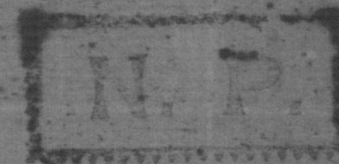


Educational (1904) Department.

ORDINARY PRINTED.

G.O., No. 479

DATED 8.8.04



INDEXED.

ORIGINAL.

[Despatch Abstract.]

*Madras-i-ayam
Acceptance of Resignation.*

*Sending the acceptance by the State of
Madras-i-ayam of a resignation from
the duties of the Secretary of the
Madras-i-ayam.*

BACK PAPERS.

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

FURTHER PAPERS.

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

JAN 10 1905

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Government {1904} of Madras. EDUCATIONAL.

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Enclosures

1904.

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ORIGINAL

G.O., No. 479, 8th August 1904.

AUGUST.

*Madrasa-i-Azam
Acceptance of Remuneration*

*May the acceptance by the clerk of
Madrasa-i-Azam of a remuneration for
being the manager of the hostel of
that institution*

Madrasa-i-Azam.

Sanctioning the acceptance by the clerk of the — of a remuneration for doing the duties of the manager of the hostel attached to that institution.

GOVERNMENT OF MADRAS.

EDUCATIONAL DEPARTMENT.

READ—the following paper:—

From the Hon'ble Mr. A. G. BOURNE, D.Sc., F.R.S., Director of Public Instruction, to the Secretary to Government, Educational Department, dated Madras, 23rd June 1904, Ref. on Cur. No. 4597.

I have the honour to request the sanction of Government, under article 72 (b) of the Civil Service Regulations, to the acceptance by the clerk of the Government Madrasa-i-Azam of a monthly remuneration of Rs. 10 from July next for doing the duties of the manager of the hostel attached to that institution.

ORDER—No. 479, Educational, dated 8th August 1904.

Sanctioned.

(True Extract.)

H. D. TAYLOR,
Ag. Secretary to Government.

To the Director of Public Instruction.

„ Accountant-General.

Copy to the Financial Department.

Exd. C. Parthasarathy.

EDUCATIONAL DEPARTMENT.

NOTES CONNECTED WITH G.O., No. 479, EDUCATIONAL, DATED
8TH AUGUST 1904.

[SUBJECT.—*Acceptance of Remuneration by the Clerk of the Madrasa-i-Azam.*]

From the Director of Public Instruction, No. 4597, dated 23rd June 1904.

The Director requests sanction, under article 72 (b) of the Civil Service Regulations, to the acceptance by the clerk of the Madrasa-i-Azam of a monthly remuneration of Rs. 10 from July next for doing the duties of the manager of the hostel attached to that institution. It is submitted that article 72 (b) relates to payment from general revenues or from local funds administered by Government and cannot apply to the acceptance of a remuneration from a private body. In the present case the amount to be paid to the clerk comes not from provincial funds nor from local funds administered by Government but from the amounts received from students as boarding charges and hence from private funds. Therefore the present case falls under article 74 (b) and not under 72 (b) of the Civil Service Regulations. There is however no objection to according the sanction asked for by the Director of Public Instruction under article 74 (a), it being limited to one year for the present as was done* in the case of the managership of the Smartha hostel attached to the Teachers' College at Saidapet. A draft is submitted below for approval.

N.L.R.—29-6-04.

The draft follows precedent but from the fact that Financial is now making a reference to the Government of India on the power of Local Governments to sanction the acceptance of fees like these it would seem that this precedent is not quite correct. Financial may therefore see the file before the draft issues. It only purports to sanction the acceptance of a fee of Rs. 120 payable in twelve instalments.

P. T. THARYAN—30-6-04.

The question in Financial is about recurring fees. If this order is renewed year after year, the limit of Rs. 500 will be exceeded in the fifth year. Financial won't object to this order, but may perhaps see it in case they should want to quote the instance in their letter to India.

A. GALLETTI—30-6-04.

To the Financial u.o. for acceptance or remarks.

H. D. TAYLOR—3-7-04.

FINANCIAL DEPARTMENT.

