Scott. H-29—27,004—25-11-25.

Law & Education (1926) Department.

Ordinary SERIES.

G.O. No. 1756-57

DATED 10-9-1926

13

[Despatch Abstract.]

Thompson, Mr. M.S.H.

Memorial for the grant of overseas pay--forwarded to the Government of India.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
SE	309-10	Edn	22-5-07	0	3011	L.E.	22-7-1922
"	734	Fin	14-12-16	SE	713	Public	8-8-1923
"	1285	Home (Edn)	3-11-1920	0	1728	L.E.	11-12-1923
0	268	"	22-2-1921	0	172	L.E.	4-2-24
0	446	"	22-3-1921	0	713	do	8-5-24
0	767	Law (E)	20-6-1922	SE	397	Fin	9-8-24

~~FURTHER PAPERS.~~

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.
0	1352	L.E.	21-8-1924				
0	2007	"	22-12-1924				
0	1830	L.E.	26-10-25				
SE	127	Finance	10-2-26				
0	461	L.E.	29-3-26				
SE	401	Pub	1-5-26				

58, Rosslyn Hill,

L. Ed 2377A
28/6/26

58, Rosslyn Hill,
Hampstead, N.W.3.

9th June 1926.

SECRETARY TO GOVT. LAW DEPARTMENT
28 JUN 1926

From

M. S. H. Thompson, Esq.,
District Educational Officer,
Tanjore. (On Leave).

To

The Secretary to Government
Law (Education) Department,
Madras.

Sir,

As directed in para. 1 of G.O. No. 461, dated 29th. March 1926, I beg to submit in duplicate my Memorial to the Secretary of State for India in Council, and request that it may kindly be forwarded to him.

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

M. S. H. Thompson
9.6.26
District Educational Officer,
Tanjore. (On leave.)

58, Rosslyn Hill,
Hampstead, N.W.3.
9th June 1926.

From

M.H.S.Thompson Esqr.,
District Educational Officer,
Tanjore. (On leave)

3

To

The Secretary of State for India in Council,
Whitehall, S.W.1.

Through

The Government of Madras

Sir,

By permission of the Madras Government I beg to request that I may be granted Overseas Pay for the reasons set forth in the accompanying note.

Permit me to state:-

(1) That as a matter of fact I have no home anywhere in India,

(2) That my stating that I was a 'native of India' (meaning a person born in India) does not vitiate my case, for the reason that a very large percentage of Indian officials drawing overseas pay were born in India and are therefore 'natives of India', and

(3) That in regard to the Government of India Scholarship referred to in the note , it was not awarded me, and Rule 75 (2) (a) of the Fundmental Rules - to which I think, reference is made by the Government of Madras - speaks of the 'conferment' of scholarships.

I have the honour to be, Sir,

(Sd) M.H.S.Thompson, 9-6-26
District Educational Officer,
Tanjore (On leave)

- ---------------

NOTE.

NAME: M.S.H.Thompson

DESIGNATION: District Educational Officer, Tanjore, Madras Presidency.

REQUEST: That I be granted Overseas Pay with retrospective effect from the date of my confirmation in the Indian Educational Service.

Overseas Pay.

I REQUEST THAT I MAY BE GRANTED OVERSEAS PAY BECAUSE I AM NOT "DOMICILED" IN INDIA, HAVING NO PERMANENT HOME THERE.

U

In South India I have a sister and a cousin, and in North India two sisters, all of whom are only temporarily resident in India. The sister in S. India is the wife of Mr. L.G.B. Firth (her cousin), who is Asst. Director of Survey and who has been recently declared to be of 'non-Asiatic domicile'. In N India one sister, Mrs. Hyde, is the wife of Mr. H.B. Hyde, Superintending Engineer, Indore, (whose father was Advocate General,Calcutta); another sister is Miss A.V.J. Thompson, Inspectress of Schools, Nagpur, whose right to Overseas Pay has never been questioned. My father, the late Mr. R.W. Thompson, A.M.I.C.E., was educated entirely at home, and held various important posts all over India.

That I have no home, in the accepted sense, in India is further proved by the fact that all my other relatives, both on my father's and mother's side are domiciled in England. Among these are.-

On my father's side:-

(1) Sir Alexander (who acted as Governor of Madras) and Lady Cardew (my cousin)

(2) Mr. S.D. Pears (who retired as Chief Engineer P.W.D., Madras) and Mrs. Pears (also my cousin).

