

Law (Education) (1925) Department,

6rd SERIES.

G.O. No. 241

DATED

16-2-25

[Despatch Abstract.]

University of Madras

Irregular Expenditure
Papers Recorded

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
fo.	227	Finance	18.3.24				
fo.	114	"	6.2.24				
fo.	436	Law (Bar)	27.11.22				
fo.	734	"	16.6.22				
fo.	850	Finance	27.11.24				
fo.	620	Law (Bar)	16.4.24				

FURTHER PAPERS.

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

C.F. 30-18,658-3-01-23.

DEPARTMENT.

Received 192 . Registered 192



Subject.

ENCLOSURES.

No.

Spare copies.

LF No. 3876 d 23-9-24.

Station Fort. St. George., Dated the 22nd September 1924.

From (Name) J.M. Hooper, Esquire.

(Designation) Examiner of Local Fund Accounts.

To The Secretary to the Government of Madras,

Law (Education) Department.

Sir,

I have the honour to bring to the notice of Government an item of payment of travelling allowance from the Tamil Lexicon account of the University of Madras which was objected to, in audit, but sanctioned by the Syndicate of the University against the provisions of the travelling allowance rules.

The facts of the case are that in December 1923 applications were invited by a gazette notification for the posts of Editor and Additional Editor, Tamil Lexicon. Mr. V. Muthuswami Ayyar, Deputy Inspector of Schools, Tiruvalur, Negapatam Range, an applicant for either one

of the above posts was required by the Chairman of the Tamil Lexicon Committee to appear in person, but eventually was not selected. He claimed travelling allowance amounting to Rs.47-2-0, for his journey to Madras and back, which was paid. Since the journey was not performed on University business, but in the interests of the applicant, the payment of travelling allowance was objected to, in audit. But the Syndicate has passed a resolution to the effect that "it has not exceeded its powers in determining that Mr. Muthuswami Ayyar should be paid travelling allowances."

The grounds on which the Syndicate have admitted the travelling allowances are not understood. There was no stipulation either in the gazette notification ^{inviting} applications or in the letter of the Chairman, Lexicon Committee to the applicant for the post, requiring him to appear in person, that travelling allowance would be paid to him. The charges for the compilation of the Tamil Lexicon are met from grants from Government and the payment of travelling allowance to applicants for posts appears from an audit point of view to be an extraordinary item requiring the special sanction of Government.

In the circumstances stated above, I am of opinion that the Syndicate of the Madras University have exceeded their powers in sanctioning the Travelling Allowance under reference and I accordingly refer the case to Government for favour of orders. There is no audit objection to the necessary sanction being accorded.

Copies of (1) the notification inviting applicants for the appointment of Editor and Additional Editor of the Lexicon Office, (2) of my letter No.L.F.2535 dated 25th July 1924 to the Registrar of the University of Madras, and (3) of letter No.7731 dated 7th August 1924 from the Vice-Chancellor, University of Madras, are forwarded herewith.

I have the honour to be,
S i r,
Your most obedient servant,

Examiner of Local Fund Accounts.

Copy of the Notification inviting applications for appointment of Editor and Additional Editor of the Lexicon Office.

UNIVERSITY OF MADRAS.

Appointment of Chief Editor and Additional Editor of the Tamil Lexicon.

Applications are invited for the above two appointments on inclusive salaries to include allowances of every description of Rs.500/- per mensem in the case of Chief Editor and of Rs.250/- to 350/- (according to qualifications), in the case of the Additional Editor. The Chief Editor will be in charge of the preparation of the Lexicon and will act as Correspondent of the Lexicon Committee.

Appointments will be temporary for a term of six months in the first instance, and thereafter may be confirmed for the period required for the completion of the Lexicon.

Applications should reach the Vice-Chancellor, Senate House, Triplicane P.O., Madras, on or before 4th January 1924.

(By Order)

Senate House, Madras,
11th December 1923.

(Sd). F.Dewsbury,
Registrar.

Copy of letter No.L.F.2535 dated 25-7-1924, from the Examiner of Local Fund Accounts, Madras, to the Registrar of the University of Madras.

