

Law (1926) Department.
(Education)

Ordinary SERIES.

G.O. No. 1121

DATED 16-6-1926

[Despatch Abstract.]

Miss V.E.Fearn--woman specialist in physical
instruction--passing of vernacular compulsory test--
declared not obligatory.

BACK PAPERS.

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

FURTHER PAPERS.

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

CF. 33

L a w (Education) DEPARTMENT.



192 . Registered . 192

Subject.

Examinations Vernacular

Miss V.E.Fearn, Woman Specialist in Physical Training - Vernacular Compulsory Test - passing of.

ENCLOSURES.

No.

Spare copies

R.O.C. No. 461 C/26

Station Madras Dated the 14th May 192 ⁶

From (Name) R.G.Grieve Esq., M.A.,

(Designation) Ag:Director of Public Instruction

To The Secretary to the Government of Madras

L a w (Education) Department.

Sir,

In submitting herewith a copy of letter R.C.No. 43/26 dated 17-4-26 from Miss V.E.Fearn, Woman Specialist in Physical Instruction, for the orders of Government, I have the honour to state that in June 1925 the attention of such of the European and Anglo Indian officers of this Department as had not passed the compulsory Test, was invited to rule 5 of the revised rules regarding the conduct of the test, embodied in G.O.No.354 L.E., dated 13-3-25 and that they were warned that unless they appeared for and passed the test in

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January 1926 they would not be eligible to draw further increments. This was approved by Government in G.O.No.1554 L.E., dated 4th September 1925.

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2. Miss Violet E.Fearn, Woman Specialist in Physical Instruction, who was entertained in the Department, on 6th January 1922 has drawn her increment for January, February and March 1926 though she sat for the compulsory test held in January 1926 but failed.

3. When she was asked to state why she drew her increment although she had failed in the test she stated that she was not a permanent Government servant, that she was appointed on a short time contract and that passing of an examination in Vernacular was not one of the conditions in the agreement executed by her for employment under Government, vide G.O.

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No.122 L.E., dated 27th January 1922. She was first appointed for a period of three years on a fixed pay of Rs.400 per mensem subsequently the period was extended by three years with pay fixed at Rs.400-25-450. vide G.O.No.173 L.E., dated 5-2-25. In clause 3 of her agreement she agreed to obey the rules prescribed for the time being for the regulation of the branch of the public service to which she may belong.

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4. I may further state that the major portion of Miss Fearn's work is confined to Indian Schools. It is therefore desirable that she should pass an examination in Vernacular.

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5. The issues on which the orders of Government are requested are whether Rule 5 embodied in G.O.No.354 L.E., dated 13-3-25 is applicable to an officer appointed on a short term contract or whether, in the event of the answer to this question being in the negative, clause 3 of her agreement quoted above would bring her within the scope of Rule 5 though she is in a specialist post and still temporary.

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

S. M. Bowel
For Director of Public Instruction

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Copy of letter R.C.No.46/26 dated 17-4-26 from Miss V.E. Fearn, Woman Specialist in Physical Instruction, Madras, to the Director of Public Instruction, Madras.

With reference to your Proceedings C.No.46-C/26 dated 19-3-26 and in continuation of my letter R.C.No.46/26 dated 9-4-26, I have the honour to state that your Proceedings Dis. No.1493/25 dated 16-4-25 have never been received in this office but that in compliance with your R.O.C.No.320 C/26 dated 2-3-26 I presented my salary bill for March minus the increment. The Accountant General however objected and passed the bill for the whole amount vide His G.A.67/3408 dated 9-4-26.

Since I am not a permanent Government servant and am only on a short time contract my case is not governed by G.O. No.354 dated 13-3-25.

Further my written agreement makes no reference to the question of a vernacular test and I have the honour therefore to request that you will be so kind as to allow me to continue to draw my increment.