Where is the file referred to at A? It went back to Educational?

C. M. SCHMIDT—4-7-04.

It was sent u.o. to Educational on the 17th June 1904 and has not come back. It has been ascertained that the matter is under reference in that department.

P.G.—5-7-04.

We can meanwhile deal with the present case. Examine please. The point is whether this Government can sanction recurring payments at all, and it looks like an evasion of the rules to sanction a recurring payment on the basis that the sum total of the payments is within the powers of this Government as regards non-recurring payments. In this case, supposing the rules remain as they are, our powers of sanction will be exhausted after a certain period and we might be "forcing" India's powers by the proposed procedure.

C. M. SCHMIDT—6-7-04.

With regard to the question whether this Government can sanction recurring payments at all, it is submitted that under the note to article 72 (b) of the Civil Service Regulations recurring payments from General revenues or from Local funds administered by Government come under the term "Salary" as defined in the note to article 70 of the Civil Service Regulations and under article 76 (i) no such recurring payments can, without the sanction of the Government of India, be granted to an officer whose salary including such payment would exceed Rs. 3,000 a year. Attention is invited to paragraph 4 of the Government of India resolution No. 167-Ex., dated the 12th January 1899, where in the case of overtime fees paid to Customs officers that Government said that allowances for overtime work are recurring payments and cannot therefore be dealt with under articles 89* and 91*, Civil Service Regulations (third edition), but should be dealt with under articles 87† and 93† (third edition). Attention is also invited to the note under article 71 in the Madras Supplement to the Civil Service Regulations containing extract from the letter from the Government of India, No. 4948-Ex., dated the 16th October 1900, stating that an officer of Government should not, save in exceptional and casual cases, be allowed to receive recurring allowances from a local body.

* 72 and 74, fourth edition.

† 70 and 76 do.

2. The present case comes under article 74 of the Civil Service Regulations which regulates the conditions under which an officer may receive fees from private persons, or private bodies whose funds are not administered by the Government. There is no provision allowing the Local Government to sanction a recurring fee under this article, but there are precedents in which in similar cases sanctions have been accorded for the acceptance of recurring fees by Government officers. Attention is also invited to the Accountant-General's Endorsement No. 1660, dated the 12th August 1903, in which he said that there was no objection to Government sanctioning under article 74, Civil Service Regulations (fourth edition), the acceptance by some of the clerks of the Collector's office, Tanjore, for work in connection with the Mangalavilas estate, of the allowance of Rs. 5 per mensem for periods which in some cases exceeded four and-a-half years.

3. Looking to the Accountant-General's view quoted above, the draft order may, it is submitted, be accepted, but as there is no specific provision in the regulations under which sanction can be accorded by Government for such recurring payments under article 74, the Accountant-General may be consulted whether by sanctioning the acceptance of such payments any evasion of the rules is made.

P.G.—11-7-04.

It is the case that the article to be applied here is article 74 of the Civil Service Regulations and that, under that article, there is no such note as appears under article 72 (b) which declares the treatment of recurring honoraria or rewards to fall under

the rules regulating increases of salaries, but it seems to be very doubtful if article 74 was intended to apply to recurring fees or to more than a single fee. The precedents all seem to evade the rule by keeping the total amount of the fees within the limits laid down by article 74 (c), but this procedure seems to be questionable. With the concurrence of Educational the Accountant-General might be consulted?

C. M. SCHMIDT—13-7-04.

Will the Accountant-General kindly say if the proposed order is unobjectionable?

M. HAMMICK—16-7-04.

To the Accountant-General.

In the Government of India Resolution No. 167-Ex., of the 12th of January 1899, referred to in the notes it is stated that recurring payments cannot be dealt with under article 91 (74 of the present edition), but fall within the scope of articles 87 and 93 (70 and 76 of the present edition). Article 74 relates to fees to a Government officer paid by a private person or body and the Resolution of the Government of India above referred to therefore distinctly requires, when such fee is a recurring one, that the sanction of the Secretary of State should be obtained if the result of the grant of the fee should raise the salary of the officer above Rs. 5,000 a year or of the Government of India if the salary is raised above Rs. 250 a month, but not above Rs. 5,000 a year. The above appears to be clearly the scope of the Government of India ruling.