With reference to the travelling allowance of Rs.47-2-0 paid in May 1924 from the Tamil Lexicon account to Mr. V. Muthuswami Ayyar, Deputy Inspector of Schools, Tiruvalur, and an applicant for the posts of Editor and Additional Editor, Tamil Lexicon, I have the honour to state that he was not entitled to any travelling allowance for the journey performed by him to better his own prospects. The payment in this case contravenes also the special powers delegated to the Syndicate in Law 15 of Chapter VIII of the Laws of the University. I would request therefore

that the above sum of Rs. 47-2-0 may be recovered and credited to the Lexicon account at an early date in the absence of the special sanction of the Government to this item.

Copy of letter No. 7731 dated 7th August 1924, from the Vice-Chancellor, University of Madras, Madras, to the Examiner of Local Fund Accounts, Madras:-----

With reference to your letter No. 2535 dated 25th July 1924, taking objection to the payment of Travelling Allowance to Mr. Muthuswami Ayyar, an applicant for the posts of Editor and Additional Editor, Tamil Lexicon and stating that the amount may be recovered from him, I have the honour, by direction, to inform you that the matter was considered by the Syndicate at its meeting held on 2nd August 1924 and it is of opinion that it has not exceeded its powers in determining that Mr. Muthuswami Ayyar should be paid travelling allowances.

Applications should reach the Vice-Chancellor, Senate House, Triplicane P.O., Madras, on or before 1st January 1924.

Copy of letter No. L.F. 2535 dated 25-7-1924, from the Examiner of Local Fund Accounts, Madras, to the Registrar of the University of Madras.

With reference to the travelling allowance of Rs. 47-2-0 paid in May 1924 from the Tamil Lexicon account to Mr. V. Muthuswami Ayyar, Deputy Inspector of Schools, Tiruvallur, and an applicant for the posts of Editor and Additional Editor, Tamil Lexicon, I have the honour to state that he was not entitled to any travelling allowance for the journey performed by him to better his own prospects. The payment in this case contravenes also the special powers delegated to the Syndicate in Law No. 13 of Chapter VII of the Laws of the University. I would request therefore

Tamil Lexicon. Editor & Asst. Editor - Applicant - Payment of travelling allowance which was objected to in audit.

cd. ill. D. W. 19/9. 24/9/24. The Registrar, University of Madras (with C.F. in and who rel with ref.)

Reminder: 4 weeks after circ.

Law (Exam) before C.N. 2490e. From the Examiner of Local Fund Accounts, L.F. No. 3806 d. 23.9.1924.

Encl. No. 2490e/24-1 d. 29.9.24 Referred to the Registrar, University of Madras, for remarks.

24/9/24 25.9.24 V.T.K. 26.9.

Note: - The matter is not prima facie one in which Govt. may appropriately interfere with the discretion of the university. It is however better to see what the university has to say.

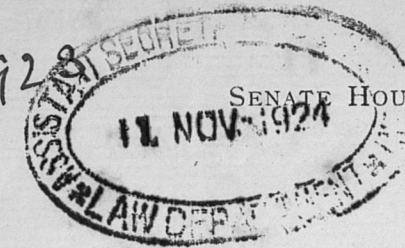
24.9.24

It is requested that all communications should be addressed to The Registrar, University of Madras, Senate House, Triplicane P.O., Madras, and not to any person by name.



UNIVERSITY OF MADRAS.

No. 11928



10 NOV 1924

Enclosures.

FROM The Manager-in-Charge, Office of
THE REGISTRAR,

University of Madras.

To

The Secretary to Government

Law (Education) Department.

Sir,

With reference to your endorsement No.2490/C-24-1 dated 29th September 1924, referring to me for remarks the letter dated 23rd September 1924 from the Examiner of Local Fund Accounts, herewith returned, I have the honour, by direction, to inform you that the matter was considered by the Syndicate at its meeting held on 1st November 1924, and I am to state that that body adheres to its former opinion that it did not exceed its powers in determining that Mr. Muthuswami Ayyar should be paid travelling allowances.

I have the honour to be,

Sir,

Your most obedient servant,

Wm. J. Manian

Manager-in-Charge.

Appl-4, c.t.

p. 6, c.t.

C.No. 2490 C - From the Examiner of Local Fund Accounts, L.F. 3876-dated 23-9-24.

C.No. 3030 C - From the Registrar, University of Madras, 11923, dated 10-11-24.

Subject.- Irregular expenditure by the University.