(3) Mrs. Anderson (another cousin), widow of the late Col. E. Brooke-Anderson of Boscombe.

On my mother's side -

Miss Haughton(my mother's only surviving sister)
"Pilgrims' Place House", Rosslyn Hill,Hampstead,N.W.3

My wife's home is in London, and my sister Mrs.O.H.Veasey, Southmead, Balcombe, is permanently domiciled inEngland.

6

Iam the only member of my family who has been declared by the Madras Government to be of Asiatic Domicile, and refused the usual allowances.

I give below a brief resume of the position as it stands at present:

I was promoted permanently to the Indian Educational Service with effect from the 23rd February 1921 and a few months after my confirmation submitted an application for overseas pay. It was refused for tworeasons: (1)that I was domiciled in India,(2) that I was 'appointed' to the Indian Educational Service subsequent to 1st December ~~xxxx~~ 1919. I attach a true copy of the order(marked 'A'). In regard to (2) I have since pointed out that though I was not confirmed in the Indian Educational Service till 23rd February 1921 my entry into that service dated from the 2nd January 1919(excluding the service put in from March to November 1918),although I was not acting in a permanent vacancy during the period from 2nd January 1919 to 31st August 1920.

(2) My next application for overseas pay was refused on the ground that I was promoted to the Indian Educational Service on the distinct understanding that I was of Indian domicile, and I was givento understand that my continuance in this service was contingent on my declining the allowance applied for. I attach a true copy of the order (marked 'B') with the 'reminder'relating thereto. Inmy reply I submitted that in my agreement with the Secretaryof State no mention was made of the fact that I was considered to be of Indian domicile, that on the contrary clause(5) of that agreement(true copy marked 'C'enclosed) pointed to India not being my home and that my reversion to the Madras Educational Service would entail greathardship to one who had waited over eight and a half years for his firstreal promotion.

(3) In refusing me overseas pay for the third time the Madras Government made reference to an application for a Government of India scholarship, for which I was recommended by the Director of Public Instruction. A true copy of the order is attached(marked 'D'). In reply ~~xxxx~~ to this reference I submitted (1) that I was not awarded the scholarship inquestion(and rule 75(2)(a) of the Fundamental rules speaks of the conferment of scholarships,) and (2) that in stating at the time(the original application is not available at the Secretariat,Madras) that I was a'native of India' I obviously contrued 'native' as 'born in'. I referred in this connection to a conversation between Sir Alfred Bourne,then Director of Public Instruction,Madras and me at an interview. He was offering me an appointment in the old Provincial Service, and enquiried whether I was a 'Native of India'. I replied that I was one

7

in the sense referred to above, when he remarked "My son was bor in India, but he is not "a native of India", yet proceeded no further with his enquiries on the point in question. I believe th the greatmajority of Indian officials are etymologically 'native of India'.

(4) In their order dated 26th October 1925(true copy - marked 'E' attached) the Madras Government stated that they were unable to reconsider the orders already passed in their previous order.

In addition to the facts stated above I beg to represent the following:-

1. The communication relating to free passages, attached in original and marked 'F' and 'G(, it will be seen, communicated to me by name so also was the next-on-kin return for 1926(marked'F' (a)).

2. I was refused an advance from my Provident because I wa a "European". I attach a true copy of the proceedings in questi (marked 'H').

3. While acting in the Indian Educational Service at Mercara I was permitted to draw the local allowance of Rs.100 per mensem, until then drawn only by officers appointed inEngland. In this connection I attach an extract(marked 'I') from letter No.1643,dated the 28th April 1919 from the Honourable the Chief Commissioner of Coorg.

15

6

Education Dept.

C No. 2377A from Mr. M.S.H. Thompson
d/ 9.6.26.

Subject. memorial regarding the grant of overseas pay

memo ~~Ref~~ 2377A-1
6.7.26.

Referred to the D.P.I. for ~~read~~ remarks.

5/7

5/7

6/7

To the D.P.I. (with current to be returned with reply)

Remind after 3 weeks.