2. Another point for consideration is that the provisions of article 74 clearly refer to single and not to recurring payments. I think this is evident from the way in which the powers of sanction of the several authorities are expressed in article 74 (c). The limitations are expressed by amounts without reference to any period.

3. It does not follow that because the note under article 72 (b) is not reproduced under article 74 that the provisions of article 74 authorize the acceptance of recurring fees from private persons. The * orders of the Government of India that it is only in exceptional and casual cases that an officer of Government should be allowed to receive recurring allowances from a local body, apply, it appears to me, with added force to the case of allowances from private persons. From an administrative point of view I should have thought that the acceptance by a Government officer of a recurring allowance from a private person is objectionable.

4. A possible explanation of the omission from article 74 of the note under article 72 (b) is that the provisions of article 70 manifestly refer to payments from general revenues or local funds administered by Government—note under article 70. Allowances from private sources are not included in the term "salary" and therefore no payments from such sources can have the effect of raising an officer's "salary" above Rs. 5,000. In the case of article 76 the restrictions are not affected by the definition of the term "salary" given in article 70.

5. The orders in the case of recurring fees from private persons are not sufficiently explicit and I have ventured in the above remarks to refer generally to the question, and I should be glad if Government would refer the question to the Government of India and have the matter settled beyond dispute. As regards the particular case under consideration I do not for a moment wish to call in question the power of Government to sanction the recurring allowance of Rs. 10 if they see fit to do so. The sanction is well within their powers under article 76. That article relates to payments from Provincial revenues, but in paragraph 4 of the Resolution of the 12th January 1899, page 3 of G.O., No. 624, Revenue, dated 25th June 1900, the Government of India seem to bring within its scope the case of recurring payments made by private persons. It is a question under what article of the Civil Service Regulations the sanction should be given. With reference to the orders of the

Government of India of the 12th of January 1899 already referred to page 3 of G.O., No. 624, Revenue, dated 25th June 1900, the sanction cannot be given under article 74. The best way would be to sanction it without reference to any article. If the limitation of the sanction to one year is inserted in the proposed order for the purpose of evading the difficulty relating to a recurring payment, I think it would be better to omit the limitation.

W. DOBBIE—25-7-04.

The Accountant-General is himself doubtful on the point and suggests a reference to India. At the same time he states that the present case falls within the powers of this Government to sanction and to get out of the difficulty he suggests the omission of the period of limitation and the article under which the sanction is granted.

2. It is for orders as to whether the Educational draft may be accepted with the modifications suggested by the Accountant-General or whether the orders of the Government of India, which are separately being applied for on the point of acceptance of recurring fees by Government officers, may be awaited.

P.G.—30-7-04.

Submitted that the Accountant-General's suggestion may be adopted to get rid of this reference. The general question is going up to India.

C. M. SCHMIDT—1-8-04.

Yes. I agree.

M. HAMMICK—6-8-04.

To the Educational Department.

EDUCATIONAL DEPARTMENT.

Issue as altered.

H. D. TAYLOR—8-8-04.

[G.O., No. 479, Educational, dated 8th August 1904.]

Educational (1904) Department.



CURRENT No. 1128

From

[Name] The Hon'ble Mr. A.G. Bourne, D.Sc., F.R.S.,

[Designation] Director of Public Instruction,

[Station] Madras.

Ref. No. Cur No. 4597 of 04

Received 28-6-1904

Dated 23rd June 1904

Enclosures

Registered 28-6-1904

SUBJECT.

Requesting the sanction of Government to the acceptance by the clerk of the Government Madrasa-i-Azam of a monthly remuneration of Rs 10 ~~per mensem~~ for doing the duties of the Manager of the hostel attached to the institution from 1st July next.

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J.S.
22-6-66

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DATED

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LETTER OF GOVERNMENT

STATEMENT WITH DITTO.

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