Last May, the University incurred an expenditure of Rs. 47-2-0 (in the Tamil Lexicon account) on the payment of travelling allowance to one Muthuswami Ayyar, an applicant for the Editorship of the Tamil Lexicon, who was asked to appear before the Chairman of the Lexicon Committee. The Examiner of Local Fund Accounts takes exception to this payment and says that it contravenes the special powers delegated to the Syndicate in Law 15 of Chapter VIII of the laws of the University. The law referred to is extracted below for reference:-

"The syndicate shall have power to fix, determine and award travelling expenses and allowances to persons lawfully engaged or employed on university business."

The Examiner ~~argues~~ ^{argues} that the journey undertaken by the applicant - and he was not selected for the post - cannot be said to be on university business and that the payment of travelling allowance for a journey of that sort should be deemed to be irregular. The University Syndicate says that it did not exceed its powers in sanctioning the payment but does not quote any authority for the position taken ^{up} by it. It is, however, ^(X) understood that the Syndicate has passed a resolution that in future it will not pay T.A. to applicants for university unless the payment forms part of the terms of the advertisement posts who are summoned for personal interview. The exact terms of the resolution are not known.

2. In this connection the general position of

p. 3, c.t.

p. 63 of pamphlet

p. 6, c.t.

(X) ^{infringement}

University funds is worth considering.

Section 21 of the Madras University Act, 1923, says that "the annual accounts of the University shall be prepared by the Syndicate and shall be submitted to such examination and audit as the Local Government may direct" and further directs that the accounts when audited shall be published by the Syndicate in the Fort St. George Gazette and copies thereof shall together with copies of the audit report be submitted to the Senate and the Local Government. The Local Government have appointed the Examiner of Local Fund Accounts as the audit officer. It is not specifically provided for either in the Act or in the statute by whom and in what manner the irregularities pointed out by the auditor should be considered and rectified. Section 21 (4) of the Act no doubt requires that the Senate should consider the annual accounts and it is also open to that body to pass resolutions on the accounts on which the Syndicate has to take action. But how far the auditor's suggestions or findings shall be ~~binding~~ ^{binding} on the University has not been

precisely stated: *nor is it clear what course is possible if the Syndicate fails to take action upon audit irregularities suggested.*

3. In another file it has been suggested by the Examiner of Local Fund Accounts that claims against the University fee fund and the University Library fund which remain unpaid for more than one year should be passed by the Government. Seeing that no power has been statutorily reserved for the interference of Government in matters of this kind it is not clear how the Examiner's suggestion can be given effect to. Yet, it is desirable to ensure that old claims are not paid without proper scrutiny.

In order that the audit may be effective it seems desirable that some definite provision is made in the

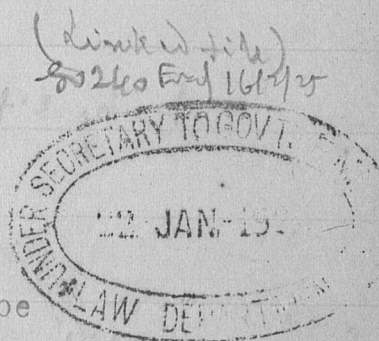
(framed by the Senate)
statutes to ensure that ~~audit~~ ^{audit} ~~findings and~~ ^{findings and} ~~suggestions~~ ^{suggestions}

Item (13) - Appendix III

P. 15 of G.O. 114 Finance

(5) 6.2.24

not seen
in P.D.
Office



suggestions receive due consideration. The D.P.I. may be consulted u.o. as to how this can be arranged for.

9
10.1.25
14.1
10.1.25

D.P. 1 u.o.

U.O. Reply No. 89.2 [28.5] 20.1.25

1. It will probably help to a right decision in this matter if the particular case raised by the Examiner of Local Fund Accounts is first gone into and the position of the University in this matter placed before Government.

2. The Syndicate of the University takes up the following position:-

The University is not a department of Government.)

(Incidentally the Examiner for Local Fund Accounts appears to consider that the University is either a department of Government or an institution of the nature of a local body helping in the general administration and governance of the presidency and endowed by statute with administrative functions subordinate to Government. This is obviously an incorrect view of the University.)

The rules of the University for travelling allowance are framed by the Syndicate. The Syndicate lays down general rules to cover ordinary cases but has the power to decide whether in any particular case a journey is necessary in the interests of the University or is not necessary in the interests of the University. It has not exceeded its powers as laid down in section (15) of Law 3 of Chapter VIII of the Laws of the University for it (the Syndicate) decides whether a person is engaged or employed in University business.