DESPATCHED with encl.
7th JUL 1926

R 31/7/26

C F. 30

Education **DEPARTMENT.**

Received ....192 . *Registered* 192

L. Ed. 2985A
31/7/26.

713 Rw
8/8/23

360 E.D
22-5-07

172
4/7/24

713
8/5/24

P 1352
21/8/24

Subject.

Mr. M.S.H. Thompson- Memorial of - to the Secretary of State for India regarding the grant of Overseas - Pay- Resubmitted.

31. JUL. 1926
DEPARTMENT

ENCLOSURES.
No. ....
....
Spare copies ....

N.R.C No. 1092 C/26

Station Madras *Dated the* 27th July 1926 192

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

(Designation) Ag.Director of Public Instruction
Madras.

To The Secretary to the Government of Madras
Education Department.

~~Sir~~,

Memo from Government, Law(Education) Department No.2377 A- 1, dated 6- 7- 26 referring for remarks the memorial of Mr. M.S.H Thompson to the Secretary of State for India in Council regarding the grant of Overseas Pay.

p Remarks

**

Resubmitted.

Ⓟ Ⓛ Ⓑ

2. Attention is invited to G.Os.Nos.R.379 Law (Education) dated 22- 7- 22 1725 Law(Education) dated 11- 12- 23 and 1850 Law(Education) dated 26-10-25 declining for the following reasons the request of Mr. M.S.H.Thompson for the grant of Overseas pay.

(1) he was appointed to the Indian Educational Service subsequent to 1- 12- 1919,

(2) in 1907 he claimed and Government deemed him to be a native of India for purposes of a State Scholarship

17

scholarship;

(3) his appointment to the Indian Educational Service was made as he was admitted by Government to have had an Indian domicile.

The fresh grounds adduced by him in his present memorial do not alter the position materially as (1) the communications relating to free passages and the next of Kin Return are communicated to all Anglo Indian officers of the service, and (2) the refusal of the grant of an advance from the General Provident Fund for marriage was due to the fact that advances for this purpose could not be granted to those who adopted European social customs. The letter of the Chief Commissioner of Coorg only shows that the condition regarding appointment in England had to be relaxed in his case to make him eligible for the Local Allowance but does not contain any reference to his domicile.

para 3 of India's letter on p 3 of f 0734 Fin / 14.12.16 (VI)

I should however mention that his sister in the Central Province gets Overseas pay and I believe I am correct in saying that this Government made a reference to the Central Province Government on the subject.

yes vide pp 8 + 10 cf of f 1850 / 26.10.25 (B)

A Rama Rau
29/7

for Director of Public Instruction

a.r. 28/7/26

18

Education Dept.

C. No 2377A from Mr. M. S. H. Thompson, d 9.6.26

Subject. Memorial to the Secretary of State regarding the grant to him of overseas pay

(A)

Rule I of the Instructions regarding the submission of memorials to the Secretary of State requires that every memorial should contain all material ~~arguments~~ statements and arguments relied upon by the memorialist and be complete in itself. It is observed that the memorial submitted by Mr. Thompson does not appear to comply with this rule, as it does not contain the arguments in full and refers to a ~~not~~ separate note. This note has not also been authenticated as required by rule VI. ~~The~~ Further the memorial has been sent direct to Govt. instead of through the D.P.I. For orders whether it may be returned for resubmission after ~~the~~ rectification of ~~these~~ defects pointed out above.

pages 2 + 3 C f

x Please see page 8 C

1/7

1.7.26

You may refer it to the D.P.I for remarks: that it should ~~not~~ be returned for rectification as Mr

7 (9)

Thompson ~~is~~ is now in England & it ~~means~~ would mean two months' delay to send it back to him

V.TK
2.7

A draft memo is submitted for approval

Sec
5/7

CR
5/7

[Memo No. 2377 A-1 dated 6.7.26] p15 cf

No. 2989 A from the D.P.I. N.R.C. No. 1092 C/26.] p16 cf

GOVT ... 4 JUL 1926 ... PARTMEN

Attention is invited to the notes of M_2 and C_2 on pp 14-15 of the note to Cro, No. 1850 Law (Edn) D, 26.10.25. (13)

The memorial of Mr. Thompson ~~[illegible]~~ may be forwarded to the ~~Secy of State~~ Govt of India.

A draft letter is subm. for approval.