(True copy)

S. M. Bowel
For Director of Public Instruction

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C.No.1912 A - From the D.P.I., R.O.C.No.461 C/26 dated 14-5-1926.

Subject.- Miss V.E.Fearn - Woman Specialist in Physical Training - Passing of vernacular compulsory test.

Miss Fearn was first appointed by the Secretary of State as Woman Specialist in physical training in January 1922 for a period of three years and her term has since been extended for another three years from January 1925. In G.O. No. 1554 Law (Education) dated 4-9-25 the Government warned all officers including Miss Fearn who do not pass the compulsory vernacular test that they would not be allowed to draw further increments unless they passed the test in January 1926. Miss Fearn was included by the D.P.I. in the list of persons who had not passed the compulsory test. She thereupon appeared for the test in January 1926 but failed. She, however, continued to draw her increments for January, February and March last. On being asked by the Director to explain why she drew increments she states that as she is not a permanent Government servant and is only on a short term contract her case is not governed by G.O.No.354 Law (Edn) dated 13-3-25 and that her written agreement makes no reference to the question of a vernacular test. She therefore considers that she is not liable to pass the test. The Director raises the following two issues:

- (1) whether rule 5 embodied in G.O.No.354 Law (Edn) dated 13-3-25 is applicable to an officer appointed on short term contract; or
- (2) whether in the event of the officer answer to the first question being in the negative clause 3 of the agreement entered into by Miss

122 L.E.
27.11.22

173 L.E.
5.2.25

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Fearn would bring her within the scope of rule 5 in though she is ~~not~~ a specialist post and still temporary.

2 As regards the first issue it is submitted when a separate agreement has been entered into with the officer the ordinary rules ^{regarding vernacular test etc} may not be binding unless ^{reference to them} ~~it~~ is made specifically in the agreement. It is observed that in the case of agreements entered into with officers who are recruited for the I.E.S. there is a special clause ^{relating} to the passing of the compulsory test in ~~and that in the agreement of temporary officers this clause is not inserted~~ - vernacular test languages. The first issue may therefore be answered in the negative.

3 Clause 3 of the agreement ^{executed by} ~~entered~~ ^{into with} her runs as follows:-

That she will submit herself to the orders of the Government and of the officers and authorities under whom she may from time to time be placed by the Government and will at all times obey the rules prescribed for the time being for the regulation of the branch of the public service to which she may belong and will when required by the Government proceed to any part of the Presidency.

On a comparison of this agreement with that executed by I.E.S. officers and on which the agreement for Miss Fearn has been drawn up it is observed that similar clause occurs in the agreement of I.E.S. officers also, in addition to a special clause regarding the vernacular test. It has therefore to be presumed ^{that} ~~any~~ the general ^{condition} ~~condition~~ referred to in clause 3 of the agreement cannot ordinarily include the vernacular test.

4. If the above view is approved, Miss Fearn cannot be compelled to pass the vernacular test to earn her increments. Her present term extends up to January 1928 and in all probability her services may have to be continued after that date. In view of the fact that as pointed out by the D.P.I. it is desirable that she should pass the examination in vernacular as her work is confined to Indian schools it

Phase see do 7 - page 3, and clause (5) on page 4, 6, 7, 8, 9 of fo. 1101 L.E. (P) 23.9.22

p. 6 of fo. 353 L.E. 9.3.26

x cl. 2 - p. 2 of fo. 1121 23.9.22

cl. 7 - p. 3 - do

para 4 - p. 2 CF

26
Law 45
It arrived by D.P.I. in his letter she comes under the rule 5 ²⁸⁻⁰ and also she is subject to General Conditions of Service applicable to officers. In the special circumstances stated in para 4 of D.P.I. letter she is obligated ^{and} to pass vernacular - She appeared once & failed and she must appear again and pass - otherwise there will be breach of clause 3 of the agreement. D.P.I.

appears necessary to induce her to pass the examination at an early date. Perhaps she may be told that if she does not pass the examination before January 1928 when her terms expires ~~any~~ her services will not be retained under this Government. For orders.

