further will,
in future, when deciding to retain the services of an officer after
completion of his initial period, consider whether the circumstances
of his employment justify its being made permanent.

(iii) Contractual Period

(a) Officers serving under contract for an indefinite period,
and officers who having completed the initial period of their
contracts, and now serving for an indefinite period should be treated
in the same manner as officers in permanent service.

(b) The case of officers serving on contracts for definite
periods or serving the initial period of contracts providing for a
definite initial period with provision for indefinite extension
should be considered in accordance with the lines suggested by the Local
Commission in paragraph 5 of their report. That is to say, if the
contract contains a clause providing that permanent employment may
ultimately be conferred, it should be revised. On the other hand
if the term of the contract is clearly contemplated as temporary for a
limited period only, there would appear to be no case for revision.
I am, however, to report that in considering the cases of individual
officers, separate lists should be prepared (1) of those whose
contracts contain a clause indicating that permanent employment is
contemplated and (2) of those who have received no such clause.

While expectation of permanent employment, when definite, may be
expressed both on the part of the officer and the Government, I am to report
that with the revision of the Government's policy in regard to local officers
will be undertaken without delay the necessary revision of the Government's
policy and will report thereon recommendations to the Government
in India.

3. The question of the right of officers serving in subordinate
or subordinate appointments to retire on pensionable service is
still under the consideration of the Secretary of State and a further

communication will be addressed to you as soon as a decision
is arrived at.

5. The recommendations referred to in paragraphs 3 and 4
above should be addressed to the Government of India in the
Department administratively concerned, and I am to ask that,
if there is no objection, two spare copies of the recommenda-
tions may in all cases be enclosed.

I am, Sir, very respectfully,
Your obedient servant,

S. S. S. S. S.

28-5-33.

Enclosed for the Secretary of the Local
Commission are two copies of the report of the Local
Commission, dated 1st March 1933, on the subject of
the Local Commission's report on the subject of
the Local Commission's report on the subject of

28-5-33.

Enclosed are two copies of the report of the Local
Commission, dated 1st March 1933, on the subject of
the Local Commission's report on the subject of

28-5-33.

S. S. S. S. S.

28-5-33.

Law (P. S.)

The original of the report of the Local
Commission, dated 1st March 1933, on the subject of
the Local Commission's report on the subject of
the Local Commission's report on the subject of
the Local Commission's report on the subject of

Commissioner will be advised to you as soon as a decision is arrived at.

2. The recommendations referred to in paragraphs 2 and 4

above should be addressed to the Government of India in the

Department of Administrative Services, and I am to ask that

if there is no objection, two copies of the recommendations

may be sent to the Government of India.



L. E. 1931A
1/6/25

The Public Department.

Subject:- Application of the Royal Commission's recommendation to officers of the specialist and miscellaneous appointments and also to European officers in Provincial Services.

C.No.191/O. From the Govt. of India, Home Deptt., No.201/1/24-Ests. dated 14th May 1925.

first category:-

(1) Mr. C.R. Porrett, Adviser to Government on Recommendations under paragraphs 2 & 3 should probably go from the various departments concerned, but I will take orders on this point.

A.Y.G.C. 25-5-1925.

H.M. C.2 agrees.

A.Y.G.C. 28-5-25.

Submitted that copies of the Govt. of India's letter may be sent to Revenue, Development, L.S.G., Law (General), Law (Edn), Finance and P.W.D., for necessary action.

V.P.H.M. 27-5-1925.

Yes. It is desirable that ~~the~~ action should be taken as quickly as possible.

A.Y.G.C. 28-5-1925.

To Departments u.o. ~~dated 14th May 1925~~

Public (X) u.o. No.191/O-1
28-5-1925.

(SPECIAL).

Law (Edn)

The original of G.O. 456.57 Re. which was put up in another case was returned by the Public Deptt. & became available on 10.6.25. Copies of notes & letter to India had been made and these were ready on the 12th inst.

Miss Fearn: - Woman Specialist in Physical Instruction came out to India in the year 1922 under a contract with the Secretary of State to serve for a period of three years. No prospect of confirmation was held out to her in her agreement. The period of 3 years for which her services were engaged expired on 6-1-25. The question ~~therefore~~ ^{is whether the} ~~post~~ ^{post of} of woman specialist in physical instruction should be made permanent was considered in the notes to G.O. No. 173 Law Edn. dated the 5th February 1925. and in view of the fact that no ^(permanent post of) physical instructor for boys' schools has yet been sanctioned, it was considered sufficient to sanction the retention of the temporary post of ~~the~~ woman specialist in physical instruction for a further period of three years. Miss Fearn's pay was, however, raised from Rs 400 to Rs 400-425-450 per mensem ^{4/12} ^A draft letter

These have been made on the 12th inst.
 & India has the whole and
 on 10.8.57. Copies of notes & letter
 on the date & become available
 case was returned and the
 which was put up in another
 The original of 8.0.47 is the

letter to the Government of India is submitted. It may be sent to India for acceptance.