In the

In the particular case objected to by the auditor the journey was made in the interests of the University. It was desirable to employ as editors of the Tamil Lexicon the best qualified persons, and who they were could be decided only by a personal interview most suitably held in the Lexicon office in Madras where the material to be dealt with was to be found. The Chairman of the Tamil Lexicon Committee considered that a personal interview was necessary and the Syndicate, as it has done in other occasions, decided to pay the travelling allowance of the persons summoned to the interview.

3. As regards the statement that this expenditure requires the special sanction of Government it may be noticed that the payments made in connection with the Tamil Lexicon are made from University funds. It is true that the University utilises for the Tamil Lexicon part of the statutory consolidated grant which it receives from Government but sanction is not now required from Government for expenditure from that grant as was the case before the new University Act came into force.

[Here again the view of the auditor appears to be incorrect.]

The above represents the attitude of the Syndicate, which contains three lawyers as members, viz., Mr. Alladi Krishnaswami, Mr. K. V. Krishnaswami and Dr. Swaminathan. It is immaterial whether a person interviewed is to better his prospects or not when he appears in person before a committee which is to make or to recommend a person for appointment. Such a criterion of possible betterment of prospects is valid only in a consolidated service working under rules to that effect and would be valid only if the University were a department of Government or if Government had the power (which it has not) of accepting or rejecting or prescribing rules framed for the administration of the University.

4. The crux of the settlement of this question appears to be the correct interpretation of section (15) of

of Law 3 of Chapter VIII of the Laws of the University. This section it is to be noticed is a statute. Under the University Act statutes are prepared by the Syndicate and placed before the Senate for acceptance, amendment or rejection. A statute after being passed by the Senate shall have validity only if it has been assented to by the Chancellor. The ultimate authority in the interpretation of a statute is thus the Chancellor. Government, qua Government, has as the Act stands at present no voice in this matter. If then Government desire the interpretation of a University statute which is placed upon it by the Syndicate of the University to be called in question the matter will logically first of all have to be discussed by the Senate and the decision of the Senate subsequently approved by the Chancellor. It is open to Government to instruct the D.P.I. to move in the matter either in the Syndicate or in the Senate.

5. This case is in itself of very little importance, a matter of the expenditure of Rs. 47 only being involved; the principle involved however is of considerable importance especially in connection with the right relationship that should exist between ^{the} University and Government and the extent to which Government consider that they should interfere in University affairs, and I have no hesitation in advising Government to take competent legal advice on a correct interpretation of the statute under consideration before they proceed further.

6. I am unable to make any remarks upon the Secretariat note dealing with claims against the University fee fund and against the University library fund since I have not seen the file.

ie. to the effect that betterment of prospects is a person from drawing T.A.

7. With regard however to the suggestion that it seems desirable that some definite provision is made in the statutes framed by the Senate to ensure that audit rulings and suggestions receive due consideration and the other suggestion that the auditor's suggestions or findings should be binding on the University I am compelled to state that there already appears to be sufficient provision for the former suggestion and I am unable to accept the view that an auditor's suggestion or finding should be binding on the University. The acceptance of such a proposal as the latter might mean and probably would mean continual friction between University authorities and Government, a state of affairs which I should strongly deprecate.

8. Before laying down any provision ensuring that auditor's rules and suggestions receive due consideration I might suggest to Government that the auditor's suggestions which are not accepted by the Syndicate of the University and yet which appear to Government as necessary or desirable of acceptance should first be analysed into those which are clearly audit objections and those which are based upon an interpretation of an Act or statute of Law of the University. In the later case competent legal advice should be taken before Government proceed further. If after taking competent legal advice Government are still convinced as to the correctness of the attitude taken by the auditor, as well as in all matters in which the auditor makes a purely audit suggestion which is not accepted by the Syndicate of the University I might suggest that these matters should be placed before the Senate at the time when the annual accounts of the University are submitted to the Senate under section 21 of the University Act. So far as I am able to interpret sub-section (2) of section 21 of the University Act it is possible under that Act and without any additional statute or law for the Senate

for the Senate to be made aware of the points of difference between the Syndicate of the University on the one hand and the auditor supported by the Local Government on the other hand. The specific advice which I should now submit to Government is that as a first step Government might invite the attention of the Syndicate---if Government consider that the Syndicate is at fault in this matter and after Government has taken legal advice which would confirm that presumption of Government in the present case---to the fact that it would be desirable especially with reference to section 21(2) of the University Act for the Syndicate to bring to the notice of the Senate the specific audit objections, such as the present one, in which the Syndicate feels unable to accept the advice of the auditor. The onus will then be placed upon the Senate of explicitly or implicitly supporting or modifying the action of the Syndicate. Moreover, if the Syndicate is aware that matters in which it disagrees from the auditor are to be placed before the Senate a useful restraint might be exercised over the action of the Syndicate.