Under clause (3) of her agreement she has to obey the orders of Govt & submit herself to the rules & regulations laid down by Govt. It is open to Govt. ~~that~~ to order that she should pass the examination within a fixed period, & she should submit herself to the order. She cannot plead that her agreement does not specifically refer to it. The D.P.I. order which was based on G.O. No. 1554 of 4.9.25, should have been obeyed by her. That G.O. made no distinction between permanent & temporary employees. She has now been in service for six years. She may now be directed to pass the examination before the end of 1927 if she desires to be continued in service.

As Miss Fearn points out, there is no clause in her agreement about her passing the vernacular test. Her increment cannot be stopped for failure to pass the test.

The D.P.I. may inform Miss Fearn that, in the opinion of the Govt, she should pass a vernacular as her work confined to Indian schools. If she does not pass her test before Jan. 1928 it will be one of the factors to be considered in deciding whether her contract should be renewed. V.T.C.

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H.E.

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~~V.TK~~
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A Draft order is submitted for approval.

$$\frac{K_2}{11 \cdot 6 \cdot 26}$$
$$\frac{A}{1276}$$

V.TK

 14.6

A circular ink stamp from the U.S. Department of Justice. The outer ring contains the text "U.S. DEPARTMENT OF JUSTICE" at the top and "RECEIVED" at the bottom. The center of the stamp features the date "10 JUN 1926" in a bold, sans-serif font. Above the date, the words "RECEIVED" and "U.S. DEPARTMENT OF JUSTICE" are faintly visible, suggesting the stamp was applied to a document already bearing this information.

A circular ink stamp is located at the bottom of the page. The outer ring of the stamp contains the text "SECRETARY 10604" at the top and "10604 SECRETARY" at the bottom. In the center of the stamp, the date "16 JUN-1976" is stamped.

to sent friend

A circular ink stamp from the Secretary of the Government of India. The text "SECRETARY TO GOVERNMENT OF INDIA" is curved along the top inner edge. In the center, the date "8 JUN 1946" is stamped. The bottom edge of the stamp is partially obscured by the text "RECEIVED".

Date.	Initials.
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When despatched

Miss V. E. Fearn - Woman
Specialist in Physical instruction
Passing of Vernacular compulsory
test - declined not obligatory.

READ AGAIN G.O. No. _____, dated _____, 192

” ” ” ” ” 192

READ ALSO:—

C. No. 1912A From the D.P. 9. Roc, No. 461C/26 dated 14-5-1926.

” ” ” ” ” ” 192

" " " " 192

ORDER.
Mrs

No. 1121, dated Feb. 6, 1926

requiring her

The D P J is informed
that as there is no ~~provision~~ ~~clause~~
express condition
in Miss V. E. Fearns's agreement
~~requiring~~ ~~that she should pass~~
~~about her passing~~ a Vernacular
test, it is not obligatory on
her ~~part~~ ^{pass} to the examination.
Her increment cannot
therefore be stopped ^{on the ground of} for her
failure to pass the test.

2 The D.P.J is, however, requested to inform Min V.E Fearn, that in the opinion of the Govt, she should pass a vernacular test as her

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work is confined to Indian
Schools. If she does not
hesitate
pass before January 1928
it will be one of the factors
which will be
be considered in deciding
whether her contract
should be renewed

KJ
11.6.26.
12/6

WLB
V.TK
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The Director of Public Instruction
" Accountant General.

DESPATCHED
16th JUN 1926

When given for copying
When copied
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When signed

192

READ AGAIN G.O. No.
192

CURRENT No.

ENCLOSURES TO C. No.

ORDER OF GOVERNMENT

A A A A A A A

LETTER OF GOVERNMENT

STATEMENT WITH DETAIL

PAPERS NOT FILED OF, BEING AWAIT FOR DESPATCH
IN ORIGINAL.

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