It may be sent to Public u.o. IV

KKl
8.26

3/8

CR
17/8

Retype pages 1 & 2

V.TK
11.8

Public u.o

Retyped and subm

KKl
11.8.26

CR
12/8

Sec
12/8

Public u.o

V.TK
13.8

Emo 2987 A-1
14.8.26

Pub dept

Public
358

SECY TO GOVT. 14 AUG. 1926 CHIEF SECT.

With reference to para 7 of the draft, it is subd. that next forms of

p5 of draft

9 20 3

of kin returns are under recent order to be circulated only to gazetted officers with a non-Asiatic domicile. But the fact that a next of kin return form for 1926 was sent to an officer is not conclusive proof of the officer's domicile being non-Asiatic. ~~It is therefore for consideration whether Law Dept may be requested to suitably amend this portion of the draft~~ The return was sent to Mr Thompson as his name was included in the list of European Officers furnished by the A.G. The A.G. has since admitted that the list is not quite correct as it was prepared by reference to the names only. The Law Dept may be requested to amend this portion of the draft suitably.

× para 2 of G.O. No 401 Pub. 1-5-1926 (X)

17 cf.

SECRETARY TO GOVT OF MADRAS 24 AUG 1926 LAW DEPARTMENT

K.R
16/8/26

No 379 on p 18 of the copy of G.O. 401 Pub 7.5.26 (V)

removed in Public p 39 of (H)

KR
17/8

21/8

Edn Dept u.o.

Pub (S) u.o. No 358-1
21.8.1926.

Law & Edn

Please see addition to para 7 of the draft.

CR
24/8

Retype p.5 as revised

V.TK
25/8

Retyped and Subm.

KKl
25.8.26

V.TK
26.8

For approval

V.TK 4.9

C3
C1
H.E. the Govr

6/9/26

9.IX.26

9-SEP 1926

Law and Education DEPARTMENT.

	Date.	Initials.
When received for Fair-copying.		
When copied		13/9
When examined	13/9	
When signed		
When despatched		

Thompson, Mr. M.S.H. - Memorial for the grant of overseas ~~xx~~ pay - forwarded to the Govt. of India.

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

" " " " .... " ....192 .

READ ALSO :-

C. No. 2377 A. From the Mr. M.S.H. Thompson, No. ......, dated 9-6-26 192 .

" " 2989 A. " " D.P.I. N.R.C.1092/26 " 27-7-26 192 .

" " ...... " " .... " ...... 192 .

ORDER.

Mis.

No. 1756, dated 10 . 9 1926.

The memorial of Mr. M.S.H. Thompson, addressed to the Secretary to State will be forwarded to the Government of India.

V.TK
4.9

DESPATCHED 14 SEP

20

The D.P.I. ✓

M.S.H. Thompson Esq. ✓

DESPATCHED 14 SEP

C.I.B.

Please ask me before typing

×

one placed below

the other is on pp 2-14 cf

Copy of pp 2-8 cf. to be kept for record

Letter No. 1757 dated 10.9.26
Mis.

To

The Secretary to the Govt. of India,
Deptt. of Education, Health and Lands (with memorial in duplicate).

Sir,

I am directed to forward the accompanying memorial of Mr. M.S.H. Thompson, Dt. Educational Officer, Tanjore (on leave) addressed to the

Secretary of State for the grant of overseas pay and to offer the following remarks thereon.

2. Mr. Thompson memorialised the Local Government on the subject but they declined to comply with his request on the following grounds:--

(1) that in 1907 he claimed, and the Govt. deemed him, to be a native of India within the meaning of Statute 33 Vic. Cap.3 Section 6 for purposes of a State Scholarship;

(2) that he was appointed to the I.E.S. subsequent to the date of reorganization of the Indian Educational Service, viz. 1st December 1919; and

(3) that his appointment to the Indian Educational Service was made on the basis of his possessing an Indian domicile.

3. In his present memorial Mr. Thompson states that he is not domiciled in India, having no permanent home therein, that all his relations are domiciled in England and that his sister who is employed as an Inspectress of Girls' Schools in the Central Provinces is in receipt of overseas pay. It is understood from enquiries made that Miss Thompson who is now employed in the Central Provinces has been permitted to draw overseas pay. The Govt. of Madras have no information of the grounds on which her claim was admitted. But this in itself is no reason for conceding the privilege

fo 1725 L.E / 11.12.23 (L)

fo 379 L.E / 22.7.22 (P)

fo 1725 L.E / 11.12.23 (L)

p 54

p 74

11

to Mr. Thompson in the face of the facts set out below.