9. If the Syndicate accept the advice of Government all that is required to be done under the provisions of the existing Act will be done; if the advice of Government is not accepted it is open to Government to reconsider the position and either formally sanction the expenditure of the University in this regard or instruct the D.P.I. to move the matter in the Senate. This latter alternative should be entered upon only where some large practical issue is involved; I could certainly not advise Government to take that course of action in the case of the presumed irregular

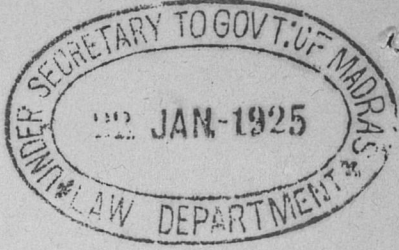
8 14

irregular sanction by the Syndicate of an expenditure of Rs.47/-.

25

22/1/25

Law (Education) Deptt.



A. S.

Please see the D.P.I.'s note at pages 3 - 8 ante.

2. Payment of Rs47-2-0 as travelling allowance to an applicant for the Editorship of the Tamil Lexicon. The D.P.I. is of opinion that the Syndicate has, in ordering the payment of the travelling allowance, not exceeded its powers as laid down in section (15) of Law 3 of Chapter VIII of the Laws of the University. In this connection reference is solicited to the opinion of the Advocate General at page 38 of G.O. No. 620 Law (Edn), dated the 16th April, 1924. With reference to this opinion, the administration of the University funds is solely vested in the Syndicate, the ultimate control being in the Senate. When under section 21 (2) of the University Act, the Syndicate submits to the Senate the accounts with a copy of the audit report, the Senate will no doubt scrutinise the items of expenditure objected to in the audit. The D.P.I. does not consider that audit objections should be made binding on the University, as he apprehends that such a state will lead to continuous undesirable friction between the Government and the University. It will, moreover, be not in keeping with the academic ^{independence} freedom referred to in the Hon'ble the Minister's speech at flag II. When really serious mistakes are pointed out in the audit, the D.P.I. may be instructed to move the matter in the Syndicate or in the Senate. The D.P.I., however, does not advise that course of action in respect of this ^{small} sum of Rs47. In these circumstances it appears no action on the part of the Government is necessary so far as the travelling allowance is concerned.

Mr 384 ante (p. 63 of booklet)

(vide end of para 4 on p. 5 ante)

end of D.P.I.'s note above

Rs 47.20 L.E. 16.4.24

para 2 m.p. 3 of G.O. 850 L.E. 27.11.24



3. Payment of arrear claims. Please see the link file. In view of the Advocate-General's opinion referred to in paragraph 2 at page 8 ante and in the face of the protest of the Syndicate, it does not appear expedient to enforce the ~~existing~~ rule that arrear claims of over six months and one year should be passed for payment by the Examiner of L.F. Accounts and Government respectively. If the Examiner finds any case of double payment or any other mistake in respect of arrear claims he will cite it in the audit report; then it is for the Syndicate or the Senate to take the necessary action. It appears no rule regarding arrear claims need be made.

For orders as to whether any further action should be taken. 27.1.25 9.2.25

We may record the papers.

V.R. 10.2

M2

14/2/25

A. S.

A draft order is submitted. Paragraph 2

13.2.25 13.2.25

I don't think para-2 is necessary.

14.2.25

Law (E & D)

DEPARTMENT

University of Madras - Irregular expenditure -

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C. No. 24902 From the ~~Ex~~ ^{Em} of L. F. Account L. F. No. 3876, dated 25.9.1924.

192

” ” ” ” 192 .

ORDER.

Wij

No. 141, dated 6-2-1925.

Recorded.

2 ~~Then I will do not propose~~

 ~~$\frac{24}{13.2}$ to take away action.~~

To

The Exmr. of L. F. Acct. (qtd)

WAL 1916/2

U3.2.28

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