16/6/25
17.6.25
19.6
Public U.O.

Law (Ed) 1931 A-1
20-6-25

CURRENT NO.
1661
PUBLIC X.

ASSISTANT SECRETARY TO GOVERNMENT
30-JUN-1925
LAW DEPARTMENT

K on p. 2 CF

B

ASSISTANT SECRETARY TO GOVERNMENT
19-JUN-1925
LAW DEPARTMENT

Public U.O. 1661-1
25-6-25

ASSISTANT SECRETARY TO GOVERNMENT
28-JUN-1925
LAW DEPARTMENT

Onhoeps

The draft may be accepted in Pub

As regards Mr. Porrett & Mr. Webster it may perhaps be mentioned

in the letter that they fall into the second category mentioned by the Govt of India i.e. "those whose position is unique and not comparable with that of the members of any regular service"

Otherwise the draft is accepted

all 25.6.25

Law (Ed)

Paragraph 2 of the draft letter to India has been amended with reference to B above.

For orders as to circulation.

25.6.

M2

H.E. the Govt 27.6.25

Law (Education) Dept

Letter No. 1138 dated 30-6-25
M's

To

The Secretary to the Government of India
Department of Education, Health and Lands (with 2 spare copies of letter and of letter No. 457 dated 1-4-25)

Sir,

I am directed to invite a reference to the letter from the Government of India, in the Home Department No. 201/1/24-Ests. dated 14th May 1925, and to report as follows, as regards the grant of financial relief to officers holding miscellaneous appointments in the Educational Department of this Presidency.

2. OFFICERS IN ^{Permanent} EMPLOY APPOINTED BY THE SECRETARY OF STATE IN COUNCIL

The under mentioned officers fall under the above category:-

- (1) C.R. Porrett, Advisor to Government on Manual Training.
- (2) Mr. J. Webster, Instructor in Mechanical Engineering, College of Engineering.

The views of this Government, as to the grant of financial relief to the above mentioned officers, have already been communicated in paragraph 2 of my letter No. 457, dated 1st April 1925.

3. OFFICERS ON CONTRACT ENTERED INTO WITH THE SECRETARY OF STATE IN COUNCIL

Miss Fearn, Woman specialist in physical instruction, first came out to India in 1922 under a contract with the Secretary of State to serve for a period of three

DESPATCHED
3 JUL 1925

the under mentioned officers fall into the second category mentioned by the Govt. of India, namely, "those whose position is unique and not comparable with that of the members of any regular service":-

paragraph 2 of letter on p. 1-50.f

27.6.25

three years on a pay of Rs400 per mensem
No prospect of confirmation was held out
to her in her agreement. The question
whether the post of woman specialist in
physical instruction should be made per-
manent was recently considered by this
Government; ~~and~~ in view, however, of the
fact that no permanent post of physical
instructor has yet been sanctioned for
boys' schools, the Government deemed it
sufficient to sanction the retention of
the temporary post of ~~the~~ woman specialist
for a further period of three years from ~~the~~
7th January 1925. The pay of Miss Fearn
was, however, raised from Rs400 per mensem
to Rs400-425-450 per mensem. The ~~Government~~
^{of Madras} do not consider that any further ~~an-~~ action
~~was~~ is necessary in her case.

clause 7 of the agreement
on p 3 of p. 122 of 1925
u
(J)
2d. 5/10/172 8/5/2 25
(J)
p 2 of notes to p. 4/2

that the absence of physical instruction in
girls' schools is still in an experimental
stage and

I have etc.

NY
17/6/25
V.T.
18/6

Handwritten notes in the bottom right corner of the left page, mostly illegible.

When given for copying
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192

READ AGAIN G.O. No. 192 DATED

CURRENT No.

ENCLOSURES TO G. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DETS.

PAPERS NOT FILED OF, BRING MEANT FOR DESPATCH
IN ORIGINAL.

N.B.—
A = Copy in full.
B = Not to be copied.
P = Copy abstract only.
Q = Copy reading only.