4. As regards the first of the reasons as summarised in paragraph 2 above --that Mr. Thompson applied for a State Scholarship in 1907 as a native of India--he points out that the scholarship was not actually awarded to him, that rule 75(2)(a) of the Fundamental Rules speaks of the conferment of scholarships and that in declaring himself to be a native of India at that time he construed 'native' as meaning 'born in India'. I am to observe that the Fundamental Rule quoted above refers to persons who have claimed or been deemed to be natives of India for the purposes of the conferment of scholarships and that under this rule those who claim the benefits, though they may not be finally awarded scholarships, are excluded from the special leave rules. Mr. Thompson's argument that he construed the word 'native' to mean 'born in India' cannot obviously be accepted. I am also to state that in connection with his application for scholarship Mr. Thompson's uncle stated in 1907 "that he (Mr.Thompson) was born and domiciled within the dominions of His Majesty in India of parents habitually resident in India and not established there for temporary purpose only".

X/2

5. On the question of the date of his appointment to the I.E.S., Mr. Thompson says that though he was confirmed only in February 1921, he had been

acting in the I.E.S. continuously since 2nd January 1919. I am to invite attention to paragraph 2 of the Government of India's letter No. 1501 Edn. d/ 11.12.1920 under which all members of the I.E.S. irrespective of their domicile who were appointed to the I.E.S. prior to 1-12-19 including those appointed on provisional terms to fill war vacancies were declared eligible for overseas pay. As Mr.Thompson was only acting at that time and as the grant of overseas pay to persons who were appointed subsequent to that date was ordered to be determined with reference to their domicile he was declared not entitled to overseas pay.

p 6 cf

× The C/o containing the letter to put up in a Finance file. The no. & date will be filled in on its return vide Lummer p 5 of fo 379/22.7.22 (P)

A

6. As regards the third reason, Mr. Thompson contends that no mention is made in his agreement of his being of Indian domicile and that though in connection with a memorial for overseas pay submitted by him he was given to understand by the Local Government that his continuance in this service was contingent on his not claiming the allowance applied for, he did not expressly agree to withdraw his claim for overseas pay. I am to invite attention to the correspondence ending with letter from the Government of India, Department of Education, No.340, dated 3-3-21 from which it will be seen that the promotions of certain officers from the Madras Educational to the I.E.S. were approved after ascertaining that all of them were domiciled in India. I am also [illegible] add that under the terms of his

p 6 cf

p 1 of fo 446/22-3-21 (D)

p 11 of fo 767/20.6.22 (N)

agreement Mr.Thompson ~~is eligible only~~ Comes under ~~for~~ the Indian Service Leave Rules.

7. The other grounds put forward by Mr. Thompson are

(i) that orders relating to free passages and next-of-kin returns are communicated to him;

(ii) that his application for an advance from the General Provident Fund to pay expenses in connection with a marriage was refused on the ground of his being a European, and

(iii) that while acting in the I.E.S. as headmaster, C.H. School, Mercara, he was permitted to draw the local allowance of Rs.100 per mensem which was until then drawn only by officers appointed in England.

p 7 cf

As regards (i) I am to say that the fact that orders regarding free passages and next-of-kin returns were communicated to an officer is no proof of his domicile. In regard to (ii) the advance from the General Provident Fund was refused as advances for marriages are not allowed to subscribers who have adopted European social customs. With reference to the last mentioned ground, I am to invite attention to the letter of the Chief Commissioner of Coorg dated 28-4-19 forming an enclosure to the memorial which shows that the condition regarding appointment had to be relaxed in Mr. Thompson's case to make him -

p 17 cf

p 13 cf

-6- 27

eligible for the local allowance and that the order does not contain any reference to his domicile.

I have etc.

V.T.K.
4.9

When given for copying——
When copied——
When examined——
When signed——
} 192 .

Read again G.O. No. dated
192 .

13

Current No.

Enclosures to C. No.

Order of Government .. .. A A A A A A A

Letter of Government.

Statement with ditto.

Papers not filed on, being meant for despatch in original.

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